PARLIAMENTARY DEBATES

(HANSARD)

SIXTH SERIES—VOLUME 431 (Part 1)

HOUSE OF COMMONS

OFFICIAL REPORT

FOURTH SESSION OF THE FIFTY-THIRD PARLIAMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
FIFTY-FOURTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

SESSION 2004–05

COMPRISING PERIOD
21 February—10 March 2005

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21 February 2005

THE PARLIAMENTARY DEBATES

OFFICIAL REPORT

IN THE FOURTH SESSION OF THE FIFTY-THIRD PARLIAMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
[WHICH OPENED 13 JUNE 2001]

FIFTY-FOURTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

SIXTH SERIES — VOLUME 431

FOURTH VOLUME OF SESSION 2004–2005

House of Commons

Monday 21 February 2005

The House met at half-past Two o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

CULTURE, MEDIA AND SPORT

The Secretary of State was asked—

National Campaign for the Arts

1. **John Robertson** (Glasgow, Anniesland) (Lab): What discussions she has had with the National Campaign for the Arts on Government support for its objectives. [216946]

The Secretary of State for Culture, Media and Sport (Tessa Jowell): I have met delegations from the National Campaign for the Arts on four occasions within the last year and have read and commented upon its arts manifesto, which I recommend.

John Robertson: I agree with my right hon. Friend that the excellent manifesto launched by the NCA needs looking at. One key point in it relates to the problem of intragovernmental discussions. For example, when children are involved, we need to consider education and skills. What steps is she taking to co-ordinate arts policy as suggested by the NCA, and will she state what real-terms spending on the arts will be in the coming year?

Tessa Jowell: I thank my hon. Friend for that question. He makes the important point that cross-departmental co-operation—whether it be the Department for Education and Skills, the Department of Health or the Home Office—is important to maximise the practical benefits of the arts and to focus on the intrinsic value of art and culture to our society.

I also welcome the opportunity to record that the performing arts have received an unprecedented 60 per cent. real-terms increase in funding over the last six years, because this Government believe in funding the arts, providing stability and rewarding excellence. The arts will receive a further 9 per cent. in real terms next year, and I expect that, in each of the following years, when funding to the Arts Council is flat, arts organisations will receive at least a real-terms increase.

Mr. John Whittingdale (Maldon and East Chelmsford) (Con): Is it not the case that the NCA has said that the need for Government support for the arts has never been stronger, yet just today the chairman of the Arts Council has spoken again of the feeling of betrayal among arts organisations about the Government's freeze in arts funding for the next three years? That comes on top of the reduction of almost 50 per cent. in the money for the arts coming from the lottery. Is it not the case that the biggest boost that we could give to the arts would be to stop using the lottery to substitute for taxpayers' money and instead restore it to its original purpose, thus benefiting each of the original four good causes, including the arts, by more than £100 million a year?

Tessa Jowell: I thank the hon. Gentleman for his intervention, but remind him that Government support for the arts has never been stronger: a 60 per cent.

real-terms increase over the last six years. I draw his attention to the fact, which is worthy of close scrutiny, that if his party were to—

Mr. Speaker: Order. We will not worry about that.

Museums

2. **Mr. Mark Hendrick** (Preston) (Lab/Co-op): What support the Government have given to enable increased access to museums in the last five years. [216947]

The Secretary of State for Culture, Media and Sport (Tessa Jowell): Over the five years from 2000–01 to 2004–05, I have allocated £1.3 billion to the museums and galleries sponsored by my Department. That funding has increased from £228 million to £286 million each year, a real-terms growth of 12.5 per cent. Within the £1.3 billion, we have provided around £140 million in compensation for free admission and that has seen the number of visitors to the museums that previously charged increase by 75 per cent.

Mr. Hendrick: Will my right hon. Friend join me in congratulating the national football museum in Preston, which is on course to triple the throughput of its visitors to 100,000? I thank the Department for the funding that it has provided through the Football Foundation, but will she confirm that the museum will be added to the section 33A list for VAT?

Tessa Jowell: I congratulate my hon. Friend, who has been an excellent advocate for the football museum. The fact that its funding is now on a stable basis is in no small part due to him. He will also understand that decisions about the VAT status of museums are a matter for the Chancellor of the Exchequer.

Sir Patrick Cormack (South Staffordshire) (Con): Will the Secretary of State accept from one who agrees with free admission that the compensatory payments provided by the Government are not sufficient?

Tessa Jowell: No, I certainly do not accept that the compensation for museums and galleries is insufficient, as has been shown by funding settlements since the policy was first introduced. The policy was introduced for a clear and explicit reason: to open our museums and galleries to everyone, regardless of their background or ability to pay.

Mr. Bill O'Brien (Normanton) (Lab): My right hon. Friend is aware that many people are encouraged by the advice and information given by her Department regarding museums. Will she take note of the waterways museum, which requires further support and encouragement, because our waterways system and the culture that goes with it have a great deal to offer? Will she examine the situation of the waterways museum and give support where that is needed?

Tessa Jowell: There are ongoing discussions about the waterways museum in recognition of its importance and the excellence of its offering to the public, and I hope that they will be successfully concluded.

Mr. Hugo Swire (East Devon) (Con): While it is true that free entry has increased the number of visits to museums, it is worth pointing out that an increase in the number of visits is not the same as an increase in the number of visitors. Is it not true that the Government have inadequately compensated museums for forcing them to abolish entry charges? Only last week, staff at the Science museum went on strike, with the director blaming the Government for "consistent undervaluing and underfunding" following the abolition of entry fees. Will the Secretary of State give an assurance, as I have, that if directors and trustees of museums wish to charge visitors and if they, as professionals, want to do what they consider best for their museums, they will not be penalised for doing so?

Tessa Jowell: No, I certainly will not, for the clear reason that free entry has led to a 75 per cent. increase in the number of people going to museums that previously charged. Many such people are going for the first time ever, so we will not close our museums by excluding all people except those who can afford to pay.

3. **Jeff Ennis** (Barnsley, East and Mexborough) (Lab): If she will make a statement on the role regional museums play in the education of children. [216949]

The Minister for the Arts (Estelle Morris): Regional museums play a valuable role in supporting the education of children and young people. Over the past two years, my Department, in partnership with the Department for Education and Skills, has invested more than £20 million in regional museums' education programmes.

Jeff Ennis: I am sure that the Minister is aware of the report entitled "Education Outside the Classroom" recently published by the Education and Skills Committee, on which I serve? One of its main recommendations is that all schools should appoint educational visits co-ordinators. How will the Department help to develop their role in tandem with regional museum curators?

Estelle Morris: The report produced by the Select Committee was timely because a lot of evidence now shows that learning outside school complements what happens in the classroom. It is no longer a nice optional extra, but essential to achieving the quality of education that we want to provide for our children. I tend to think that it is up to schools to decide how to deal with it, but if they think that it is appropriate to appoint a member of staff to co-ordinate visits, I am sure that, through the Museums, Libraries and Archives Council and strategic commissioning programmes, together with a close relationship with our Department and the Department for Education and Skills, we would wish to help them. We want to help schools to overcome barriers to children making visits, but I hesitate to be more prescriptive about how they should do that.

Mr. Adrian Flook (Taunton) (Con): Over the next few years, Somerset county museum, which is based in Taunton, will face considerable challenges in bringing everything that it can to children, so it will have to look to the Heritage Lottery Fund. Does the Minister agree that it will no doubt make a splendid case and keep an eye open for the application when it is made?

Estelle Morris: I can keep an eye open, but there is nothing that I can do about the application because it is not up to me to decide how the money is spent. If I may raise the hon. Gentleman's hopes, the HLF has already given £400 million for educational activities, so I hope that he and the museum in his constituency are assured that it regards education and heritage in museums as high priorities. I wish him well and applaud the enthusiasm with which he talks about the museum and the contribution that it might make in respect of children in his constituency.

Mr. Kelvin Hopkins (Luton, North) (Lab): My right hon. Friend will be aware that Luton has a wonderful museum service that is one of the regional centres for the eastern region. It has first-class staff who do a wonderful job for our local children, but our museum is under pressure from funding cuts because of the recent budget set by the Conservative and Liberal Democrat council. Although I welcome the Government's extra funding for museums, will she do her best to protect them from local funding cuts?

Estelle Morris: That is infuriating when, as my hon. Friend knows, the Government are investing massive amounts in the regions. Indeed, we are the first Government to invest central Government money in the regions in that way. I applaud those local authorities that have seized the opportunity and increased their funding as well, but I deplore those that have taken the opportunity to remove money from museums. That is a picture of what would happen if the Tories ever got their hands on central Government funding.

Social Inclusion

4. **Joyce Quin** (Gateshead, East and Washington, West) (Lab): What discussions she has had with regional cultural consortiums on policies to promote social inclusion. [216950]

The Minister for the Arts (Estelle Morris): The regional cultural consortiums are the Department's strategic cultural bodies in the regions and we communicate with them regularly on a range of policies and issues, including those that promote social inclusion.

Joyce Quin: Will my right hon. Friend join me in congratulating Tyne and Wear museums on the record visitor numbers that they have achieved and the way in which they have promoted social inclusion? Does she agree that that success would be further enhanced if there were a regular—or, better still, a permanent—display of the Lindisfarne Gospels in the region? Will she at least meet me to discuss that issue, which is of great local importance?

Estelle Morris: I congratulate my right hon. Friend on again bringing to our attention her campaign to get the Gospels back to the north-east. I am delighted with Tyne and Wear museums. They are a national leader in work on regeneration and social inclusion. I am sure that she would acknowledge that the more than £6 million that the Government have given Tyne and Wear museums through the renaissance in the regions project has gone a long way to help that, but the plaudits really go to them for the initiatives that they have taken.

I would be more than happy to meet my right hon. Friend. I know that she awaits a reply from the director of the British Library and that negotiations are ongoing. She will accept that it is not my decision, but if a meeting with me would help, I would be more than happy to have one with her.

Mr. Patrick McLoughlin (West Derbyshire) (Con): Given new Labour-speak, will the Minister explain what the question means?

Estelle Morris: I can, but I am not sure that it is worth the hon. Gentleman asking that question. It means that we agree on devolving to the front line. We want each region to take charge of its cultural activities. We want it to set its own priorities and to be a regional voice for the arts. We want the regions to tell us how we can help them. We are committed to that activity on the ground and the evidence of that is reflected in the comments of my right hon. Friend the Member for Gateshead, East and Washington, West (Joyce Quin). The regions make a huge contribution. The fact that the hon. Gentleman wants an explanation of social inclusion tells us more about the Tory party in 2005 than it does about anything else.

Andrew Mackinlay (Thurrock) (Lab): May I help the Minister and the hon. Member for West Derbyshire (Mr. McLoughlin) by explaining that the business of social inclusion in the arts relates to the fact that some of the poorest and most deprived children do not have access to quality classical music, the ballet or the opera? Can we therefore have a manifesto commitment that every schoolchild will have access each year to a performance of classical music and other arts, including opera? After all, their mums and dads buy the wretched lottery tickets that pay for the quality performances enjoyed by the middle classes and the rich people on the Conservative Benches.

Estelle Morris: It is not for me to commit our party to what may or may not be in the manifesto. The important point about social inclusion is that the treasures held in our museums, and the skills of our actors and of those who play in our orchestras, benefit everyone, no matter what sort of family background or region children are born into. We know from the statistics that whole groups of people do not access the arts because they do not think they are for them. We are determined, through all the measures that we take, to give them the confidence to ensure that they access the arts and get from them what many of us have always got from them. I hope that my hon. Friend will join me in celebrating the fact that more children go to the theatre, listen to orchestras and watch the ballet than did in 1997. Equally, I accept from him that even more needs to be done.

Leisure (Wales)

5. **Huw Irranca-Davies** (Ogmore) (Lab): What discussions she has had with her counterparts in the National Assembly for Wales Government on the use of leisure to assist physical and mental well-being. [216951]

The Minister for Sport and Tourism (Mr. Richard Caborn): Sport and physical activity was on the agenda at the last sports cabinet meeting in April last year. The sports cabinet, comprising the Secretary of State for Culture, Media and Sport and the four home country Ministers with responsibility for sport, provides for a collective political discussion of the most strategic priorities across the UK, including those of UK Sport.

Huw Irranca-Davies: In an era of devolved government—different approaches adopted in different regions and different countries in the UK—it is more important than ever that England, Wales and Scotland learn from each other about best practice. In the five-year-old Petri dish of devolution, what specifically are Wales and England learning from each other's experiments on the use of leisure to help physical and mental well-being?

Mr. Caborn: Sport and physical activity was on the agenda at the last sports cabinet meeting because we wanted to discuss the free swim pilot schemes in Wales, which I understand from the statistics have been hugely successful. We also discussed community coaching, which has largely been based in England, although we are sharing those experiences with colleagues in Scotland, Wales and Northern Ireland. There is a great desire to learn through best practice to ensure that we deliver the best possible services, particularly in grass-roots participation.

Mr. Peter Kilfoyle (Liverpool, Walton) (Lab): When the sports cabinet next meets, will the Minister ensure that it discusses the idiocy of the Football Association's rolling over before the BBC on the timing of football matches, which was a major contributory factor to the disgraceful scenes perpetrated by a minority in my constituency on Saturday?

Mr. Caborn: That probably will not be a subject for the sports cabinet because, as my hon. Friend knows, there are separate football associations for Scotland and for England. However, I agree that we may have to revisit the subject of the start time of 5.30 pm, particularly for matches that clearly have some problems attached to them. The FA and the authorities ought to look at that. The long way that we have come in getting the rogue element out of football ought not to be spoiled by a handful of spectators who on Saturday night yet again brought our national game into disrepute.

Osborne Estate Act

6. **Mr. Andrew Turner** (Isle of Wight) (Con): What plans she has to amend the Osborne Estate Act 1902.

[216953]

The Minister for the Arts (Estelle Morris): The Government are committed to seeking Parliament's approval to amend the Osborne Estate Act 1902. We have not yet found a suitable legislative slot, but we continue to explore all avenues.

Mr. Turner: Is the right hon. Lady aware that the closure of the convalescent home at Osborne was announced as far back as 11 May 1999? The home was closed in 2000, leaving excellent premises lying empty and depriving islanders of job opportunities and the island of revenue. This is the fifth question that I have asked on this subject since 2001. When will the Government either comply with the legislation, which requires that the premises be devoted to use for the benefit of officers of Her Majesty's naval and military forces and their wives, or amend the Act to enable a wonderful asset to be used for the benefit of my constituents and the millions of people each year who visit the Isle of Wight?

Estelle Morris: I have some sympathy with the hon. Gentleman and the position that his constituents are in. It is important first to amend the legislation. The Isle of Wight's plans for development of the site look to have gained local approval. It is up to the Isle of Wight, but perhaps that will go ahead. The proposed legislation is ready. The hon. Gentleman will know that it just failed to find parliamentary time before the last general election. We have a private Member's Bill ready should he be lucky enough to be drawn early in the ballot. The best and most optimistic way forward might be to use a regulatory reform order. Following his question and my looking at the matter, I very much hope that we might be able to do that. That is not a promise—we have not yet received a message that that would be appropriate—but I am with him, and we will introduce the legislation as soon as we can.

Physical Activity (Participation)

7. **Mr. Andy Reed** (Loughborough) (Lab/Co-op): What progress her Department is making in increasing participation levels in sport and physical activity.

[216954]

The Secretary of State for Culture, Media and Sport (Tessa Jowell): About 31 per cent. of the adult population currently take the recommended level of exercise each week. Each year, we aim to increase that percentage by 1 per cent., which means getting 480,000 people a year to change their lifestyles and exercise regularly. On children, we are on target to meet our objective of ensuring that 75 per cent. of schoolchildren spend a minimum of two hours each week on high-quality physical education and school sport within and beyond the curriculum by 2006.

Mr. Reed: As my right hon. Friend knows, we have implemented plans for school sport and are moving in the right direction. On elite sport, she visited Loughborough university last week, where she saw some of the best-trained athletes in the world. However, we must do much more work on increasing participation among young children and the adult population. What progress does she believe can be made towards the target, which is daunting? A number of years ago, "Game Plan" stated that we want to reach 70 per cent. participation, which is a long way off. Does she believe that we can make progress? Volunteers are the people

who will make a difference and, in the year of volunteering, she should back them to ensure delivery at the grass roots.

Tessa Jowell: I thank my hon. Friend for that question. The target is tough, but it will be achieved by two routes. First, Departments will work together closely to promote public education and public understanding of the benefits of exercise and, secondly, the regional sports boards will provide delivery. The Tories threaten that objective, because they would cut regional sports boards.

Sir Nicholas Winterton (Macclesfield) (Con): Why do only 75 per cent. of children take part in physical activity—the statistic was part of the Secretary of State's original answer? Will she encourage competitive team sports in schools, so that all young people can take part, because, as we know from the cases of paraplegics and others, even those who have some form of disability can still participate in sport? If we did so, we would suffer much less obesity.

Tessa Jowell: I thank the hon. Gentleman for that question. The target is for 75 per cent. of children to participate by 2006, for 85 per cent. of children to participate by 2008 and for the two-hour objective to be exceeded by 2010. We are investing in the promotion of competitive sport in schools: about 90 per cent. of the schools participating in the linked arrangements focusing on school sport are holding sports days and have reintroduced competitive sport. If we are to win medals at the 2012 Olympics in London, our children need to be competing now.

Andy Burnham (Leigh) (Lab): Does the Secretary of State agree that the time has come to give every schoolchild an entitlement to play after-school competitive sport and receive qualified coaching in the main sports?

Tessa Jowell: Yes, I certainly do. The investment in and focus on sport in schools means that we should achieve that objective over the next four to five years. It takes time to implement such policies properly, because, as my hon. Friend said, trained coaches and PE teachers are necessary to engage children with sport and to teach them properly, and that is what we are doing.

Mr. Don Foster (Bath) (LD): I am sure that the Secretary of State agrees that obtaining the 2012 Olympics would boost people's interest in sport and help to achieve the targets, and I congratulate the Olympic bid team on its work in the past week. Does she agree that we can have little confidence in the Government's aspirations for the targets set out in "Game Plan", when we discover that the target for 70 per cent. of the population to be active by 2020 is already 20 years behind schedule and was rejected by Wanless and Sport England? The 70 per cent. figure came from a mistranslation by the Secretary of State's Department of a document from Finland, which claimed that 70 per cent. of Finns already achieve the target, when the actual figure is only 30 per cent.

Tessa Jowell: I shall not go into all the background that the hon. Gentleman mentioned, which is questionable. The objective is very tough. No other country has achieved such high participation levels at such a pace, but because physical activity is so closely related to reducing deaths from heart disease, cancer, obesity and so forth, we are determined to focus on that challenging goal.

Mr. David Watts (St. Helens, North) (Lab): Is it not time that we spent a bigger proportion of our lottery funding on sport instead of culture, and will my right hon. Friend consider introducing a tick box on lottery tickets to allow people to decide whether they spend their money on culture or sport?

Tessa Jowell: Over the past four to five years, there has been a very substantial increase—from memory, more than 100 per cent.—in funding for sport. In the run-up to 2009, there will be an opportunity for lottery players to express their views about how the money for good causes should be allocated. However, my hon. Friend should reflect on the enormous value that arts investment through the lottery has for those around the country who feel passionately about the arts.

Hugh Robertson (Faversham and Mid-Kent) (Con): Is it not staggering that, despite the provision of considerable sums of lottery money, the general household survey shows that the number of adults participating in at least one sporting activity has fallen from 64 per cent. in 1996 to 58 per cent. in 2002, the last year for which figures are available? Has not the time come to change Government policy to direct funding and resources through the sports national governing bodies directly to amateur sports clubs rather than through wasteful regional bureaucracy?

Tessa Jowell: The hon. Gentleman rightly reflects on the variation in the level of participation. I hope that figures will shortly be available showing the way in which the trends are going. Nobody denies that this is a very tough target, but the best way of implementing it is to pull together everybody who needs to be part of the mission to achieve it at a regional level—that is, through the regional sports boards, which would be abolished were the Tories ever to return to power.

Sports Clubs (Tax Relief)

8. **Jane Griffiths** (Reading, East) (Lab): What discussions she has held with the Chancellor of the Exchequer on tax relief for amateur sports clubs.

[216955]

The Minister for Sport and Tourism (Mr. Richard Caborn): I correspond regularly and have a close working relationship with the Economic Secretary to the Treasury, who takes a close interest in the welfare of amateur sports clubs, particularly as regards progress with the community amateur sports clubs scheme. I am delighted to tell my hon. Friend that more than 2,000 clubs have registered and are enjoying the benefits not only of the CASC scheme but of mandatory rate relief. That has enabled them to invest on a much more certain basis than has been possible for many years.

Jane Griffiths: I thank the Minister for that welcome reply. Will he join me expressing good wishes to the Palmer Park velocycling club in my constituency, which I feel confident will produce cycling stars like Bradley Wiggins and Nicole Cooke for the future?

Mr. Caborn: Very much so. I hope that the success of that club will be mirrored around the country, particularly given that investment in school sports is probably the highest that it has ever been. In terms of amateur clubs, it is important that we arrest the figure of 70 per cent. of school leavers not continuing in active sport. Building up the club structure, with the support of the governing bodies, is very important if we are to have a sustainable sport infrastructure in future.

Mr. Malcolm Moss (North-East Cambridgeshire) (Con): I confirm that Conservative Members very much welcome the CASC scheme, which, the Minister will no doubt be delighted to learn, I promoted in my local press last week. While tax relief is indeed helpful, it is the total level of costs and taxes that interests amateur sports clubs. Why then has the Minister reneged on a commitment made to me in Committee by his predecessor carefully to consider discounts on licensing fees for sports clubs?

Mr. Caborn: I thank the hon. Gentleman for congratulating the Government on their work on the community amateur sports club scheme and mandatory rate relief. Those clubs waited 30 years for that but at least we have now delivered it.

I believe that the licensing fee would be approximately £90 for sports clubs. The minimum fee for sports or social clubs is £25. The cost per person would therefore be negligible and could be reflected in the product sold behind the bar. The Licensing Act 2003 provides for many advantages for sports clubs. It amalgamates six licensing authorities into one. It covers entertainment and the development of clubs. If the provisions are used effectively, clubs will make considerably more profit than £90, the licensing fee.

Andrew Bennett (Denton and Reddish) (Lab): Does my right hon. Friend agree that there is an illogicality in giving some of the amateur clubs rate relief and taking it away by setting the licensing fee on the basis of the rateable value? For example, much of the rateable value of a bowling green in my constituency is based on the greens, which have almost no source of income. Surely local authorities should treat such groups favourably in the licensing process.

Mr. Caborn: If people want free booze at the clubs, that is fine. The CASC scheme is designed for those who play sport and many sports clubs do not run a bar. The CASC scheme and mandatory rate relief will apply fully to them. My hon. Friend refers to clubs that have a bar. They will pay £90 for that in the first instance.

Mr. Moss: More than that.

Mr. Caborn: Well, if they pay more than that, they are selling much more booze and making a much greater profit. The sports clubs that have licensed bars should be able to reflect the fee in the price of the commodity. The CASC scheme is not only about licensing authorities. Many sports clubs do not run a bar. They will receive the full benefit of the CASC scheme and the mandatory rate relief.

Mr. Dennis Skinner (Bolsover) (Lab): Does the Minister recall that, in the halcyon days when there were lots of pits in the coal-mining areas and we had miners' welfares—probably 70-odd in Derbyshire alone—many operated on a similar basis of rate relief, which enabled the clubs and welfares to continue to play football, cricket and so on? Now, because of the closures of the pits and welfares by the Conservative party, we do not have the same number of facilities. In Bolsover, we would be only too glad to pay the tax if we could get back the Bolsover swimming baths, which were lost when the Tories were in. Let's get the show back on the road.

Mr. Caborn: I can honestly say: third time lucky. That is the third time that my hon. Friend has asked that question. I have visited Bolsover and we are trying to work towards a solution so that my hon. Friend's constituency will have the swimming complex that used to be there. We will continue to work towards that. I will take up the matter with my officials and I hope that he will not have to raise it at Question Time again. *[Interruption.]* No, that is not a commitment—it is an aspiration.

Sports Clubs (Workington Floods)

9. **Tony Cunningham** (Workington) (Lab): What support her Department is giving to sports clubs in Workington constituency affected by recent flooding. [216956]

The Minister for Sport and Tourism (Mr. Richard Caborn): The Department works closely with other Departments to set the policy framework, but decisions on the distribution of funding for sport and physical activity are the responsibility of our funding bodies, primarily Sport England and UK Sport. However, sports clubs that are badly affected by the recent flooding may apply to the Cumbria Community Foundation for assistance from the Cumbria flood recovery fund, which was set up in the county to help individuals and community groups. Individual sports governing bodies may also be able to offer financial support.

Keswick rugby union club has applied successfully for assistance to both the Cumbria flood recovery fund and to the Rugby Football Union's Football Foundation Trust, through which it has been able to access the Space for Sport fund.

Tony Cunningham: I thank my right hon. Friend for that very helpful reply. Will he take a personal interest in Keswick rugby union club and its recovery? As a result of the recent flooding, the club house is under 6 ft of water, and a brand new one might have to be built. This is a well established rugby union club with a fantastic record of promoting youth rugby, which this Government totally support.

Mr. Caborn: I will look at this specific issue. The club has probably one of the most beautiful rugby union grounds in the country, looking out across the Lake district. I have also been reading about its fantastic history. I understand that the Rugby Football Union is also taking a close look at the matter, and that financial facilities have been offered on an interest-free basis. Everyone is trying to put their weight behind the Keswick rugby club, and I hope that we can find a solution to what is undoubtedly a difficult problem.

Museums

10. **Mr. Bill Wiggin** (Leominster) (Con): What recent meetings she has had with the Museums Association to discuss funding for museums. [216957]

The Minister for the Arts (Estelle Morris): My right hon. Friend the Secretary of State and I met senior representatives of the Museums Association to discuss funding for museums before and after making the spending review allocations. My most recent meeting with the president and director of the Museums Association was on 6 January this year.

Mr. Wiggin: In reply to the shadow Minister for the Arts, my hon. Friend the Member for East Devon (Mr. Swire), the Minister did not address his point about the strikes at the Science museum, whose director has said that

"the problem is a consistent undervaluing and underfunding of science by the DCMS."

What is the Minister going to do about that?

Estelle Morris: The director could not have been talking about the period when this Government have had responsibility for the national museums. Every single museum, including the Science museum, has had a real-terms increase in this spending settlement. Indeed, the Science museum's capital settlement for this spending review is set to double. That could never have happened under the Tories. What the museums really fear—I have seen this in the press—is going back to the days of Tory cuts. That has not happened under this Government, and it will not happen.

Mr. Kevan Jones (North Durham) (Lab): My right hon. Friend will be aware of the excellent work done by the north-east regional museums hub. Like many others, I welcome the free access to museums that was introduced by this Government. Is she also aware that excellent museums such as the Beamish museum in my constituency still have to levy charges and that they struggle from year to year to get local authority funding? Will she look into the funding of excellent museums such as Beamish when she is considering funding in the future?

Estelle Morris: I have looked at the situation at the Beamish museum, because it was brought to my attention by another of our hon. Friends. Of course some museums still have to charge for entry, but we have introduced free entry at those for which we have responsibility. There is no way we can go further than that. However, if my memory serves me correctly, the Beamish museum has benefited from part of the almost £7 million that has gone to the north-east for renaissance in the regions. I think that the museum has also put in a request for a Heritage Lottery Fund grant. I shall be more than happy to look at this matter, and if I can be helpful, I will be, but we are not into taking museums on to the national funding list at the moment.

Football

11. **Bob Russell** (Colchester) (LD): What recent discussions she has had with football authorities on the governance of the professional game. [216958]

The Minister for Sport and Tourism (Mr. Richard Caborn): The Government are driving forward a modernisation programme for all governing bodies, and we hope to make them all fit for purpose. The Football Association is no exception. I am pleased to say that, under the leadership of Lord Burns, the FA has instigated an independent review of its structure and governance. My right hon. Friend the Secretary of State wrote to the FA in August 2004, and I have been in regular contact with it since then. I also had a meeting with Lord Burns in January 2005 as part of his initial discussions with the key stakeholders.

Bob Russell: The Minister referred earlier to a handful of hooligans bringing the national game into disrepute at the weekend. Does he agree, however, that a bigger threat to the professional game in this country is the manner in which it is being run at the highest level? Does he also agree that the game is rotten to the core, and that it is time for the Government to hold a summit for all involved in it, so that we can save the professional game before those at the top destroy it?

Mr. Caborn: I totally disagree with that statement. The game is not rotten to the core. In fact, I would suggest that the component parts of football in this country are probably some of the best in the world. Our premier division is probably the best in terms of professionalism, and there are more than 40,000 clubs playing in the amateur game, week in and week out, under the Football Association.

Without doubt, there is an argument about regulation and governance, which has grown over the years, but Lord Burns will be looking at those issues very carefully. However, it is fundamentally wrong to say that our national game is rotten to the core. I believe that its component parts are very healthy indeed and would stand examination with those of any other football anywhere in the world.

Ian Lucas (Wrexham) (Lab): Does my right hon. Friend accept that the Government cannot wash their hands of football and its governance? Football clubs are unique community institutions, and when a football club such as Wrexham, which is still in administration, faces its end, there are profound implications for the town. Will he therefore ensure that the many, many clubs that are under threat have an open system of governance so that the supporters who support them week in, week out know how much danger their clubs are in?

Mr. Caborn: I fully agree with that. What the Football League has done in the recent past in considering fit and proper persons, as well as the whole question of the corporate and social governance of football, has been important. Quite a number of ground rules have been introduced to achieve some of the objectives that my hon. Friend has referred to. There is more transparency and better management, and it is not so long ago that we were talking about the collapse of ITV Digital and many doom-mongers were saying that half the Football League was going into administration. Football is resilient; it came out of that. It has had to refocus on where it came from—its communities—which I welcome, and I still believe that there will be some turmoil in football's finances, which will need managing through. That is why we need a good governing body in the Football Association and we also need those ground rules to be brought in. I know that the Football League and the premier division are discussing that to ensure that this game is transparent, credible and responsible to the fans and the community in which it operates.

ELECTORAL COMMISSION COMMITTEE

The hon. Member for Gosport, representing the Speaker's Committee on the Electoral Commission, was asked—

Overseas Electoral Registration

19. **Mr. Nigel Evans** (Ribble Valley) (Con): What discussions the Electoral Commission has had with the Foreign Office on distribution of leaflets on overseas voter registration. [217006]

24. **Mr. Andrew Turner** (Isle of Wight) (Con): What discussions the Electoral Commission has had with the Foreign and Commonwealth Office on ensuring that the timetable to register to vote is communicated to overseas voters. [217012]

Mrs. Angela Browning (Tiverton and Honiton) (Con): My hon. Friend the Member for Gosport (Mr. Viggers) is abroad on NATO Parliamentary Assembly business, and I have been asked to reply in his absence.

The Electoral Commission has been working in close partnership with the Foreign and Commonwealth Office to improve the information available to potential overseas voters. To that end, the commission has asked embassies, high commissions and consulates to publicise and make available its new leaflet, "Register to Vote From Overseas". This leaflet, which is also available electronically on the Foreign and Commonwealth Office and commission websites, includes a specific reference to the fact that the deadline for registering can be up to two months before an election.

In addition, the commission has paid for advertisements and generated coverage in overseas media to explain the voting timetable. The commission informs me that during the first week of its campaign, 30,000 copies of the leaflet were ordered by overseas post, expatriate organisations and individuals. More than 5,000 registration forms were downloaded from the website during the first week, and up to 10,000 by the second.

Mr. Evans: I am extremely grateful to my hon. Friend for that detailed response.

The Prime Minister says he does not know when the next general election will be, but *The Sun* says it will be 5 May. That is good enough for me. If it is on 5 May, the cut-off date for registration will be 11 March, so people will have to get their skates on if they have to register from overseas. I am delighted with the leaflet, but it is a little late, quite frankly, and the high commissions and embassies have to order it themselves, rather than having it sent out directly.

Can my hon. Friend give me an assurance that, after the general election when a post mortem takes place, she will consider ways in which the Electoral Commission and the Foreign and Commonwealth Office can improve their relationship to spread the message about people's entitlement to vote in general elections, including improving the Foreign and Commonwealth Office website?

Mrs. Browning: Yes, I can give my hon. Friend that assurance. On the question of the website, I am a little confused about how easy it will be for people to access such information. I will ask the commission to talk again to the Foreign and Commonwealth Office to see whether getting information on overseas voting can be made easier for those accessing that website. As for a post-election wash-up, I am happy to pass that on to the commission as a recommendation.

Mr. Turner: Has the Foreign Office a role in ensuring that overseas service personnel have the opportunity to register easily? In the light of the Government's changes to service personnel registration procedures, it would be sad were our servicemen good enough to fight but not good enough to vote.

Mrs. Browning: I know that my hon. Friend has raised this issue many times and is very concerned about it. The commission, on whose behalf I am answering, is undertaking a range of activities to contact service personnel about voter registration. That includes editorial work in service publications and media broadcasts, an information leaflet to be distributed in partnership with the Ministry of Defence, and a specific on-line information and registration form. I understand that the MOD has issued a Defence Council instruction on this matter.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Does not the hon. Lady agree that at a time when electoral registration in many local authority areas is no better than 90 per cent., and in some inner city areas is probably much worse than that, extra resources for electoral registration should be spent on improving registration among UK residents, particularly among young people, rather than on those people who have chosen to live abroad?

Mrs. Browning: The Electoral Commission has a remit and a duty to ensure voting at all levels and in all places. It has not spent money disproportionately on

overseas registration. Rightly, however, it has a duty to ensure that people overseas are aware of their right to vote and to facilitate that as much as possible.

Simon Hughes (Southwark, North and Bermondsey) (LD): Following the hon. Lady's full answer, can she get the Electoral Commission to give one last prompt to the Foreign and Commonwealth Office to ensure that an e-mail message is sent to all our missions, which can be sent on to all the organisations that they know where there are contacts with British nationals? Of course we need people here to register, but people are entitled to register when they are abroad, and that sort of e-mail prompt might produce much more of a response than lots of leaflets and glossy brochures.

Mrs. Browning: The hon. Gentleman is right in asking, especially as we may be close to an election, that the commission should prompt the Foreign and Commonwealth Office to do as much as it can. He may like to know that at its prompting, the Foreign and Commonwealth Office sent out a telegram on 3 February, making sure that as many as possible of our embassies, consulates and high commissions were aware of their duty and the role that we expect them to play.

Postal Voting

20. **Mr. George Mudie** (Leeds, East) (Lab): What representations the Electoral Commission has received on guidance issued to electoral registration officers on postal voter identification. [217007]

Mrs. Angela Browning (Tiverton and Honiton) (Con): The hon. Gentleman may be referring to the guidance issued by the commission to electoral registration officers in December 2004, on the extent of their power to supply absent voter lists and records. That set out the commission's view of the law as it stands. The Parliamentary Parties Panel and several local councillors made representations that the advice was unhelpful. The commission is of the view, however, that the law should be changed, and has recommended that registered political parties should also be given access to the list of absent voters. The commission hopes that the Government will legislate for this change.

Mr. Mudie: I thank the hon. Lady for that advice. Considering that the greatest problem that all political parties have, however, is persuading people to vote, does she not believe that the Electoral Commission's intervention was unhelpful and counter-productive? Considering that we have had four general elections and 20 annual council elections since the Representation of the People Act 1983, with no problem in relation to absentee voter lists, will she not agree to make representations to the Electoral Commission to ask it to write to electoral registration officers pointing out that the circular contains only advice and is not legally binding, in an effort to produce a change of mind?

Mrs. Browning: As I stated to the hon. Gentleman, I have discussed this matter with the commission. Its advice was based on its interpretation of the law, and it believes that the strengthening that he would like must involve a change in the law. I am sure that he will be aware—if not, I am sure that the commission will provide it to him—of the marked register published by the commission last week, which recommends that the law be changed to introduce that. We understand that the Government are likely to consult on the matter. I am sure that, in order to secure the clarity that he wants, the hon. Gentleman will play his part in persuading them to accept the recommendation that the law be changed.

Mr. Andrew Mackay (Bracknell) (Con): Does my hon. Friend accept that many of us entirely agree with the hon. Member for Leeds, East (Mr. Mudie)? The Electoral Commission should be encouraging people to vote, especially when turnout is down, and it should interpret the law more liberally for the purposes of the coming election. Political parties should be allowed to have the absent-vote list; if we do not have it, that will be very damaging to our democracy.

Mrs. Browning: The Electoral Commission based its advice to EROs on its understanding of the law as it stands. That is why it has made a specific recommendation that the law be changed. Many of us would like it to be changed to facilitate what my right hon. Friend wants, and Members in all parts of the House now have an opportunity to lobby the Government, who are able to change it.

CHURCH COMMISSIONERS

The hon. Member for Middlesbrough, representing the Church Commissioners, was asked—

Clergy (Terms of Service)

22. **Mr. Ben Chapman** (Wirral, South) (Lab): If he will make a statement on the review of clergy terms of service. [217009]

Second Church Estates Commissioner (Sir Stuart Bell): Last Tuesday the General Synod debated the review group's second report, and welcomed the recommendation that employment rights under section 23 of the Employment Relations Act 1999 be granted to all clergy. The report was commended to the wider Church for comment, and an implementation group will be set up to introduce legislation.

Mr. Chapman: I welcome that news, but will my hon. Friend confirm that overall the proposals for a review of conditions of service represent a series of modernising measures? While there are legitimate concerns about security of tenure, is it not right and proper for clergy as far as possible to have the contracts, employment rights and, indeed, obligations that other members of society already have?

Sir Stuart Bell: The Synod expressed reservations about security of tenure, and about the suggestion that legal ownership of Church property that goes with the freehold should be transferred to diocesan boards of finance. That does not, however, alter the fact that it welcomed the bid for the employment rights for which

my hon. Friend has campaigned so hard. No one will be forced to lose the freehold, but it will be possible to opt into tenure.

I congratulate my hon. Friend on the campaign he has led for so many years in the current Parliament. I am sure that when we debate legislation to implement employment rights for clergy, he will support us on the Floor of the House.

Mr. John Bercow (Buckingham) (Con): I welcome what the hon. Gentleman has just said. As one who has consistently supported both the hon. Member for Wirral, South (Mr. Chapman) and the hon. Member for Monmouth (Mr. Edwards) in urging the Church of England to come into the 21st century, I think that the news we have received today is positive indeed. May I, however—without in any sense wishing to carp—point out that there is still serious concern about the rights of spouses of members of the clergy? One woman is currently very worried about being rendered homeless as a consequence of domestic violence inflicted by her spouse, who is a member of the clergy. Is the hon. Gentleman satisfied that adequate rights exist for spouses, or does he think that the issue needs investigation?

Sir Stuart Bell: That would certainly be a matter for investigation, and the hon. Gentleman is right to draw attention to it. It should be remembered that clergy do not own property in the same way as a home owner: they do not benefit if the value of the property rises, and they do not have to fund its repairs. A spouse would clearly have a problem if her husband was the parish priest and lost his position. We will look into the matter, and I am grateful to the hon. Gentleman for raising it.

ELECTORAL COMMISSION COMMITTEE

The hon. Member for Gosport, representing the Speaker's Committee on the Electoral Commission, was asked—

Postal Voting

25. **Bob Spink** (Castle Point) (Con): What recommendations the Electoral Commission has made on improving the security of postal voting. [217013]

Mrs. Angela Browning (Tiverton and Honiton) (Con): The Electoral Commission has recommended changes to strengthen the legal framework for postal voting, including the introduction of offences relating to undue influence, personation and fraudulent postal vote applications, as well as post-election security checks of postal vote stationery.

Bob Spink: I am grateful for that response, but what is being done specifically to ensure that postal ballot papers sent to residential homes or to those with learning difficulties are not hijacked and misused by people other than the intended recipients?

Mrs. Browning: My hon. Friend will know that the commission has made specific recommendations to the Government, which we hope that they will take up. In particular, we are waiting to hear from the Government about how EROs will check what has happened post election, including the checking of groups who have been identified as possible targets for some form of postal vote fraud. Such groups certainly include the vulnerable people whom my hon. Friend mentioned.

CHURCH COMMISSIONERS

The hon. Member for Middlesbrough, representing the Church Commissioners, was asked—

Church Heritage Forum

27. **Miss Anne McIntosh** (Vale of York) (Con): What assessment the commissioners have made of the work of the Church Heritage Forum. [217015]

Second Church Estates Commissioner (Sir Stuart Bell): The Church Commissioners are represented on the Church Heritage Forum and they support its work.

Miss McIntosh: I am most grateful to the hon. Gentleman for that answer. I commend the forum's work to the House, but I wonder whether the hon. Gentleman might explain how individual applications for such work can be made. One or two projects in the Vale of York would benefit from it, and I can think of a few others as well. Will he share with the House the best way forward?

Sir Stuart Bell: I am grateful to the hon. Lady for her comments, and I am happy to look into the matter and to give her a proper response in due course. She will want to know that the Bishop of London issued Synod with a "use it or lose it" warning on Tuesday night in respect of the VAT rebate secured by the Church. Despite our best efforts to promote the listed places of worship grant scheme, take-up is disappointing. The hon. Lady will doubtless join me in urging Members to encourage parishes in their constituencies to take advantage of the scheme for which she and I, among others, have fought so hard.

Business of the House

3.31 pm

The Leader of the House (Mr. Peter Hain): With permission, Mr. Speaker, I should like to make a short business statement.

The business for this week will now be:

TUESDAY 22 FEBRUARY—Motions relating to the draft Social Security Benefits Up-rating Order 2005 and the draft Guaranteed Minimum Pensions Increase Order 2005, followed by remaining stages of the Drugs Bill.

WEDNESDAY 23 FEBRUARY—Second Reading of the Prevention of Terrorism Bill.

THURSDAY 24 FEBRUARY—Consideration of an allocation of time motion, followed by all stages of the Electoral Registration (Northern Ireland) Bill [*Lords*].

FRIDAY 25 FEBRUARY—Private Members' Bills.

The provisional business for next week will now include:

MONDAY 28 FEBRUARY—Committee and remaining stages of the Prevention of Terrorism Bill.

I will of course make my usual business statement on Thursday.

Mr. Oliver Heald (North-East Hertfordshire) (Con): The Leader of the House knows how seriously we view the decisions that the House will have to make about the Prevention of Terrorism Bill; indeed, such concern is shared in all parts of the House and in the country. Just this morning, I received an email from a solicitor stating that

"imprisonment without trial on the say-so of the Executive is completely contrary to our way of life and obviously open to abuse."

The Leader of the House will therefore realise how angry we are at the fact that this measure is to be rammed through the House, with our time for debate ruthlessly curtailed. The Bill should not be guillotined and it should have a proper Committee stage. The Government say that this legislation is urgent, but they have had more than three years since 9/11 in which to take the necessary decisions, and two months since the court case that prompted these changes. Is the House really to have just two days in which to consider these important matters? At one time, the Leader of the House would not have defended such proposals, which are redolent of the measures that he fought against so fiercely in South Africa. Will he think again about this Bill and, more importantly, about the time allowed for debate?

Mr. Hain: I am certainly not going to take any lessons from the hon. Gentleman on civil liberties. Frankly, his synthetic anger suggests that he wishes to remain in opposition as shadow Leader of the House, rather than having to behave in the responsible way in which the Government are required to behave, given the terrorism threat that we face. There is no plan to ram this Bill through the House of Commons. He seems not to be aware that as a result of the Law Lords' decision, Royal Assent is required by early March at the latest. The Bill will need to be in force and control orders made in respect of the current detainees—if appropriate—before the part 4 powers in the Anti-terrorism, Crime and Security Act 2001 lapse on 14 March as a consequence of the Law Lords' judgment. It is not possible simply to renew them, because the Law Lords have declared that they are not lawful. Surely the hon. Gentleman recognises that it is the job of the Government to balance civil liberties and their continued protection with ensuring that we fight terrorism at every opportunity.

Mr. Andrew Stunell (Hazel Grove) (LD): I thank the Leader of the House for the statement. The priority of the Liberal Democrats is to avoid any further derogation from the European convention on human rights, which is the central issue that must be tackled. We welcome the fact that the Leader of the House is putting some proposals before the House, but I must make the point that it is three years too late. As to the court ruling, we look with great regret on the way in which the Government have sought to circumvent it. We shall look very carefully at their proposals. If the legislation that results from the proposals does not find favour with the House, we would certainly want a much shorter derogation period—not 12 months, but perhaps four—in future, while we work out in greater detail across the House some satisfactory solutions to this difficult legal conundrum.

Mr. Hain: First, I acknowledge that the leader of the Liberal Democrats behaved in a responsible way when he saw the Prime Minister last Friday and said that he welcomed some of the changes being made—I see that the hon. Gentleman agrees—in contrast to the opportunism of the Leader of the Opposition. As to circumvention, it is not a matter of circumventing the ruling but of introducing legislation so that we are no longer out of compliance with the European convention on human rights, as the Law Lords ruled. It is a question of overcoming that anomaly in the best way possible, which is what the leader of the Liberal Democrats discussed with the Prime Minister last Friday. Those discussions were very constructive.

Mr. Robert Marshall-Andrews (Medway) (Lab): Does the Leader of the House understand that the measures likely to be contained in the Bill represent the greatest attack on the liberty of the British people for 300 years? He understandably does not wish to take lessons from Conservative Members in that regard, but does he realise that many Labour Members—and hundreds of thousands, if not millions, of people outside the House who are natural Labour supporters—share precisely the concerns aired by the official Opposition spokesman?

Mr. Hain: The greatest attack on civil liberties in Britain in 300 years would be a suicide terrorist attack right at the heart of our communities. The Government would be acting irresponsibly if they did not, while balancing concerns about civil liberties, deter such an attack. It seems that some Opposition Members, among others, are encouraging us to act in that irresponsible way.

Rev. Ian Paisley (North Antrim) (DUP): The Leader of the House may not be aware that Northern Ireland Members were informed that the Secretary of State for

[Rev. Ian Paisley]

Northern Ireland would make a statement to the House today. Does he have any idea when that statement will be made during the course of this week? He will know that the Irish Minister for Justice, Equality and Law Reform has issued a statement saying that he has evidence that two Members of this House—I refer to McGuinness and Adams—are members of the army council of the IRA. That has now been put on record, so surely the people of Northern Ireland are entitled to have a statement about what is taking place there.

Mr. Hain: It is the Secretary of State's intention to make a statement, but there was no plan to do so today.

Andrew Mackinlay (Thurrock) (Lab): The Leader of the House referred to the constructive discussions between the Prime Minister and the leader of the Liberal party. May I remind my right hon. Friend, with the greatest respect, that that is all very well, but we in the House are not privy to those discussions? There should be some disclosure before Second Reading as to whether agreement or concord was reached between the Prime Minister and the leader of the Liberal party. We also need to know whether—this is a crucial point for many Labour Members who have not been consulted in the same way—a judicial element applies when people are detained in their houses. For me, that is the critical point. While I am seized of the gravity of potential terrorism, I am not prepared to support legislation that keeps people in custody in their homes on the decision of a politician, although I might accept that decision by a judge—I see colleagues nodding in agreement. This is a dynamic situation and I hope that my right hon. Friend will report back to the Home Secretary and the Prime Minister this afternoon. If he wants us to support him in the Lobby, he must meet our concerns.

Mr. Hain: I understand the reasons for my hon. Friend's question and I believe that he will be encouraged when the Home Secretary makes a statement tomorrow, which he intends to do before Second Reading so that any questions can be put to him. That will give plenty of time before the remaining stages, including Committee stage next Monday, for any points to be taken on board. I believe that my hon. Friend will be encouraged by the contents of the Bill and that some of the worst fears that have been expressed in the media and elsewhere will prove not to be well founded.

Mr. Tim Boswell (Daventry) (Con): The Leader of the House is clearly right in saying that we need to reach an understanding about the balance between liberty and the threats to it. However, in the spirit of the debate on a Liberal Democrat motion less than two weeks ago, does he accept that there are genuine concerns, particularly about the judicial element, throughout the House, and that the best way of resolving those is to have adequate debate rather than ramming the Bill through with undue haste, which is likely to lead to tears?

Mr. Hain: I am sorry, but I do not accept that we are ramming the Bill through with undue haste. I have already explained the reason for putting in place the necessary legislation and obtaining Royal Assent by early March in the light of the Law Lords' ruling. The Bill amends a specific section of the 2001 Act and there is no need to discuss it for more than two days. When the hon. Gentleman has had a chance to look at the Bill when it is published tomorrow, I think that he will be reassured that we are adopting a course of action that protects civil liberties and also protects us from terrorist attack. The balance is difficult, but when he hon. Gentleman hears what the Home Secretary announces, I think that he will agree that we have got the balance about right, although we will listen to any constructive suggestions to improve the Bill.

Mr. Tony McWalter (Hemel Hempstead) (Lab/Co-op): Does my right hon. Friend accept that the strong action that he wants to take in response to terrorist threats would receive greater support if it were clear that all the available evidence would be brought to court, particularly phone tap evidence? That greatly exercised the Standing Committee that considered the Serious Organised Crime and Police Bill, but when the Bill reached this House, only one sentence of objection came from a Labour Member—my right hon. Friend the Member for Islington, South and Finsbury (Mr. Smith). It is vital that phone tap evidence be admissible in court to minimise the prospect of people being unnecessarily detained without trial.

Mr. Hain: I understand my hon. Friend's point. He, too, will have a chance to question the Home Secretary tomorrow if he is not satisfied on that point.

Mr. Simon Thomas (Ceredigion) (PC): I hope that the Leader of the House is aware that when the Home Secretary made his initial statement to the House he agreed with me that we need the widest consultation and discussion with Members from all parties before introducing a Bill. We shall not see the Bill until tomorrow, and most of us are totally unaware of its contents. Has not the Leader of the House, in his other job as Secretary of State for Wales, utterly failed in not consulting with other political parties in Wales?

Mr. Hain: No.

Mr. David Kidney (Stafford) (Lab): When my right hon. Friend the Home Secretary last made a statement to the House on this subject he gave an assurance that, whenever possible, a prosecution would be the preferred course of action. Is it the intention that the legislation will enshrine that as a precondition before control orders are possible? Have any thoughts been given to creating the new criminal offences recommended by the Newton report? Is it the intention that a cadre of judges will have the specific responsibility for dealing with such cases?

Mr. Hain: I think that my hon. Friend will see, when the Bill is published and the Home Secretary makes his statement, that a careful system of checks and balances will be put in place. I think that he will be encouraged by that—at least I hope he will be.

Several hon. Members *rose—*

Mr. Speaker: Order. The statement is about the rearrangement of business, and the substance of the matter can be inquired about tomorrow when the Home Secretary makes his statement.

Mr. Andrew Mackay (Bracknell) (Con): Presumably the Leader of the House has been aware since the Law Lords' judgment that fresh legislation would have to be completed by early March, so it is his fault and not that of his critics in the House that it is being rushed through at this late hour. In those circumstances, should not there be more than one day for Committee and a slightly longer gap between Second Reading and Committee and Report so that we can consult interested parties outside?

Mr. Hain: For the reasons that I have already explained, I do not consider that necessary, because the Bill amends only one section of the 2001 Act. There will be plenty of time both to debate it in principle on Wednesday and to probe the Home Secretary before that, tomorrow. There will then be detailed line-by-line consideration on Monday. The precedents established by previous Governments, including ours and those in which the right hon. Gentleman served, show that when we have had to introduce emergency legislation of this kind, we have had to do it quickly. The reason it is being done at this time is that much care and thought have gone into getting the balance absolutely right—as best we can—between the protection of individual liberties and the threat of terrorist action. The right hon. Gentleman should welcome what we are doing when the whole proposal is published tomorrow.

Mr. Andrew Hunter (Basingstoke) (DUP): Further to the point that the Irish Government have publicly and formally identified two Members of the House as members of a terrorist organisation, should not that be a matter of grave concern to the House and one that it should address at the earliest opportunity?

Mr. Hain *rose—*

Mr. Speaker: Order. That is not a matter before us at the moment.

Sir Patrick Cormack (South Staffordshire) (Con): I listened carefully to everything that the Leader of the House said, but why can we not have a few days to reflect on the Bill, which none of us has seen? Why cannot we have its Second Reading on Monday and complete its stages during the rest of next week? That would give us all an opportunity to read it and to reflect and consult on it, and many of the charges justifiably levelled at the Leader of the House could then be withdrawn.

Mr. Hain: I understand the point that the hon. Gentleman is making, and he is always entitled to press me for more time, especially on such important issues. I remind him, however, that Royal Assent is required by early March at the latest as the Bill will need to be in force and control orders made in respect of the current detainees, if appropriate, before the part 4 powers lapse on 14 March; otherwise those people may simply walk out. The procedure still has to take its course in the House of Lords before Royal Assent can take place, and the Bill may be closely debated there, as the Lords are entitled to do. We are absolutely right to bring in the Bill as we have done, but we are anxious to see the fullest possible scrutiny of it.

Mr. Crispin Blunt (Reigate) (Con): Does the Leader of the House understand that people will be incredulous that the House will go from First to Third Reading in six days to impose, on the recommendation of the nation's secret police, powers of administrative detention? That he of all people should be recommending that to the House on such a timetable is extraordinary, and I hope that the Government will review it.

Mr. Hain: I am sorry, but I can give the hon. Gentleman no encouragement or satisfaction on that point. I have explained the necessity for the timetable. Surely he will understand that something has to be done before the powers lapse on 14 March, especially in light of the Law Lords declaring that the current legislation is defective in this respect and out of compliance. We need to do something about that, and I would have thought that he would join in a constructive discussion—and encourage the Leader of the Opposition to get involved—about the exact balance to strike, rather than opposing the measure almost outright, as appears to be the case.

Mr. John Bercow (Buckingham) (Con): Notwithstanding the right hon. Gentleman's protestations, many of us in all parts of the House believe that the decision suddenly, and with such haste, to introduce this threatening piece of legislation is extremely undesirable, given that one of the linchpins of our liberties is under threat. Can he, on the strength, presumably, of advance sight of the draft of the Bill, at least offer the House an assurance that where such a sacred liberty is under threat the Bill that we see will be the Bill in total, and that there will be no provision in its clauses for further and potentially damaging incursions on liberty, introduced by the Government in the form of secondary legislation?

Mr. Hain: The hon. Gentleman will have to wait to see the contents of the Bill, but as I keep saying, I think he will be reassured. What the Government are doing and what we have always stood by is ensuring that the protection of individual liberty comes first—that is something that I have spent many years of my life fighting for—but in a situation where we have the suicide bomber and an international terrorist threat of quite a different order even from that of the IRA in past years, we need to be very careful about protecting our security and protecting our liberty alongside it, because if our security is not protected, what is the point of any liberty?

Mr. Patrick McLoughlin (West Derbyshire) (Con): The Leader of the House keeps telling us about the very tight timetable that we must meet. Presumably, he knew of that timetable when he made his last business statement to the House. Since then, the House has not sat for a week, and now he tells us that there will be but six days from First to Third Reading. Will he assure me

[Mr. Patrick McLoughlin]

now that the House of Lords will not get longer to debate this issue than the House of Commons, which is elected?

Mr. Hain: Again, I am sorry that the hon. Gentleman puffs himself up into anger about this issue, because the truth is that the original Anti-terrorism, Crime and Security Bill, following the events of 11 September, was taken in three days—the whole Bill. Its Second Reading took place on 19 November, and then there were two days of debates in Committee and on Third Reading—so three days in total. We are devoting two days to one aspect of that Bill, as opposed to the entire Bill, which took three days. Therefore, we are entitled to ask for the House's understanding in the circumstances.

As for the other point about timing, yes, the recess has come between my last business statement and now. I have come to the House at the earliest possible opportunity, and one of the reasons why there has been some delay—I genuinely make no criticism about this—is that the Prime Minister wanted to consult both the Leader of the Opposition and the leader of the Liberal Democrats. That consultation took place on Friday, and I do not think that it could have taken place beforehand. That is one of the reasons why we are proceeding in this way.

Points of Order

3.52 pm

Mr. Mark Prisk (Hertford and Stortford) (Con): On a point of order, Mr. Speaker. I seek your guidance about a ministerial statement on Stansted airport. You will probably be aware that, last Friday, while the House was not sitting, the High Court upheld a series of challenges against the Government's air transport White Paper. The judgment found that the Department for Transport had acted unfairly, that it had withheld some Government evidence and that it had prejudged the planning process, thus blighting people's homes not just in my constituency but in those of a number of other right hon. and hon. Members.

It was therefore expected that the Secretary of State for Transport would come to the House to make an oral statement, enabling us to question him, but instead all we have been given is a short written statement. Given the hardship caused to people in my constituency and others, and the fact that the court judgment, which runs to more than 109 pages, directly questions Government policy, should hon. Members not also have the chance to question the Minister? Have you, Mr. Speaker, received any indication that the Secretary of State for Transport intends to come to the House to answer for himself and for his rather ragged and incomprehensible Government policy?

Mr. Speaker: The Minister has worked within the rules of the House, and it is for me to ensure that the rules that the House has made are applied properly. The hon. Gentleman could apply for an Adjournment debate, which would allow him to question the Minister, and of course, he could table parliamentary questions.

David Winnick (Walsall, North) (Lab): On a point of order, Mr. Speaker. On 14 July 1997, there were points of order about reports that the BBC intended to drop "Yesterday in Parliament", replacing it with some kind of panel discussion. As you will probably recall, as a result of public and parliamentary pressure, the programme was not axed but put on a more limited channel. I raise the point of order again today because it has been reported in the *Evening Standard* that it is expected that the programme will be dropped. It is true that that is not official, but a kind of softening up exercise is probably taking place so that there will be less controversy when it is dropped.

I hope that the BBC will reconsider the matter if it is indeed true that it intends to drop the programme. I submit to you, Mr. Speaker, that there is an obligation on the part of a public service broadcasting organisation to report the proceedings of Parliament. The decisions taken here are important to many people. Indeed, the debate referred to in the previous exchanges will surely be important to people who want to hear what is happening in the House of Commons. Will you therefore use your authority as the Speaker of the House of Commons to try to ensure that the programme is not axed and that the BBC recognises its obligation to report Parliament? It always claims that it accepts that obligation, and the last time the subject arose, everyone agreed—there was no controversy—that it should not

axe the programme. I hope that you will do what you can to ensure that both the evening programme and the morning programme are retained.

Mr. Oliver Heald (North-East Hertfordshire) (Con) *rose—*

Sir Patrick Cormack (South Staffordshire) (Con) *rose—*

Mr. Speaker: First let me answer the hon. Gentleman. I have given before in the House the advice that we should not believe everything that is put in a newspaper. Certain Select Committees of the House can call officials of the BBC and question them on their stewardship. My worry is more about today in Parliament than "Yesterday in Parliament".

Mr. Heald: On a point of order, Mr. Speaker. The judgment about the airports White Paper found that the Government's actions had been unlawful because they had not consulted properly on the options for Stansted or consulted at all about the situation at Luton airport. In those circumstances, it would be very helpful for local residents and others to know what the timetable will be for the proper consultations that will now have to take place. Is it in order for the Secretary of State to make an oral statement now that he has already made a written one? Is there any bar to his doing that? Is such a statement possible if, in the light of the comments made, he decides that he wishes to make one?

Mr. Speaker: That might well be in order, but I certainly do not want to be drawn into the argument.

Sir Patrick Cormack: My point of order relates to what the hon. Member for Walsall, North (David Winnick) said. Would it be possible for you in your capacity as Speaker and spokesman for the House to find out from the chairman of the BBC precisely what is intended?

Mr. Speaker: Once again, let me say that the hon. Member for Walsall, North raised the matter because it was reported in a newspaper. I am not prepared to work on that basis, but there is nothing to stop the hon. Gentleman raising the matter with the governor of the BBC.

Mr. Patrick McLoughlin (West Derbyshire) (Con): On a point of order, Mr. Speaker. Although I accept what you said about not believing everything that we read in newspapers, it is unfortunately all too common to read something in newspapers and then be told it in the House of Commons. I read in the newspaper this week that the Government are going to introduce an order in the House to stop the payment of allowances to four Members who have not taken the Oath of Allegiance to Her Majesty. That has appeared in the newspapers, but there is nothing on the Order Paper. Would it not have been correct for the House rather than newspaper journalists to have been told first? If it is going to happen, I very much welcome it, but it should have happened a long time ago.

Mr. Speaker: I would prefer it if Ministers came before the House, and I have put that view on the record on many occasions. However, the Leader of the House made the helpful remark that the Secretary of State for Northern Ireland hopes to come before the House this week. Such questions can be put to him then.

Clean Neighbourhoods and Environment Bill (Programme) (No. 2)

Motion made, and Question proposed,

That the Programme Order of 10th January 2005 in relation to the Clean Neighbourhoods and Environment Bill be varied as follows:

1. Paragraphs 4 and 5 of the order shall be omitted.

2. Proceedings on consideration shall be taken in the order shown in the first column of the following table.

3. The proceedings shown in the first column of the table shall (so far as not previously concluded) be brought to a conclusion at the time specified in the second column.

TABLE

Proceedings	*Time for conclusion of proceedings*
New Clauses, amendments and New Schedules relating to Part 1; New Clauses, amendments and New Schedules relating to Part 2; New Clauses, amendments and New Schedules relating to Part 3; New Clauses, amendments and New Schedules relating to Part 4.	2 hours after the commencement of proceedings on the motion for this order.
New Clauses, amendments and New Schedules relating to Part 5; New Clauses, amendments and New Schedules relating to Part 6.	3 hours after the commencement of proceedings on the motion for this order.
New Clauses, amendments and New Schedules relating to Part 7; New Clauses, amendments and New Schedules relating to Part 8; New Clauses, amendments and New Schedules relating to Part 9; New Clauses, amendments and New Schedules relating to Part 10; remaining New Clauses and New Schedules; remaining proceedings on consideration.	4 hours after the commencement of proceedings on the motion for this order.

4. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion—

(a) 5 hours after the commencement of proceedings on the motion for this order; or

(b) at the moment of interruption,

whichever is the later.—[*Alun Michael.*]

3.59 pm

Miss Anne McIntosh (Vale of York) (Con): I shall oppose the programme motion as vigorously as possible for several reasons. It is not yet 4 o'clock on the day of the week on which the House usually sits until 10 pm, so Conservative Members find it difficult to understand why knives have been imposed that will fall arbitrarily and thus deprive the House of an hour's debate and scrutiny of a Bill on which both we and the Liberal Democrats wish to raise several new issues. We failed to secure the number of Committee sittings that we would have liked, but having lost that argument we gave the Bill the fullest possible scrutiny, while being mindful of the timetable that was imposed on us.

The most extraordinary thing occurred because the usual channels were not followed as rigorously as is normal on this occasion. As the walk-on speaking part, I was called on to agree with the usual channels about when the knives should fall. I am sure that the usual channels will not want that to happen in future. An even more extraordinary event occurred because my office today received a faxed copy of a letter from the Minister for Rural Affairs and Local Environmental Quality, who will lead for the Government, and although the time on the fax said that it was received at 16.25 on 21 February, the House will note that it is not yet that time. I then received a hard copy of the same letter in my hand at 3.40 pm, which was only just before we started our proceedings on the Bill. The letter informed me of why the Government have drafted several amendments that were tabled at the last possible moment—Thursday last week.

I do not wish to eat into any more time, but we deplore the Government's rather shabby behaviour because we thought that we had achieved a good working relationship and co-operation, given the circumstances. On a positive note, I am delighted that we have stirred the Government into action and that they have recognised that there are failures in the Bill, as we consistently stated on Second Reading and in Committee. We shall continue to point them out today. As I said, we will oppose the programme motion as vigorously as possible.

4.2 pm

The Minister for Rural Affairs and Local Environmental Quality (Alun Michael): May I respond to one or two points made by the hon. Member for Vale of York (Miss McIntosh)? We extended the time available in Committee after discussions through the usual channels, but she struggled to fill that time. Indeed, she had to speak about all sorts of things, such as the long title of the Bill, the short title and who had printed documents, so that she could drag out proceedings.

The hon. Lady's problem is that her party does not understand the Bill or why we want to tackle the issues with which it deals, such as litter, graffiti and other problems that degrade local neighbourhoods. That is why most of the time available on Second Reading was taken up by 18 Labour Members who spoke with authority about the way in which the degradation of local environments affects their constituencies. Only two Conservative Back Benchers spoke, and neither sounded authoritative or convinced about the points that they were making.

The hon. Lady referred to the usual channels, but as far as I could see, they worked with their usual efficiency and co-operated to ensure that there was the opportunity for Conservative Members and for the hon. Lady to have an input on the timetable. The letter that she mentioned was finally drafted and completed to my satisfaction little more than an hour ago. I brought copies to the House to put on the Letter Board and delivered a copy personally to the hon. Lady, after having faxed an advance copy to her office. It is rather strange that rather than welcoming such courtesy, she uses it as an opportunity to make a critical point. I would have thought that that was a trifle ungracious.

We have debated in Committee a Bill of enormous importance to constituents who are represented by Labour Members. However, Conservative Members do not understand it. They even said on Second Reading that the Bill was about urban, not rural, issues. They should tell that to all the farmers who complain about fly-tipping on their land or the cars that are left on their

land that must be disposed of. The Bill deals with problems that are important to both urban and rural constituents, so we should move on to debate such issues rather than trying to find piddling excuses to delay the House's proceedings, as the hon. Lady has done.

Mr. Simon Thomas (Ceredigion) (PC): On a point of order, Mr. Speaker. I am in favour of the Bill but against the programme motion. However, the hon. Member for Vale of York (Miss McIntosh) said something that concerned me. She suggested that if we agree to the programme motion, we will lose one hour of the time usually allowed for debate. My reading of the motion is that we can go to 10 o'clock. Will you confirm that?

Mr. Speaker: The hon. Gentleman is correct.

4.5 pm

Derek Conway (Old Bexley and Sidcup) (Con): The Minister responded to my hon. Friend the Member for Vale of York (Miss McIntosh) in his usual robust manner. I was one of those who spoke on Second Reading and who made, according to him, an ill-informed contribution. Whether he meant my contribution I am not sure, but I was chief executive of the largest animal welfare charity in Britain, so I understand a bit more about the care of strays than even he does.

Mr. Patrick McLoughlin (West Derbyshire) (Con): As far as the Minister is concerned, the fact that my hon. Friend has experience means that he is ill-informed.

Derek Conway: My hon. Friend makes a good point.

Alun Michael: The hon. Gentleman spoke on one clause of a wide-ranging and important Bill. Although he spoke with authority, it meant that 50 per cent. of the contributions by Conservative Members was directed at only one clause.

Derek Conway: I am glad to accept the right hon. Gentleman's apology, which was given in his usual charming way.

Having contributed on that specific matter on Second Reading, I could not serve on the Standing Committee—which I wanted to do to press the Minister further—because as a member of the Chairmen's Panel I was next door chairing the Identity Cards Bill, which was in equally invigorating session. What concerns me about the programme motion, on which I hope my hon. Friends divide the House, is where the knives are placed.

I want to question the Minister on amendment No. 11, which deals with dogs. Less than 45 minutes was spent on that subject in Committee. Obviously, I had no opportunity to press him in that forum. Some of my hon. Friends—I note that the Chairman of the Procedure Committee, my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton), is in the Chamber—have made the point in timetabling debates that not all hon. Members can serve on Standing Committees. If they have duties on other Committees or elsewhere in the House, it is the remaining stages of a Bill's consideration that enable any Member, with the agreement of the Chair, to press the Minister on the detail.

There is no objection to what the Government propose on the matter, and I hope that we will debate it with your consent, Mr. Speaker, but I am concerned that the motion will prevent us from getting to the amendment. Given the time that the Government are allowing for the discussion of the remaining stages, I am not convinced that we will get to it. There may be no time to discuss what happens to the 140,000 stray dogs, which the Committee could consider for only 45 minutes.

Mr. John Bercow (Buckingham) (Con): My hon. Friend's tenure running the Cats Protection League is rightly celebrated the length and breadth of the land. It certainly qualifies him to contribute at length to our proceedings. As an experienced parliamentarian, does he agree that in trying to explain our opposition to programme motions to the widest audience, it is important to underline to the public that with 44 new clauses and amendments, and only 240 minutes in total in which to do so—assuming, rather unimaginably, there are no votes—the logic is obvious? There is only roughly five minutes for consideration of each amendment. It is manifestly inadequate and an insult to the House of Commons.

Derek Conway: My hon. Friend makes a superb point, as always. He also makes a reasonable point. People are not saying that all parts of the Bill are dreadful. I am not saying that although I have a predilection for cat welfare, I do not support the dog welfare charities, and I had a great deal to do with them through the industry arrangements. However, when we reach the relevant part of the Bill, I want to press the Minister on the practicalities of his proposals because the Committee did not have time to do that.

I do not object to the proposals. I hope to support what the Minister is trying to do. There is no party political principle involved in the care of stray dogs. There is no magical Conservative, Labour or Liberal solution to what we do with stray animals. However, we are entitled to press the Government on whether the dramatic changes to the care of what are often violent stray dogs—10 per cent. are out of control—will work. The discussions that I have had with vested interests suggest that it will not do so. Therefore, we should have the opportunity to put such points. I predict that, because of the timetable motion that the Government have put before the House, we will not be able to do so.

The groups outside this building that will have to do the dirty work for us—the Dogs Trust, the RSPCA, the Kennel Club and, more importantly, the dog wardens who have grave doubts about the proposals, as the Minister knows—will want to know what the hot words said in this Chamber will mean on the cold nights across Britain if the proposals become law, as I am sure the Government will ensure. It is a great pity that the Minister has guillotined proceedings on the Bill in this way, and it is a pity that those of us who were unable to serve on the Standing Committee will not have an opportunity to press him further. If for whatever reason we do get a few minutes during the course of the evening, I hope to press him on whether his practical solutions will really work for the benefit of the dogs of Great Britain.

4.10 pm

Sir Nicholas Winterton (Macclesfield) (Con): My contribution to the debate on this programme motion will be very brief. My hon. Friend the Member for Old Bexley and Sidcup (Derek Conway) made some valuable points. If I may, I shall speak in my capacity as Chairman of the Procedure Committee. I am deeply concerned that the time limits on debate imposed by programme motions are preventing Members from undertaking their duties on behalf of the constituents who sent them here. The remaining stages of a Bill are the only occasions during the legislative process when Members of whatever party should have an automatic right to be called.

I accept what the Minister said—this is important legislation. It affects people not only in urban areas but in rural areas. Is it right that people such as my hon. Friend, who have expertise in this area and who would like a greater opportunity to express their views, are prevented because of a programme motion from doing so? There are Members on both sides of the House who have heavy responsibilities and cannot always be in Standing Committee when a clause, new clause or amendment is debated.

Will the Minister take back to the powers that be—the Leader of the House and the usual channels—the message that further consideration should be given to the needs of Back Benchers, who should have an opportunity to have an input during remaining stages? The Procedure Committee which I chair has made recommendations which the Government have, at this stage, not seen fit to accept. I believe that the House will review the situation relating to programming. My hon. Friend has made a good point, so please let us allow Members to make a contribution. The remaining stages of a Bill are the only period during its passage when Members should be guaranteed the ability so to contribute.

4.13 pm

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): I am grateful to have caught your eye in this very short debate, Mr. Speaker, and I shall keep my contribution brief. My hon. Friends the Members for Old Bexley and Sidcup (Mr. Conway) and for Macclesfield (Sir Nicholas Winterton) have admirably illustrated the point that these timetable motions are beginning to set a precedent. We find ourselves with too little time in Standing Committee, where debates are guillotined so that certain bits of a Bill are not discussed, and we find exactly the same thing on Report and Third Reading. Too much timetabling and too tight a guillotine on clauses can mean that the Government completely control what and what is not debated at all stages of a Bill. What are we sent here for? We are sent here to debate Bills and to try to amend them on behalf of our constituents. If we are not able to do that, there is very little point in our coming here. A pattern is forming.

This timetable is worse than usual. We might have four hours for debate on Report, yet there is a very tight guillotine on Third Reading, so issues such as those to which my hon. Friend the Member for Old Bexley and Sidcup referred will not be debated and there will be no opportunity to amend the Bill. In the old days, Mr. Speaker, you would have selected what is debated on Third Reading, but the new guillotines and knives mean that you do not have that opportunity. That is an unfortunate precedent, which my hon. Friend the Member for Macclesfield, the Chairman of the Procedure Committee, and you must look into.

Question put:—

The House divided: Ayes 243, Noes 116.

Division No. 86] **[4.15 pm**

AYES

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Baird, Vera
Baker, Norman
Barnes, Harry
Barrett, John
Barron, rh Kevin
Beard, Nigel
Beith, rh A. J.
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brake, Tom *(Carshalton)*
Breed, Colin
Brennan, Kevin
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Cable, Dr. Vincent
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Cleland, David
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Dawson, Hilton
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, Don *(Bath)*
Foulkes, rh George
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hinchliffe, David
Holmes, Paul
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Johnson, rh Alan *(Hull W)*

Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lamb, Norman
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marsden, Paul *(Shrewsbury & Atcham)*
Marshall-Andrews, Robert
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Osten, Mark *(Winchester)*
O'Brien, Bill *(Normanton)*
O'Hara, Edward
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Prosser, Gwyn
Pugh, Dr. John
Purnell, James
Quin, rh Joyce
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Soley, Clive
Speller, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Stunell, Andrew
Taylor, rh Ann *(Dewsbury)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Ms Bridget Prentice and Margaret Moran

Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burt, Alistair
Butterfill, Sir John
Chapman, Sir Sydney *(Chipping Barnet)*
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hammond, Philip
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward

NOES

Letwin, rh Oliver
Lidington, David
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paisley, Rev. Ian
Pickles, Eric
Prisk, Mark *(Hertford)*
Randall, John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Mr. David Ruffley and Mr. Crispin Blunt

Question accordingly agreed to.

Orders of the Day

Clean Neighbourhoods and Environment Bill

As amended in the Standing Committee, considered.

Clause 2

GATING ORDERS

4.29 pm

Miss Anne McIntosh (Vale of York) (Con): I beg to move amendment No. 28, in page 3, line 3, at end insert

'save with the agreement of the owner and occupier of any such dwelling.'.

For the benefit of the House, may I take this opportunity to mention my declaration in the Register of Members' Interests in regard to the Royal Automobile Club? I should also like to mention that I own a modest amount of shares, which are not registrable, in BT and a number of individual company personal equity plans and individual savings accounts in utility companies. In my spare time, I am also undertaking a placement with Network Rail, which has been of great interest.

Speaking to amendment No. 28 gives me the opportunity to mention a loophole in the Bill that came to our attention after the Committee stage. We hope that the Minister will give us an assurance that the Government will look favourably on inserting into clause 2 the provision that

"the agreement of the owner and occupier of any such dwelling"

should be taken into account in regard to certain gating orders. This relates to issues raised by farm owners and landowners and, in particular, to concerns raised by the Country Land and Business Association—the CLA.

Ms Ann Coffey (Stockport) (Lab): Given that the hon. Lady has been complaining of insufficient time to scrutinise the Bill, will she tell us why there are no Conservative Back Benchers present to scrutinise it?

Miss McIntosh: The hon. Lady raises an interesting point, but I am afraid that she is treading on thin ice. Bearing in mind the huge—and short-lived—majority of Labour Members, I must point out that only one or two of her colleagues are on the Labour Benches at the moment, so she might regret making that remark. Also, Conservative reinforcements are arriving as we speak.

The amendment would add flexibility in regard to when gating orders could be made, and would allow for them to be made if the owner and occupier of the dwelling in question agreed—*[Laughter.]*

The Minister for Rural Affairs and Local Environmental Quality (Alun Michael): The hon. Lady seems unaware of what has just happened behind her. The empty Conservative Back Benches were occupied briefly by a Conservative Member, who entered stage left and walked all the way to stage right before going straight out of the Chamber, so captivated was he by her words. I remind her that 18 Labour MPs spoke vigorously in support of the Bill on Second Reading. They felt that it was the right Bill because of all the discussions that we have had with everybody about how effective it will be. But I must allow the hon. Lady to get on with her scrutiny.

Miss McIntosh: Indeed. Perhaps if there were fewer interruptions of that low level, the level of scrutiny might be greater.

The Bill as drafted does not allow gating orders, and the associated barriers, to be put in place on a route that forms the principal means of access to a dwelling. In our view, and that of the CLA, that is simply too restrictive. In many cases, the persons most in need of a barrier are those who live in a dwelling and suffer from persistent crime and antisocial behaviour because of the access available on that right of way. Once made, the gating orders will be flexible and need not prohibit access completely. The amendment would add flexibility in this regard, and would allow for a gating order to be made when the owner of the dwelling agreed to it. I submit that this would be a minor but beneficial improvement, and that it addresses some of the points put to us that we did not have the opportunity to raise in Committee.

Alun Michael: On the face of it, I suppose it might seem not unreasonable for residents to agree to curtail their own access, but they would also be curtailing access for a wide range of others who may have a legitimate purpose for having access. For instance, this proposal could hamper the delivery of mail and of other services for which providing access keys might not be practical.

The hon. Member for Vale of York (Miss McIntosh) says that she was briefed on this concern by the CLA, but I have to say that the CLA has not raised it with me, although I speak to it regularly. The legislation is intended to provide for gating back and side alleys to deal with problems that have been experienced in inner urban areas. It is not intended to provide for gating the principal means of access.

I see the purpose of proposed new section 129B(4) as ensuring that the legislation is not used for purposes for which it is not intended. For that reason, I suggest that the hon. Lady withdraw her amendment.

Miss McIntosh: With some disappointment, we learn that the Minister does not seem to have grasped the reasonable points that we made and is unable to offer the assurance we seek. However, I am sure that there will be opportunities—when the Secretary of State introduces regulations, for example—for the CLA to be consulted further. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

New Clause 6

ABANDONED VEHICLES

'In the Refuse Disposal (Amenity) Act 1978 (c. 3), after section 2 (offence of unauthorised abandonment of vehicles etc.) insert—

"(1) A vehicle shall be deemed to be abandoned if—

(a) there are recent observations or evidence regarding its inactivity;

(b) there has been no activity regarding it on the DVLA's database for a continuous period of 5 years;

(c) the number plates and Vehicle Identification Number have been removed;

(d) no Statutory Off Road Notification has ever been notified and recorded on its DVLA record;

(e) the vehicle is burnt out;

(f) the vehicle is deemed to have no value; or

(g) the vehicle is a hazard.'". —*[Miss McIntosh.]*

Brought up, and read the First time.

Miss McIntosh: I beg to move, That the clause be read a Second time.

Mr. Deputy Speaker (Sir Michael Lord): With this it will be convenient to discuss the following: Amendment No. 12, in clause 3, page 5, line 41, leave out

'he proves to the satisfaction of the court that.'.

Government amendment No. 24.

Amendment No. 13, in clause 4, page 6, line 18, leave out

'he proves to the satisfaction of the court that.'.

Amendment No. 14, in clause 4, page 6, line 26, leave out

'he proves to the satisfaction of the court that.'.

Government amendment No. 25.

Miss McIntosh: For the benefit of the House, I should say in discussing this little group that I wish to press amendment No. 12 to a vote.

In a moment, I shall say how amendments Nos. 12, 13 and 14 are linked. First, however, I urge the Minister to look sympathetically on new clause 6. We believe it is important to have a definition of an abandoned vehicle, but—strangely, in the circumstances relating to this part of the Bill—there is no such definition. Indeed, there is no such definition anywhere in the legislation, nor is there a definition of a vehicle fit for destruction.

In 2002–03, the Department for Transport, Local Government and the Regions consulted on proposals to speed up abandoned car removal. That mainly involved shortening the statutory notice periods—15 days on private land and seven on a highway. The consultation resulted in no action, and it was generally understood that that was because of the concern expressed about historic and restorable vehicles, particularly in relation to when people were away on business or on holiday.

There were also understood to be Human Rights Act 1998 concerns about the right to property and whether the rules were widely enough understood. Concern was also expressed that many local authorities had difficulties in assessing vehicles and judging them to be abandoned. There were calls, albeit by the DTLR in its consultation, for a statutory definition and guidance.

Many local authorities were concerned about having to pay compensation, although it was suggested that motor trade assessors could be used to estimate value. Other concerns involved value, what is personal value, what is market value and how those should be defined.

Since that consultation, many local authorities have established links to the Driver and Vehicle Licensing Agency database. Indeed, some are using the DVLA's untaxed removal powers, which is probably the best way forward. A definition of abandoned vehicles has been difficult to get to grips with, but it was felt that this was the right time to have a go. On the criteria in relation to what should establish a definition, a vehicle shall be deemed to be abandoned if a number of factors are in place: recent observations; evidence relating to its inactivity; no activity regarding it on the DVLA's database for five years, such as road tax or statutory keeper listings; all identifying features, number plates and vehicle identification number removed.

Mr. Edward Davey (Kingston and Surbiton) (LD): So that I may understand the hon. Lady's new clause better, will she say whether an abandoned vehicle will have to meet all those criteria or just one to be deemed to be abandoned? What consultation has she had with respect to her proposed definition? Has she taken advice from the Local Government Association, for example, or others who would have to implement this definition?

Miss McIntosh: I am not disclosing a secret by saying that the Automobile Association provided that definition, and it has had several discussions and followed closely how effectively it would be implemented. There would be no point in having a definition that did not work in practice. I am grateful to the hon. Gentleman for allowing me to make that point.

Not all the criteria would have to be met, but they are indicative criteria. The two most useful would probably be statutory off-road notification, which is the official declaration that a vehicle will not be used on the public highway—every vehicle in normal circumstances must be taxed or have been given SORN, as being in limbo or any other status is simply not permissible—and the vehicle identification number. The VIN is unique to each vehicle, marked on its engine—concealed on the chassis, I am told—and gives more information than simple registration numbers. It is therefore important to have a definition. That follows up the loophole that has been found.

Other criteria include: all identification features have been removed, including the number plates and VIN; no SORN has ever been notified and recorded on the DVLA record; the vehicle is burnt out; the vehicle is deemed to have no value, which could be verified by the official motor trade estimate; and the vehicle is a hazard or a danger.

I hope that the Minister will look favourably on new clause 6. Any one of those criteria would be helpful in determining the status of a vehicle as abandoned. The Minister must see the difficulties that the former Department for Transport, Local Government and the Regions got into by failing to have a definition of an abandoned vehicle. This definition is put forward in the same spirit of co-operation as was demonstrated throughout the Committee stage.

I now come to amendments Nos. 12 to 14. Amendment No. 12 relates to clause 3 and touches on one of the most sensitive and contentious parts of the Bill, which time did not permit us to reach in Committee—the imposition of a reverse burden of proof on exposing vehicles for sale on a road. We would prefer to reverse that by removing the offending words, "he proves to the satisfaction of the court that".

Historically, in England and Wales and in Scotland, in law, it has normally been the case that a party is innocent until proved guilty. This provision reverses

[Miss McIntosh]

that presumption and puts the onus on the accused to prove his innocence. That reverses one of the most fundamental tenets of English law, and we take a grave view of it.

4.45 pm

Mr. Davey: I have looked at the amendment and tried to work out what is behind it. I cannot agree with the hon. Lady, although hers would be a serious charge if it were justified. Surely a court would have to decide whether a person was guilty under clause 3(1) first, and clause 3(2) merely provides an extra protection for an innocent person. There is no change from the basic legal presumption of "innocent until proven guilty". I think that what the hon. Lady has said represents a misreading of the clause.

Miss McIntosh: The hon. Gentleman may not have had time to consider the clause to the extent that we have.

Paragraph 303 of the Government's explanatory notes, on page 47, refers to the court case. I understand from a radio interview in which I took part yesterday that there is already a legal precedent, although I do not know whether it relates to the court case in question. As I have said, we take a serious view of any removal of the presumption of "innocent until proven guilty". Paragraph 303 states:

"The Bill contains a number of new reverse burdens of proof (which means that, to take advantage of a defence provided, the accused is required to demonstrate his innocence once the prosecution has proved certain facts, rather than the prosecution being required to prove the accused's guilt on all issues)."

That is a classic definition of reverse burden of proof.

"A reverse burden can be legal,"

the Government argue,

"where the burden is on the accused to prove that the defence applies to him on a balance of probabilities, or evidential, where the accused must bring sufficient evidence for the defence to be an issue, and then the prosecution must disprove the defence."

The Minister may be able to refer to other cases, but paragraph 304 tells us—I challenge this in amendments Nos. 12, 13 and 14—that reverse burdens enjoy a lawfulness confirmed, in the Government's view, by the House of Lords in the cases of Sheldrake in 2004 and R *v.* Johnstone in 2003,

"where the prosecution has to prove the ingredients of the offence and the overall effect is that the accused has a fair trial, and the reverse burden is reasonable, proportionate and in the public interest. The Court of Appeal gave guidance on reverse burdens in AG'S REFERENCE (no 1 of 2004 . . . The European Court of Human Rights has recognised that reverse burdens are lawful in SALABIAKU V FRANCE (1988) . . . and PHILLIPS V UK if the overall presumption of innocence is maintained."

I realise that we are not in court now, but I would argue that the presumption of innocence is overruled in the event of reverse burden of proof.

"The Government believes that the reverse burdens contained in the Bill are within those criteria and seek to promote the general interest of environmental protection. The Government therefore concludes that the new provisions are compatible with Convention rights."

Let me say at this early stage, before the Bill goes to another place, that I believe that the reverse burden of proof has no place in environmental crimes—not that Conservative Members do not accept the seriousness of such crimes, and the frequency with which they are committed. We believe that in a free and fair society and in accordance with the terms of natural justice, there should be no place for a reverse burden of proof.

Amendment No. 13 extends that criterion to clause 4, which deals with repairing vehicles on a road. We propose to leave out the offending words

"he proves to the satisfaction of the court that",

and revert to the presumption that an accused person is innocent until proved guilty. Amendment No. 14 does the same.

Mr. Edward Davey: I am a new boy to these proceedings as I did not serve on the Committee, unlike the hon. Member for Vale of York (Miss McIntosh), the Minister and one or two other Members present. Unfortunately, my hon. Friend the Member for Ludlow (Matthew Green) has been detained, so I have taken his place. However, it was with great interest that I prepared for this debate, read *Hansard* reports of proceedings in Committee and listened to the hon. Member for Vale of York. *[Interruption.]* Others doubtless also read those reports with great interest.

In principle, the hon. Lady is on to something with new clause 6. I replied to the Government consultation on abandoned vehicles. I do not often reply formally, as a constituency MP, to such consultations, but abandoned vehicles have been a huge problem in my constituency, where we have been pressing the Government to act for some time. Although that consultation was conducted several years ago, it was an important move and it led to some significant changes. In the royal borough of Kingston upon Thames, initiatives taken at local level, along with some of the policy changes supported by the Government, have had a major impact in terms of clearing up abandoned vehicles. It was a good consultation, which moved the game forward. The question is: can we go further through the Bill and the new clause?

I agree with the intention behind the hon. Lady's proposal, in that we may well need the benefit of a stricter definition of what counts as an abandoned vehicle. The question is whether she and the AA have produced that definition. On reading it, I am not convinced that she has done so, although I congratulate her on trying. The new clause would lead to two problems. It could prove too weak in some cases by failing to catch some vehicles that are actually abandoned, and prove too strong in others by catching vehicles that have not been abandoned, the lawful owners still having the right to their property. Therefore, there is a danger that the new clause will result in the worst of all possible worlds. I should emphasise that that does not mean that the Government should not try to come up with a suitable definition, perhaps in another place.

In Committee, the Minister said that local authority officers who have to implement such legislation can understand the wording of the Refuse Disposal (Amenity) Act 1978, which has been clarified through case law. He made a fair point, and it has proven difficult for the AA and the hon. Lady to produce a definition that covers all circumstances. I would be interested to hear whether the Minister is prepared to examine this matter again, and to see whether we can go further than the 1978 Act.

The hon. Lady has just spoken to amendments Nos.12, 13 and 14 and, as I suggested in my intervention, I have some problems with them. She is worried about removing the presumption of innocence. As far as I can see, the Bill and clause 3 do not do that, except in respect of fixed penalty notices.

Mr. Nigel Evans (Ribble Valley) (Con): I am sorry that the hon. Gentleman missed our proceedings in Committee and I hope that the *Hansard* reports have captured the excitement of them. However, he should look at clause 3, which includes the phrase

"if he proves to the satisfaction of the court that he was not acting for the purposes of a business of selling motor vehicles."

Normally, it would be up to the courts to prove that that was what such a person was doing. To achieve the same end, surely all that we need to do is to drop the phrase

"he proves to the satisfaction of the court that",

as suggested in our amendment.

Mr. Davey: I am more than happy to admit that I might have misunderstood, but that is the whole point of this debate: to scrutinise legislation.

It seems to me that the presumption of innocence is taken away with respect to fixed penalty notices, which is the whole point about fixed penalty notices. However, on clause 3, we are talking not about fixed penalty notices but about a court's decision to levy a fine if there has been an appeal. If a case comes before a court, I presume that it will look at it afresh.

Mr. Evans: The hon. Gentleman talks about removing the presumption of guilt, but he just said that a person was to be "convicted" of an offence, if it were proven, under clause 3(2),

"to the satisfaction of the court that he was . . . acting for the purposes of a business of selling motor vehicles."

There is no reverse presumption, but the provision has the same effect.

Mr. Davey: My point is that the fixed penalty notice provisions in this and other parts of the Bill remove the presumption of innocence, but that clause 3(2), which the hon. Gentleman and the hon. Member for Vale of York (Miss McIntosh) are so concerned about, offers extra protection for the innocent person. It provides them with a plea at the court, if the matter goes that far. I repeat my initial point that there has been some misunderstanding of the drafting. Everyone in the House would, presumably, agree with the hon. Lady that removing the presumption of innocence before a court would be wrong, but I do not know whether the Conservatives are now against all fixed penalty notices in all circumstances. If so, that is an interesting development, but I had assumed that previously they were not. We are discussing the only removal of the presumption of innocence that appears in the Bill. We understand the hon. Lady's concerns, but if she presses her amendments to the vote, we would have to dissent because we do not believe that her analysis is correct.

I wholeheartedly welcome Government amendments Nos. 24 and 25, because similar amendments were tabled by my hon. Friend the Member for Ludlow in Committee and the Minister undertook to reconsider the points that he made, particularly those relating to whether the fines should move up a category from level 3 to level 4 in order to assist proper prosecution and to act as a sufficient deterrent to persistent offenders. Clearly, the Government have reflected on what my hon. Friend said, so I am sure that he is proud of his influence on the Minister and glad that the Government amendments have been tabled.

The Government amendments and other provisions are very important, but hon. Members will know from their constituencies that when car selling or car repair businesses are set up in communities, they can cause a huge nuisance and great offence to those communities. The Government are right to tackle that problem, and they have our full support. I know of a number of streets and areas in my constituency that have been subject to massive disruption and great inconvenience by such businesses. Vehicles can often take up empty spaces on roads when parking is scarce, and the noise and pollution generated by those businesses are additional problems. The Government are right to act.

Clause 3(1)(a) makes it clear that a person is guilty of an offence if

"he leaves two or more motor vehicles parked on the same road".

Having read the explanatory notes and the Committee debate, I wonder whether the terms of that provision might be somewhat restrictive. I know of areas in my constituency that have suffered because a local person has caused great problems by selling or repairing vehicles on two or three adjoining roads. I understand why the phrase "on the same road" has been used, but its terms could be too restrictive for some communities. I am not asking the Minister to promise tonight that he will amend the provision, but I would be grateful if he reflected further on it. As I said, in parts of my constituency, the current provision would not deal with the problem that the Minister wants to solve.

Alun Michael: I welcome the hon. Member for Kingston and Surbiton (Mr. Davey) as a fresh face to our consideration of the Bill. I also welcome the fact that he has engaged with these issues from a constituency point of view, which is what most of my hon. Friends did on Second Reading and in Committee.

I was rather surprised to hear that the hon. Member for Vale of York (Miss McIntosh) did not have time in Committee to investigate one or two points. I recall, and comments were made by various members of the Committee, that the hon. Lady had all the time in the world while every clause was debated to the exhaustion of those listening, so I am surprised that she feels that she did not have enough time. She was absent on one day and if that is what she meant, it was not lack of time that defeated her, but the need to be elsewhere.

5 pm

The hon. Lady claims that the AA supports her new clause 6, but that is surprising because the AA has not contacted me as a Minister, nor as one of its members. I thought that I should declare my membership, although it is not a substantial interest under the provisions of the House.

[Alun Michael]

Put simply, new clause 6 is unnecessary. Plenty of guidance is available to local authorities, not least from ENCAMS and the Local Government Association, as well as from their own experience, on the characteristics to take into account when deciding whether a vehicle has been abandoned. Such a definition is not necessary in the Bill. Legislation leaves the decision on whether a vehicle has been abandoned to local authority discretion. Specifying criteria would remove councils' flexibility, so this appears to be another example of the old-fashioned Stalinism that seems to be rampant in the Conservative party. More seriously, it would fly in the face of experience. The fact is that local authorities have rarely been challenged on any decision concerning abandonment. My advice to the hon. Lady is, "If it ain't broke, don't look for ways to fix it."

Mr. Davey: During the Government's consultation, the main practical problem seemed to be deciding whether the car was merely untaxed and, therefore, a matter for the Driver and Vehicle Licensing Agency, or abandoned and, therefore, a matter for the local authority or the police. Does the Minister have any comments on that aspect of definition and whether greater clarity is required?

Alun Michael: Clearly, deciding whether a vehicle is abandoned is one issue. Vehicles are not considered to have been abandoned if they are taxed and the Bill will help with that. The hon. Gentleman was right to say that was one obstacle. Others include the length of time a car has been left and so on. Those are the sort of issues that we are tackling in the Bill.

Detailed considerations such as those set out in new clause 6, as opposed to the sort of issue that the hon. Gentleman pointed out, are not appropriate for primary legislation. Clause 13 requires local authorities to have regard, when carrying out their functions under the Refuse Disposal (Amenity) Act 1978, to guidance issued by the Secretary of State or the National Assembly for Wales. If necessary, the new provision can be used to put the current guidance on a statutory footing.

On amendments Nos. 12, 13 and 14, it is a matter of fact and practical experience that local authorities have had great difficulty in proving that someone is acting in the course of a business when a transaction occurs in the street. The offence of exposing for sale specifically covers two or more vehicles because we want to make it clear that we are targeting rogue traders, not private sellers. The offence relates to two or more vehicles being advertised for sale on the same road, which would suggest the presence of a business venture, so the burden of proof should be on the defendant. In the unlikely case of a private seller selling two or more vehicles at the same time, it would be easy for them to prove with DVLA documentation that the vehicles were registered in their own or their family's name and that it was coincidence that they were being sold at the same time. The burden of proof is not beyond reasonable doubt, but on the balance of probabilities.

The clause provides a clear line of defence if there is prima facie evidence of an offence, as the hon. Gentleman pointed out. It is a line of defence more than a reverse burden even if, technically, it is a reverse burden to some extent. The first part of the clause as drafted indicates what amounts to a person being guilty of the offence. They must be shown to have left

"two or more ... vehicles parked on the same road where they are exposed or advertised for sale"

or to have caused that to happen.

Subsection (2), on the other hand, provides the defence that someone who is not a trader can bring forward. If the words are removed, as proposed, that defence would be rendered meaningless as a person would not have to prove that it applied in their case. I suggest that the proposals would render nonsense the legislation as drafted.

I shall now explain Government amendments Nos. 24 and 25, which, you will not be surprised to hear, Mr. Deputy Speaker, I support and want added to the Bill. Cars sold on the road through commercial businesses can cause problems and annoyance for ordinary people and a significant blight on an area. Cars repaired on the road can take up valuable parking spaces, look unsightly and pollute the local environment. The amendments are minor but important and would raise the maximum penalty for offences of nuisance parking to ensure consistency and to bring them in line with other environmental offences.

As the hon. Member for Kingston and Surbiton pointed out, the hon. Members for Guildford (Sue Doughty) and for Ludlow (Matthew Green) tabled a similar amendment in Committee, and I undertook to consider the points that they made in discussion. Having done so, I have proposed the amendments. The maximum fine for other environmental offences, such as abandoning a vehicle or littering, is level 4, so they are appropriate.

I urge hon. Members to withdraw their new clause and amendments and to accept our amendments Nos. 24 and 25, which I commend to the House.

Miss McIntosh: I have listened carefully to the debate. The hon. Member for Kingston and Surbiton (Mr. Davey), in his debut performance on the Bill, made some interesting comments and I am sure that they were meant to be constructive.

The Minister will appreciate that I received his note only 40 minutes before the beginning of the programme motion, but we have a difficulty with the reverse burden of proof. We are not unsympathetic to his amendments, which would raise the maximum penalty for nuisance parking offences under clauses 3 and 4. However, it was unfortunate that the Minister did not have the benefit of participating in the radio programme yesterday. I, too, value my Sundays and I do not often take part in live radio programmes on that day, but if the Minister had done so he would have appreciated the public's growing concern that the Government are increasingly using fixed penalty notices for a number of offences. Under these clauses they are introducing fixed penalty notices for an environmental crime—nuisance parking—and if the amendments are accepted the maximum penalty will be increased. As a lawyer, albeit non-practising, I find that an unhappy situation.

In Committee, I pressed the Minister about the level of evidence. It was against that background that we provided the definition in new clause 6 for the level of

evidence needed to prove that someone had committed that type of environmental crime. The Minister was not forthcoming in Committee and I am not entirely satisfied with his explanations this afternoon. The situation is deeply unacceptable. The defence against a fixed penalty notice will be seriously weakened and people will have to go to court.

Alun Michael: I am trying to follow the point that the hon. Lady is making. If we are talking about interruptions to Sundays, perhaps I should say that I was able to make the point on "Countryfile" yesterday about how important the Bill will be to people who live in rural areas. However, I do not quite follow her point that there is no defence against fixed penalty notices. If people do not like the fixed penalty notice, they do not have to pay the penalty, but they must then go court and marshal their defence at that point. I am not sure what point she is making. Many people have been affected by the sort of evils that are addressed in the clauses and they want them to be tackled vigorously. Surely the hon. Lady agrees with them.

Miss McIntosh: Perhaps the Minister will be good enough to give us other cases where such a reverse burden of proof applies. We would find that very helpful.

Alun Michael: I have made the point to the hon. Lady already that these provisions relate to how people can present a defence if there is a prima facie case, not to any reverse burden, which is an inappropriate term to use, although it may be technically correct. These provisions are intended to ensure that people who are not guilty of undertaking the sort of commercial activities that cause the problem are able to demonstrate that they are innocent of the offence.

Miss McIntosh: The Minister uses an unfortunate expression. He should be mindful of the fact that the Government have used such a term at great length in the explanatory notes.

Mr. John Gummer (Suffolk, Coastal) (Con): Does my hon. Friend agree that the problem is that, although it may be true that the defence is not useable until a court case takes place because someone eventually says, "This is unfair, so I'll go to court", the nature of that defence may have a real effect on the occasions on which and the care with which people issue fixed penalty notices? The worry about fixed penalty notices is that, if they are issued willy-nilly, people are put in an extremely difficult position in deciding whether they should go through all the hassle of going to court and many people will therefore give way. We want to ensure that fixed penalty notices are not issued without due care, and I understand that that is what new clause 6 is supposed to do.

Miss McIntosh: My right hon. Friend puts our case so much more eloquently than I have done. Indeed, that is precisely the point that was made in Committee and to which we allude in this little group of amendments.

Mr. Edward Davey: Will the hon. Lady give way?

Miss McIntosh: I wish to answer this point.

We do not know for sure who will issue the fixed penalty notices. Even with community support officers or the police issuing the notices, public concern has been growing about some of the high-handed tactics used and the lack of training given. The Minister will recall that we raised the issue in Committee about precisely what level of local authority official may be able to issue the notices and what specific training they would be given because, although the crime is considerable, level 4 penalties are substantial.

I am mindful of the time, the guillotine and the fact that there will be an opportunity to press the issue in another place, so following this exchange of views, I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

Clause 3

EXPOSING VEHICLES FOR SALE ON A ROAD

Amendment made: No. 24, in page 6, line 2, leave out '3' and insert '4'.—*[Mr. Jim Murphy.]*

Clause 4

REPAIRING VEHICLES ON A ROAD

Amendment made: No. 25, in page 6, line 34, leave out '3' and insert '4'.—*[Mr. Jim Murphy.]*

New Clause 2

DUTY TO KEEP LAND AND HIGHWAYS CLEAR OF LITTER

'In section 89 of the Environmental Protection Act 1990 (Duty to keep land and highways clear of litter), after subsection (4) insert—

"(4A) The appropriate person may by regulations make provision about the standards to which persons must keep land clear of litter under subsection (1) above in respect of different kinds of litter.

(4B) In particular, such regulations may make particular provision about discarded chewing gum and the discarded remains of other products designed for chewing."'.
—[Miss McIntosh.]

Brought up, and read the First time.

Miss McIntosh: I beg to move, That the clause be read a Second time.

Mr. Deputy Speaker: With this it will be convenient to discuss the following: New clause 10—*Street litter: chewing gum*—

'After section 93 of the Environmental Protection Act 1990 (c. 43) insert—

"93A Street litter: chewing gum

(1) The appropriate person shall consult litter authorities and other persons and bodies as he thinks appropriate regarding—

(a) the most effective methods for removing discarded chewing gum and the remains of discarded chewing gum, and

(b) how producers and consumers may be made jointly responsible for the disposal of discarded chewing gum and the remains of discarded chewing gum

and shall publish the results of that consultation.

(2) The appropriate person shall implement policies to increase public awareness of the penalties for the illegal disposal of chewing gum."'.

[Mr. Deputy Speaker]

Amendment No. 3, in clause 18, page 14, line 40, at end insert

', subject to subsection (4) below.

(4) But land adjacent to or in the vicinity of railways, railway carriages and buses shall be deemed to be open to public access for the purposes of this Part.'.

Government amendments Nos. 26 and 27.

Miss McIntosh: New clause 2 elaborates a duty in section 89 of the Environmental Protection Act 1990 to keep land and highways clear of litter. It would make specific provision for the Secretary of State to issue regulations to establish standards in respect of discarded chewing gum different from those that apply to other litter. It would allow for the subsequent consultation of local authorities and others about the proposed regulations. Those regulations and the consultation on them would provide an opportunity for consideration and discussion of the costs of gum clear-up, and of the standards that realistically could be achieved.

5.15 pm

We discussed clause 27 at some length in Committee. For the first time, the definition of "litter" covers discarded chewing-gum, the discarded remains of other products designed for chewing—I presume that means bubble gum—and the discarded ends of cigarettes, cigars and like products. One of the clause's perceived benefits is that it would strengthen the ability of local authorities to enforce the provision making the discarding of gum a fixed penalty litter offence. We have had numerous discussions with Westminster city council, whose record on the clearing of litter is second to none. In its view, the discarding of chewing gum is rarely seen, and the scope for applying fixed penalties for litter offences to this problem is slim. One of the problems is being able to identify the point at which chewing gum is discarded.

New clause 10 would insert a new section 93A in the Environmental Protection Act 1990. That would be a positive step in bringing all parties together to look at more imaginative, socially responsible and environmentally friendly ways of disposing of gum. With a general election not too far away, we hope, as an aspiring Government, to work with producers and consumers to consider ways of introducing biodegradable gum and wrapping paper. The thrust of the new clause is very much in that spirit. We would work with relevant parties, including the litter authorities and such other persons and bodies as the Secretary of State thought fit, to consider

"the most effective methods for removing discarded chewing gum and the remains of discarded chewing gum".

The House will recall that the Government spent £60,000 to study the ways in which people dispose of chewing gum, but they were unable to come up with a best means of removing it. We believe that all parties could work on this together, and we would like to see how producers and consumers could be made jointly responsible for the disposal of discarded chewing gum and its remains. The results of the consultation would be published.

The Secretary of State would also implement policies to increase public awareness of the penalties for the illegal disposal of chewing gum. It is all very well having fixed penalty notices, but this is very much a matter of educating and informing people, in particular schoolchildren. That is the right way forward. We await the Minister's response with interest, but it is my intention to press new clause 2 to a vote.

Amendment 3 is to clause 18, and would mean that

"land adjacent to or in the vicinity of railways, railways carriages and buses shall be deemed to be open to public access for the purposes of this Part."

The public pass close to such land and they throw litter on to it. The amount of litter thrown, and the costs to the railway undertakings, are substantial. We hope that the Minister is inclined to look sympathetically on the amendment.

Clause 18 provides for the extension of litter-dropping offences to land to which there is public access. It appears to be a weaker proposal than that set out in the "Clean Neighbourhoods" consultation that took place in July 2004, which seemed to envisage that such offences would be extended to all land without caveat. We were thus surprised that the Bill excluded land to which the public do not have access, including boarded-off or fenced-off land adjacent to railways that is maintained by such bodies as Tube Lines and Network Rail. It would clearly be beneficial to them if amendment No. 3 were adopted and the caveat removed.

Mr. Gummer: Will my hon. Friend help me by explaining why she thinks that the Government have specifically excluded such undertakings? It is difficult to expect private people to carry through such obligations when they see that they do not apply to other areas. Some of the filthiest places that impinge on the eye of the beholder are those along railway lines and close to railway stations.

Miss McIntosh: I would like to help my right hon. Friend, but I have great difficulty in doing so. The consultation process that took place in July 2004—prior to the Bill's publication—led private undertakings, including Tube Lines and Network Rail, to understand that land on which the public do not walk, but on which they tend to throw litter, would be covered.

The problem is extremely costly. Trains must often be stopped so that tracks on which litter has been thrown may be accessed. The cost of a train being delayed by an hour while litter is picked up is £25,200. However, there would be a multiplying effect if trains had to be stopped during peak time. If a London terminal station had to be closed for eight hours for such a purpose, it could lead to a cost of more than £2 million. There is great concern about the problem. Network Rail recommended during consultation on the Bill that local authorities should only as a last resort serve notice to enable such private undertakings to access tracks, and even then, only at the safest and most cost-efficient times.

These are not just probing amendments. We hope to elicit from the Government an assurance that such private undertakings will be put in a much stronger position, especially as envisaged under amendment No. 3. The private companies understood that they had been

given certain assurances at the time of the consultation process, so we hope that the Bill will reflect that. Clearing such litter is extremely expensive, and the safety aspect of the procedure must be considered given the proximity of litter to tracks and trains. Transport operators think that they are the victims of antisocial behaviour, because it is the travelling public who tend to throw rubbish on the railway. Not only private companies such as Tube Lines and Network Rail, but bodies such as the London Transport Users Committee, are appealing to the House to support the amendment.

We could have gone further and asked for vehicles to be included under the scope of the provision, and perhaps the Minister will comment on Government amendments that relate to the exclusion of buses. We especially wish to press new clause 2 to a Division.

Linda Gilroy (Plymouth, Sutton) (Lab/Co-op): I declare an interest as someone who chews gum, as someone who has a large number of constituents who work for Wrigley's, the main manufacturer of gum, and as someone who shares the exasperation caused by litter, including the inappropriate disposal of gum. I want to see an end to that as much as anyone does.

Understandably, people get hot under the collar about the impact of carelessly thrown gum. If we are serious about finding a solution, we need to ask why other European countries do not have the same problem, although their people chew as much gum as ours do. The simple answer is that other countries' citizens do not chuck their gum away in the way that some of our citizens do.

The chewing gum action group, convened by the Department for Environment, Food and Rural Affairs, has been meeting for just over 12 months. Wrigley's plays an active part in that. Through something that the group calls segmentation research, which the Standing Committee considered, it has discovered that people who cause that nuisance do so for a variety of reasons. Gum disposal psychology could form the basis of an interesting debate, but as I only want to make a short contribution, I shall resist that temptation.

We are beginning to understand a lot about responsible gum disposal. As with most things, a blend of carrot and stick has an impact on that, which is why clarification of gum as litter and stronger enforcement of fines have an important, but perhaps modest, part to play in dealing with the difficulty.

The chewing gum action group is preparing to launch a campaign based on what has been learned about gum disposal behaviour and the messages that are likely to encourage people to behave well, rather than badly. That has to be pitched carefully, because the wrong advertising campaign or programme to tackle the problem could make things worse rather than better. The industry will back that up with point-of-sale material, with the support of retailers, and will do more work on good gum disposal messages in schools—something that it has been doing for a long time. The action group will also consider developing an innovation fund to help councils develop new solutions. That will be an effective blend of carrot and stick.

The Conservatives always rail against too much regulation on business, so I am a little surprised that the hon. Member for Vale of York (Miss McIntosh) proposes just that when so much work is being done. As the hon. Member for Guildford (Sue Doughty) said in Committee, if that work does not reduce gum littering, we may need to return to the matter and consider legislation. In the meantime, I hope that the hon. Member for Vale of York will consider her position and withdraw the new clause, because the next time she or any of her hon. Friends want to deregulate, she may blush a bit when she recollects that rather than resisting the urge to regulate, she jumped on a popular bandwagon when it came along, before giving partnership and voluntary co-operation a chance to work and to produce a genuinely sustainable solution. I urge hon. Members to oppose the new clauses.

Mr. Gummer: I am pleased to follow the hon. Member for Plymouth, Sutton (Linda Gilroy). I do not think that she would accuse me of being an over-regulator, but I am surprised that she defends the industry, which has come into the debate only because of the considerable pressure placed on it. We must ask whether we should have done that a long time ago, given that most of us support the "polluter pays" concept. In this case, the industry puts on to the public market a product that is not biodegradable, that causes considerable unpleasantness, litters our streets and causes a great deal of damage to clothing and the like because of the way in which it is disposed of.

The hon. Lady is right to say that it is pretty disgusting that Britain is less clean than our continental neighbours. Perhaps that is another example of something that we can learn from our neighbours, instead of always believing that we can teach them everything.

5.30 pm

I wonder whether the hon. Lady was entirely fair about the proposal made by my hon. Friend the Member for Vale of York (Miss McIntosh). My hon. Friend is seeking to put a much greater responsibility on those who create the problem in the first place. If the industry is making money out of gum and people are causing trouble not just in small numbers but all over the country, which is resulting in what most would consider unpleasant, that industry should be producing some hard evidence of research and answers so that people can eat gum that is biodegradable, or at least easily cleaned up. I see no such evidence at this stage, yet that is what we would expect in almost every other circumstance.

I have considerable sympathy with the hon. Lady's points—that was a perfectly proper case for her to put, especially on behalf of her constituents—but we need to go a good step further, simply because, on the evidence, nothing will be done until there is so much pressure that the industry feels that it must do something. Corporate social responsibility might well have led the industry to do more in the past.

My hon. Friend also commented on the areas covered—if that is the right phrase—by the Bill. One must recognise that the environment in general, and the built environment in particular, have a huge effect on people's behaviour and their quality of life. I am therefore particularly concerned if we do not point to some of the most obvious examples of litter causing offence. Any of us who are part of the travelling public understand that well.

[Mr. Gummer]

I find it difficult to defend the argument that we know that litter is filthy and disgraceful but that it is too expensive to collect it. There are two halves to that argument. One is that we need to do a great deal more to encourage people not to drop litter. Litter is one of the dirtiest aspects of our society, and I am afraid that we are worse than most of our neighbours in that respect. A visit to any other capital city in Europe will reveal that we have degenerated from the point at which once upon a time we were rather proud. We thought that we were rather good, but we are now at the other end of the scale.

Mr. Peter Atkinson (Hexham) (Con): If my right hon. Friend wants to talk about litter, may I suggest that he take a drive down the A1, as I did yesterday? He will see the filthy state of that road. The amount of litter in some sections is way beyond the Government's recommendation to local authorities. That road has not been cleaned for months, and it is a disgrace that a main artery of this country is in such a state.

Mr. Gummer: My hon. Friend points to my concern about what people who visit this country must think about us when they see us behaving in such a way. Some of the worst roads are those leading from the airports into London. One cannot make a party political point about who does the cleaning up; it seems that in general we are dirty in the first place, and that we do not clean up satisfactorily.

I agree with the hon. Member for Plymouth, Sutton that there are two sides to the issue, and that one is to try to encourage people not to drop litter in the first place. Part of that is to ensure that we reduce the amount of packaging. I declare an interest as chairman of Valpak Ltd., which is a not-for-profit organisation that aims to deal with our packaging obligations. Therefore, I have a little knowledge about the matter. We have not yet done enough to reduce packaging. If we had less packaging, and more biodegradable packaging, we would be protecting our streets and the sides of our railways.

The culprits are the people who drop litter, and we should improve how we teach people about litter. Perhaps more of us should follow the example of those redoubtable ladies who, when they see somebody drop litter, tend to pick it up and say, "You seem to have dropped this." One must be quite brave to do that, and "redoubtable" is perhaps an understatement of such people's nature. We must introduce much tougher penalties—a matter on which the Government have done a good deal. We must also ensure that people take responsibility for clearing up afterwards, which is the only way to drive them to try to improve the position.

The new clauses tabled by my hon. Friends the Members for Bury St. Edmunds (Mr. Ruffley) and for Vale of York are worthy of consideration by the Government. Although the Bill is small it is valuable, but it could be improved, and those are two areas in which it could properly be improved. I shall be particularly concerned if the Government are not prepared to lay greater responsibilities on the creators of the products that specifically and particularly cause offence, even if that is done by saying that unless a significant improvement is made over a period of time, certain things will happen.

We have not gone far enough—on chewing gum, in particular. I hope that in another place the Government will go further, and come closer to meeting a reasonable objection from many people in our society.

Sue Doughty (Guildford) (LD): This is a tough problem. I am sure that all hon. Members are aware that stains left by chewing gum are present wherever we go. In some buildings, beautifully designed paveways have been ruined by chewing gum stains, which are a menace.

Conservative new clause 10 is similar to some of the amendments that we discussed in Committee, so we know that more must be done and that more consultation is required. The consultation must be tough because the problem is no longer acceptable. Some would like us to go for the industry now, while others say that we should engage in consultation and implement regulations if we really want to solve the problem.

As I said in Committee, although we have dealt with people who allow their dogs to make a mess, that does not mean that we can deal with people who drop chewing gum—a dog is an obvious culprit, but people who quietly drop chewing gum are not easily identified. The problem caused by chewing gum is far greater than that caused by dogs, and we must deal with the many people who think it reasonable to drop chewing gum.

Liberal Democrats in the London assembly have surveyed 33 local authorities, every one of which thinks chewing gum a nuisance. Some 81 per cent. of London local authorities believe that gum companies should concentrate on developing biodegradable gum, which is essential; 53 per cent. of them do not think that imposing fines will stop people from discarding chewing gum, which is an area that we must explore; and 41 per cent. of them say that they have established dedicated teams to remove chewing gum from the streets. Tube companies spend £2 million a year and councils spend £2.3 million a year on cleaning up gum.

Linda Gilroy: Does the hon. Lady agree that it is essential to tackle behaviour rather than putting money into perpetually cleaning up gum? Westminster council has said that the gum returns within 10 days of a clean-up.

Sue Doughty: It is a complex issue. We need carrots and sticks to ensure that people do not constantly have to pay this money. London Liberal Democrats have suggested the introduction of a penny-a-pack levy on manufacturers, and I understand that Westminster council—we heard in Committee how much money it has spent—agrees with that.

Mr. Gummer: Does the hon. Lady agree that a company that started entirely afresh in marketing a new product that was known to have such an impact would, as a matter of corporate social responsibility, be expected to change its formulation or to arrange for some kind of compensation for those who had to clean it up?

Sue Doughty: On the whole, I agree with the right hon. Gentleman. However, life is full of unintended consequences, and only after products are marketed do we find that people have developed a particular

behaviour in respect of them. In fairness, I do not believe that chewing gum manufacturers ever imagined that their product would be sold to people who throw it down in the street and walk away from it, which is a pretty disgusting thing to do. We do not have the prescience to say, "Here is a new product—its consumers will immediately misbehave in this particular way." We could introduce biodegradable gum and withdraw the nasty stuff from the market, but even biodegradable products do not simply vanish—if we cleaned up Oxford street it would be just as bad 10 days later.

London Liberal Democrats recommended that chewing gum manufacturers should have to print large messages about correct disposal. That is a good idea and I hope that they will take it up. We need publicity campaigns to tell every person who buys this stuff not to throw it away, and we need more chewing gum bins outside major transport hubs. We worry about smoking waste, which is getting worse as people are driven outside to smoke and litter is created by doorways, but at least there are little receptacles on the walls indicating that people can put their rubbish there. That is not the case with chewing gum. We do not tell people, "This is where you stick the stuff", so they will stick it wherever they like.

If we do not quickly come up with some good ideas, local government will continue to face disproportionate bills to pay for the clean-up costs. That is unfair.

Mr. Edward Davey: I agree with my hon. Friend. In my constituency, Clarence street, at the heart of the town centre, is littered with chewing gum. That causes a serious problem, and the local authority has been spending a lot of money on it. It seems that some chewing gum companies are reluctant to spend money on telling people about safe disposal because they are worried that it might put them off buying their product. We will have to be much tougher on those companies and possibly force them to take that approach, because they will not do it willingly.

Sue Doughty: My hon. Friend makes a strong point that bears out my remarks. The consultation cannot be allowed to be a soft option. We should consider alternatives such as the penny-a-pack levy to be fed back to those who have to clean up this mess. Tough action is required. I hope that this will not be a lightweight consultation, because it cannot be allowed to be a soft option. I look forward to hearing what the Minister has to say.

Mr. Peter Atkinson: I shall be brief because we want to hear what the Minister has to say. I support new clause 10 because the problems with chewing gum need to be tackled. The Liberal Democrat spokesman said that it was a question of consultation—I fear that more is needed and that we should send a tougher message to chewing gum manufacturers, conveying that they are partly responsible for the damage that their product does. That point applies to all litter. The manufacturers of soft drink cartons should also have some regard to the biodegradability of their products. As I said earlier, many seem to end up on British roads.

5.45 pm

People's behaviour is influenced by the state of the environment. Many years ago, when I was a councillor in London and we had taken over from a fading Labour council, we spent much more money and cleaned the streets. That had not been done properly in the time of Labour rule. One consequence of keeping the streets clean is that people throw far less litter. If one drives along a road such as the A1, where stretches are covered in litter, it is easy to think, "Well, I'll just chuck the can out of the window because it won't make any difference to the messy road." That applies to chewing gum. If the street is littered with chewing gum, it is a great temptation to throw it down and not dispose of it properly.

In Chicago, the mayor has made a tremendous effort to keep the city clean. It is interesting to observe that the citizens of that city, which was once filthy, are meticulous about putting their rubbish in litter bins. If we set a good example, people will follow it. That is why I believe that a message to manufacturers about taking some responsibility, rather than consultation, is needed.

Alun Michael: I suppose that I should begin by welcoming the fact that one or two Conservative Members appear to have woken up to the importance of the Bill. However, on Second Reading, they opposed it and even failed to turn up to debate it, and they did not make major contributions in Committee. They therefore have a cheek to make such contributions to today's debate.

I must resist new clause 2 on a ground that I hope that the hon. Member for Vale of York (Miss McIntosh) will find immediately convincing. It is unnecessary because section 89(7) of the Environmental Protection Act 1990 already requires a code of practice to be issued on the discharge of the litter clearance duties. That has been achieved through the code of practice on litter and refuse of 1999. Subsection (9) allows the code to be modified or withdrawn and reissued. We plan to consult on a new version of the code in the summer to take into account the changes for which the Bill provides. I assure hon. Members that we will cover standards for litter involving gum and smoking-related products in that code.

New clause 10 is unnecessary and its principles have been debated in detail in Committee. The hon. Lady has a predilection for pointless regulation while resisting well considered efforts to tackle the real issues. The Government are already working with local government and the chewing gum industry through the chewing gum action group to tackle the problem of discarded chewing gum. My hon. Friend the Member for Plymouth, Sutton (Linda Gilroy) referred to that a few moments ago. I set up that action group in autumn 2003.

Members of the group represent the interests of both the chewing gum industry and local authorities, including Wrigley as the largest manufacturer in the UK, the Local Government Association, the Chartered Institution of Wastes Management and ENCAMS. We sponsor ENCAMS to run campaigns on behaviour change, which is at the heart of the matter. The group's remit is to find sustainable solutions, through a partnership approach, to the irresponsible disposal of gum.

[Alun Michael]

My hon. Friend the Member for Plymouth, Sutton referred to the segmentation research, which arose out of the group's work. The group considered the research and asked why people behaved in such a way. The segmentation research demonstrated that different groups in society dispose of their gum in antisocial ways for different reasons. That is why the campaigning work, which is being designed and worked on in conjunction with the industry and ENCAMS, is tailored to the genuine reasons for people's behaviour.

We have gone beyond simply saying that things are better elsewhere to asking how we can effect change by first understanding behaviour and then finding the levers that will lead to better behaviour, and litter disposal that does not cause the problems that hon. Members described. The action group is looking at national and local initiatives. The market research project will inform a national awareness-raising campaign that will take place later this year, which will be complemented by sustainable local campaigns around enforcement and innovative disposal solutions. There is no single solution to this; it is a question of carrot and stick and of behaviour change. It is a question of encouragement as well as exhortation.

I am pleased by the way in which the industry has responded over the past 18 months. It is now contributing financially to the measures that the group developed. I spent some time at Wrigley in Plymouth a couple of weeks ago, with my hon. Friend the Member for Plymouth, Sutton, and I am convinced that the managing director, Gharry Eccles, and his team understand that, in regard to the more responsible disposal of gum, it is in the best interests of their company and the industry, as well as those of the wider public, to change the way in which people behave.

The right hon. Member for Suffolk, Coastal (Mr. Gummer) sounded almost European in his wish to learn from other countries. I share his wish for better standards, but we must understand the problems of this country first. He clearly had not bothered to research his subject before coming into the Chamber to speak on it; otherwise he would have been aware of the work that the industry is now doing with us. It was unfortunate that he sought to attack the industry, and Wrigley in particular, in his speech.

Mr. Gummer: I am proud to make the statement that I am a European. I am a European, I am proud of it, and I shall continue to be so. I should like to make a point to the Minister that I think is reasonable. I did not suggest that the industry had done nothing; I suggested that it had not done enough. I ask the Minister again to give us some time lines in regard to what the industry is going to do, when it will do it, and how soon we can expect to see any alteration. If he could do that, we would be happier with what his committee has been doing.

Alun Michael: I accept that as a sort of qualified apology from the right hon. Gentleman. I should not be too hard on him when he is clearly—

Mr. Gummer: On a point of order, Mr. Deputy Speaker. That was not an apology, and I would not like it to be accepted as such.

Mr. Deputy Speaker: That is not a matter for the Chair.

Alun Michael: I was being generous to the right hon. Gentleman, but if he does not want my generosity, he can do without it. I was about to say that I should not be too hard on him because he is now supporting a Bill that his party opposed on Second Reading—a point that needs to be made to Conservative Members time and again.

Amendment No. 3 will be resisted because it is unnecessary. Clause 18 will make it an offence to drop litter anywhere in the open air, including on land beside railways, railway carriages and buses. It will cover structures such as bus shelters and railway platforms that are covered but accessible to the public. It will also cover land to which the public does not have access, such as boarded or fenced-off land adjacent to railways where dropped litter can easily accumulate.

Subsection (3), by virtue of section 86(13) of the Environmental Protection Act 1990, will exempt land that is both covered—albeit open to the air on at least one side—and not accessible to the public. Littering in such areas is really a matter for the occupier to deal with, as it does not impact on the quality of the local environment. The amount of litter likely to end up in such areas when thrown from a railway, railway carriage or bus is minimal.

I must point out to the hon. Member for Vale of York that, when she was talking about transport undertakers, she confused clause 18, which deals with the offence of dropping litter, with clause 20, which is about litter cleansing notices. Amendment No. 3 does not affect the latter. Railways are under a statutory duty to keep their relevant land clear of litter, and that is not affected by the Bill. Litter cleansing notices could be issued in respect of other railway land, but we will issue guidance to ensure that they take account of operational needs after full consultation with the relevant operators. I therefore ask the hon. Members not to press their amendment and new clauses to a vote.

Ms Coffey: Do the provisions in the Bill on litter and waste mean that a local authority will be able to serve a penalty notice on a householder who has put their household refuse out on an unadopted passageway to which the public have open access? My right hon. Friend will be aware that refuse bags that have been badly tied can lie in such passageways for days before disintegrating, causing huge litter problems across the whole neighbourhood.

Alun Michael: I understand my hon. Friend's point. The simple answer to her question is yes. Under clause 48, it will be possible to issue a fixed penalty notice to anyone who leaves waste out on any land other than their own house or garden—the curtilage of their own dwelling. Section 46 of the Environmental Protection Act 1990 requires householders to follow the requirements of the local authority on the collection of household waste.

Government amendment No. 26 is necessary because, under clause 23 as it currently stands, the distribution of free printed matter in a public transport vehicle when on designated land could be covered by the offence. It could, therefore, be an offence to hand out leaflets on a bus if the bus were in a designated area at the time. We did not intend that to be an offence. Distributing material on a bus or coach is unlikely to result in the

degradation of the local environment, and our amendment deals with this by clarifying the position. Controls on distribution will continue to apply, however, when material is distributed from a vehicle to people outside it, because in such circumstances, the literature could well end up being dropped as litter.

Government amendment No. 27 is needed because clause 23 does not currently make it clear whether the local authority is able to give consent that extends to anyone other than the person who applied for it. The provision was intended to be wide, enabling the local authority to give consent that would cover the applicant, as well as allowing his employees, distributors or any other persons to be included within the consent. Amendment No. 27 makes the position clear. For example, if a company wishes to distribute a free newspaper in a designated area, the consent given to the company will also cover all those who actually hand out the paper. I therefore ask the House to accept amendments Nos. 26 and 27.

Miss McIntosh: Amendment No. 3 addresses the concern put to us by the transport infrastructure companies that their land is not currently defined as public land for the purpose of making it an offence to drop litter on such land. The amendment would define their land as public land for the purposes of the Bill. The companies are already working hard to clear up the litter, and the Bill will place additional responsibilities on them in that regard. They feel that they would be greatly assisted if it were made an offence to drop litter on their land.

I do not wish to press amendment No. 3 or new clause 10 to a vote, but I will persist with new clause 2. The Minister and his Department raised uncertainty by a proposal in their own consultation document, "Living Places—Powers, Rights and Responsibilities", that discarded chewing gum be defined as litter so that existing litter duties and powers would apply to dropped gum. The Minister referred to ENCAMS. A document on ENCAMS' website identified as the "MPs' pack" provides a guide to local environmental quality issues. It states:

"The Defra consultation document, Living Places, Powers, Rights and Responsibilities recommends that discarded chewing gum be defined as litter to which existing litter duties and powers apply. If these recommendations are accepted the law would be clarified to create a duty to keep land clear of chewing gum. However, the costs to local authorities and other impacts would have to be assessed before any such change can be formally recommended. It would also allow members of the public to be fined for dropping gum, as they currently are for dropping litter."

We believe that, once discarded gum has adhered to the ground, it cannot sensibly be considered in the same way as other litter. We therefore believe that there is scope for new clause 2 to be adopted, and we commend it to the House.

Question put, That the clause be read a Second time:—

The House divided: Ayes 120, Noes 268.

Division No. 87] **[5.59 pm**

AYES

Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Chapman, Sir Sydney *(Chipping Barnet)*
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Paisley, Rev. Ian
Pickles, Eric
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. David Ruffley and Mr. Crispin Blunt

NOES

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel

Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Breed, Colin
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Challen, Colin
Chapman, Ben *(Wirral S)*
Chidgey, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coffey, Ms Ann
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, Don *(Bath)*
Foulkes, rh George
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hancock, Mike
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Holmes, Paul
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Ladyman, Dr. Stephen
Lamb, Norman
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Bill *(Normanton)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Stunell, Andrew
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Simon *(Ceredigion)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Gillian Merron and
Mr. Jim Murphy

Question accordingly negatived.

MR. DEPUTY SPEAKER *then proceeded to put forthwith the Questions necessary for the disposal of the business to be concluded at that hour.*

Clause 23

CONSIDERATION ON FREE DISTRIBUTION OF PRINTED MATTER

Amendments made: No. 26, in page 20, line 36, at end insert—

'(7) For the purposes of this Schedule a person does not distribute printed matter if the distribution takes place inside a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981).'.

No. 27, in page 22, line 3, after 'person', insert

'or any other person (identified specifically or by description)'.—*[Alun Michael.]*

Clause 31

EXTENSION OF GRAFFITI REMOVAL NOTICES TO FLY-POSTING

Amendments made: No. 22, in page 28, line 17, leave out 'fly-posting (or both)' and insert

'any poster or flyer the display of which contravenes regulations under section 220 of the Town and Country Planning Act 1990'.

No. 23, in page 28, leave out lines 18 to 21.—[*Alun Michael.*]

New Clause 15

WASTE MINIMISATION

'(1) The Secretary of State shall consult waste collection and waste disposal authorities on the introduction of statutory targets for the minimisation of municipal waste.

(2) The Secretary of State shall consult representatives of industry on the potential for minimisation of waste of—

(a) statutory waste minimisation targets;

(b) statutory requirements for substitution of materials that are hazardous, difficult to recover, or difficult to recycle; and

(c) market incentives to promote the redesigning of products to extend their useful life and limit unrecoverable waste.'. —[*Sue Doughty.*]

Brought up, and read the First time.

Sue Doughty: I beg to move, That the clause be read a Second time.

Mr. Deputy Speaker (Sir Alan Haselhurst): With this it will be convenient to discuss the following: New clause 16—*Waste disposal contracts' compatibility with statutory performance standards and local waste development frameworks*—

'The Secretary of State may make orders requiring local authorities that have contracts transferring waste disposal functions to specially formed companies to review those contracts to ensure compatibility with statutory performance standards and local waste development frameworks.'.

New clause 17—*Retail packaging recovery*—

'(1) A relevant retailer shall provide a safe collection point within the curtilage of each of his retail outlets for the return of packaging sold or otherwise supplied from that outlet in the course of business.

(2) A collection point under subsection (1) shall be clearly signed and shall be open to the public during all business hours.

(3) A relevant retailer shall ensure that packaging collected under the provisions of section (1) above—

(a) where reasonably practicable, is reused, returned to the supplier or recycled; or

(b) in any other circumstances, is safely disposed of using a licensed waste disposal contractor.

(4) The Secretary of State may make regulations for the purposes of subsections (1) to (3) above.

(5) In this section—

"packaging" means any container, material, substance or component supplied with a product but which is not a part of that product;"relevant retailer" means a person who carries on a business in a premises which—

(a) is approved for that purpose under Planning Use Class A1, A2 or A3, and

(b) has a net retail sales area greater than 250 square metres.'.

New clause 18—*Sustainability requirement for waste disposal functions*—

'(1) The Secretary of State may make regulations to require that, where a waste disposal authority enters into a contract with a third party for all, or any part of, its waste disposal duties, minimum environmental sustainability requirements shall be met.

(2) Regulations under subsection (1) may have particular regard to—

(a) the effect of the duration of a contract on waste minimisation;

(b) the effect of the duration of a contract on diversion of waste from disposal to reuse or recycling;

(c) the application of the proximity principle;

(d) the energy efficiency of facilities;

(e) the involvement of sustainability advisers at evaluation stage for bids for waste disposal contracts;

(f) the use of mandatory outcome-based requirements for sustainability objectives.'.

Amendment No. 37, in page 31, line 29, clause 37, leave out

'is being or is about to be'

and insert 'or is being'.

Amendment No. 29, in page 46, line 31, clause 50, at end insert

', in subsection (7)(c) after "authority", leave out "may" and insert "shall".'.

Sue Doughty: The purpose of tabling these new clauses and amendments is to consider the problem of waste disposal. New clause 15 considers waste minimisation.

It would be wrong not to give the Government credit for the work of the waste and resources action programme, which is working hard on waste minimisation. We know that the waste strategy 2000 identifies both eco-design and redesign as ways to reduce waste, but we need to go further. WRAP is well supported by the Government, but it can only go so far. Waste minimisation needs to be taken further. The Department for Environment, Food and Rural Affairs is ending its support for Waste Watch, which was doing valuable work in education. Having considered the previous group of new clauses and amendments on littering and so on, it is clear that education was one of the Government's tools, and not supporting Waste Watch will reduce the effectiveness of that.

6.15 pm

We have a real problem, however, with the continuing rise in the total amount of municipal waste, which in 2002–03 was an estimated 29.3 million tonnes—an increase of 1.8 per cent. on the 2001–02 figure of 28.8 million tonnes. Although we are making progress in decoupling the rise in waste from economic growth, which is healthy, we need to go further and consider waste minimisation targets. WRAP is getting work done on redesign, but it can only provide a certain level of stimulation for redesign in relation to the waste minimisation needed if we are to achieve sustainability.

Norman Baker (Lewes) (LD): Does my hon. Friend agree that one of the problems is that the Government indicators, which highlight how councils perform on recycling, do not reflect waste minimisation? Councils

[Norman Baker]

such as mine in Lewes, which have succeeded in reducing waste per head of population, therefore receive no credit for that, because the recycling figure bears no relation to minimisation.

Sue Doughty: That is an important point, and I thank my hon. Friend for raising the issue. While we work with councils, consider recycling and alternative ways of disposing of waste and meet targets to reduce landfill, if we do not reduce the amount of waste that we produce, no matter how much we divert waste from one place to another, we will ultimately fail to meet those targets. We therefore have some major concerns.

Liberal Democrats have been debating zero waste strategies for some years, and it is now party policy. It is also the policy in other places, such as New Zealand, whose waste strategy includes major requirements to reduce the amount of waste produced in the first place. In relation to zero waste, Mark Barthel of WRAP talks about the interesting concept of Z2, which considers sustainability in terms of zero waste and zero emissions and examines the problem in its totality. One of the worrying aspects of waste is that it not only fills up landfill but particular types of waste produce harmful emissions. New Zealand, Canada and Australia have taken that on board, yet when we asked recently what the Government were doing to examine further the question of zero waste, the answer was "nothing". It does not seem to be on the Government's agenda, and it is of great concern to us that such techniques should be evaluated by the Government. There is a large body of information from across the world on how waste can be reduced and minimised. Our Government would be foolish to ignore that, as some quick wins are possible.

People question whether zero waste can be achieved, but quality control always aims for zero faults. We should aim to continue to reduce the amount of material sent to waste, instead of digging up resources from the ground or plucking them from the trees and then throwing them away five or six months later. We are missing good opportunities to examine how to reuse materials and minimise waste.

It was sad, and it is a reflection of why we are not doing enough on waste minimisation, that a conference on zero waste that I attended last week was woefully under-attended. Some brilliant techniques were put forward, including work being done by WRAP, but without a Government strategy for waste minimisation, as opposed to initiatives through WRAP, we will not make progress. The new clause would put that right by requiring the Government to consult on ways in which they could strengthen the waste strategy by introducing stronger measures to support the top two options in a zero-waste hierarchy, reduction and redesign. We need much more focus on those options, which is why my party will press for a Division.

We hope that following their review of the waste strategy 2000, the Government will take the excellent opportunity that we are presenting to amend the hierarchy so that it explicitly includes redesign. Some work is being done through the waste and resources action programme, but much more is needed. We want the current way of measuring recycling levels to be reformed so that councils, such as Lewes, that reduce waste per capita by means of, for instance, home composting do not score less than councils that perform less well. That is why we are particularly concerned about waste minimisation.

New clause 16 is intended to ensure that consultation involves local waste development frameworks, and contracts relate to what is happening in the big world outside. The contracting out of waste disposal functions to the private sector or to arm's-length companies could result in inflexibility. The previous arrangements under the Environmental Protection Act 1990 can prevent waste disposal authorities from securing continuous improvements in the way in which they dispose of waste to meet recycling targets. We have major worries about contracts that are written and then cost an arm and a leg to change. Society and the Government may say that we need to change the rules to ensure a more sustainable approach to disposal, but councils are tied to contracts that do not reflect that. We want to help authorities to manage contracts while also making improvements.

In 1999, Surrey county council signed a 25-year contract that included incineration. Even since then, things have changed. We opposed incineration, and there was a change of MP in part of the Surrey area. Throughout Surrey people are beginning to recognise the need for a fresh look at waste.

Miss McIntosh: The hon. Lady claims that her party is opposed to incineration, yet it adopts an enthusiastic approach to combined heat and power. How does she square the two views?

Sue Doughty: I am very disappointed by that intervention. Combined heat and power does not need to be fed by incineration. A range of fuels can be used, and it is not necessary to burn waste to produce energy. Under a Conservative council, Guildford has not taken opportunities to make the maximum energy saving—but the debate is about waste, not energy. We must ensure that contracts requiring incineration do not promote the assumption that waste will continue to feed the incinerator.

Miss McIntosh: As a Select Committee member, the hon. Lady has a detailed knowledge of these matters. Does the very term "combined heat and power" not suggest the use of some form of incineration?

Sue Doughty: We are talking about the incineration of waste, not about combined heat and power. We are not discussing the use of wood chippings, sugar beet or anything else to produce heat. Combined heat and power presents a good many opportunities, but I do not understand what part they play in a debate on a Bill dealing with waste.

What concerns me is that after only two years the Surrey county council contract failed to meet its statutory performance targets for recycling. I am not trying to "beat up on" Surrey. I know that there has been a change of personnel and that the council is trying to take a fresh look at the possibilities for a sustainable environmental approach. It would be wrong not to give it credit for its use of "sustainability" in job titles. Some of the staff are deeply committed to sustainability, and I support what they are trying to do with the contract that

they have inherited. The fact is, however, that although we have a local waste development framework on which consultation is taking place, what was done in 1999 set the course of waste disposal.

That is the reason for the new clause. If contracts could be reviewed and updated to facilitate compliance with statutory performance standards, Surrey council and the contractor would be obliged to confront the fact that at present the contract requires only 25 per cent. recycling. Moreover, that includes incinerator ash, which it is no longer legal to include in the calculation. The statutory target is 36 per cent., and excludes incinerator ash. The contract needs to be changed. Would that not best be done in conjunction with the local waste development framework?

The Government will expect such contracts to be reviewed in terms of best value. The problem is that we are consulting on frameworks at a time when a wet earth disposal strategy has been established in a contract. We want contracts to be tied to frameworks. Another problem is that although boroughs in Surrey have been trying hard to improve their recycling records, credit is going to the disposal authority, which has done far less than those boroughs. As the Minister knows, I have long had worries about the whole business of collection and disposal authorities. I have never quite understood why it seems to work against what is best. Some unitary authorities have a much more coherent approach.

Mrs. Anne Campbell (Cambridge) (Lab): What puzzles me is that waste minimisation, along with recycling, often depends on the volume of waste. Does the hon. Lady agree that that gives authorities little incentive to deal with, for example, the recycling of batteries? I have seen it in France, but my local authority provides no facilities for it.

Sue Doughty: I understand that waste is measured by weight rather than volume. We have debated the issue for a long time, and I am sure the hon. Lady will know of the problems with disposal of plastics, which are bulky but light. Fewer than 0.1 per cent. of batteries are sent for appropriate disposal—recycling—and we still have a problem with batteries in domestic waste. Most authorities cannot make their sums add up, because this country does not have adequate facilities. I speak from memory and stand to be corrected, but I understand that although facilities are being set up, that is happening in Scotland—a long way from the point of generation in the south of England or the east, where the hon. Lady's constituency is. Adequate battery disposal is a matter of great concern to us all, and under a zero waste contract—or, indeed, under any waste contract—we want some of the harder-to-deal-with products to be dealt with appropriately.

6.30 pm

Mr. Gummer: I return the hon. Lady to her comments about waste being measured by weight. Is not the fact that local authority targets are fixed by weight one of the fundamental problems? Instead, one needs a much more selective mechanism so that, for example, packaging and other parts of the waste stream could prove valuable to local authorities in terms of contributing to national targets. We need a much more sensitive arrangement than the current one.

Sue Doughty: I thank the right hon. Gentleman for that useful intervention. I get the feeling that even with plastics, with which we know we are having problems, there is much more that we can do. In my local authority—I am not making a party political point; this is doubtless true of many other authorities—two major supermarkets, Tesco and Sainsbury's, have plastic "bring points". One might assume that one end of Guildford shops at Sainsbury's and the other at Tesco, but these "bring points" are used by people who work in the constituency but do not necessarily live there. For example, someone who lives in Reigate but teaches at a school in Guildford deposits plastic bottles at one of those sites. Bottles are brought to the collection area and left there in plastic bags; indeed, bag upon bag is left there.

We need to do much more to educate the public, hence my concern about Waste Watch. We need to ensure that, as in France and Spain, people drop their old batteries into a collection unit when they buy their replacements, assuming that they cannot use rechargeable ones. We also need to ensure that people know that the best thing that they can do with their plastic bottles is to stamp on them and, if possible, remove the paper wrapper. That would help everybody, including the markets, but unfortunately we are failing on the education front.

Such issues are also important in terms of how contracts work. We must create a framework whereby we modify those contracts and tell collection and disposal authorities that they must improve, increase recycling and reduce waste. In that way, we will avoid waste incineration, for example, which people do not want. We should also help people to dispose of their waste in the most appropriate way. On mechanical biological treatment, would it not be better to provide the option of anaerobic digestion, which is not an incineration process, even though it produces a gas by-product that can be burned? There are many other ways in which we can dispose of waste, and tying oneself into a long contract is not a good idea.

We still have a problem with retail packaging recovery and producer products. We buy such products at supermarkets, take them home—and then what? Again, the burden falls on local authorities. Some of the better organisations have had a serious look at packaging and are doing some good things; for example, B&Q is looking at end-to-end use of packaging. Unfortunately, although they are leading from the front, many other organisations are lagging behind and not playing their part. We want to introduce a measure on producer responsibility in order to increase recycling rates, and to provide an incentive for retailers to limit the amount of packaging used. In Germany, deposits form part of such schemes. There has been some negotiation as to how such deposits work, along with some discussion of how well the German scheme is working. There is room for improvement in terms of recovering bottles and other plastics, but such improvement is beginning to happen.

New clause 18, which would create a sustainability requirement for waste disposal functions, is also concerned with the problem of contracts. We need to

[Sue Doughty]

establish what the sustainability requirement is. As we know, it is very easy to introduce private finance initiative-based contracts that include no real definition of sustainability. Although the Government look for best value in such contracts, they do not put the same effort into dealing with sustainability deficiencies. Some authorities will of course still choose to contract out waste disposal functions. For example, a small authority might not find it economical to carry out such functions or to build a partnership with a neighbour. Such contracts must have sustainability at their core.

A report produced by the Green Alliance last year, entitled "PFI: Meeting the sustainability challenge", pointed out that there are sustainability guidelines for agreeing PFI contracts, but that not a lot of attention is being paid to them. They are honoured more in the breach than in the observance, and they are optional. If there were firmer sustainability requirements, local authorities would have to take on board advice about sustainability, and bidders would have to pay greater attention to, and make firmer commitments to, meeting such requirements. We need to strengthen those requirements and I look forward to hearing what the Minister has to say on this issue. He has the opportunity to tell us how sustainability will be brought into waste contracts and other contracts.

Amendment No. 37 follows on from a debate that we had in Committee on the failure to provide valid authority for transporting waste, and on the obstruction of officers exercising stop-and-search powers relating to that offence. We identified a discrepancy between subsections (2)(b) and (8)(b) of clause 37. The former states that a vehicle can be stopped by an officer if it

"appears to him to be a vehicle that has been, is being or is about to be used for transporting . . . waste".

However, subsection (8)(b), which deals with the offence of failing to co-operate with an officer exercising such stop-and-search powers, refers only to waste that

"was or was being transported".

The Minister said in Committee:

"An offence is committed only if controlled waste is or has been transported, which is the reason for the language in the Bill"—[*Official Report, Standing Committee G*, 20 January; c.167.]

That, however, does not clear up the inconsistency between the two subsections. We are taking account of the Minister's response and suggesting that the phrase "about to be" be removed from subsection (2)(b). I hope that the Minister has had a chance to look at the amendment and that we will achieve a satisfactory meeting of minds. We already have enough problems securing adequate evidence and conviction, particularly in relation to transporting waste, and I would hate a loophole to be used to provide a defence in cases where we should be securing a conviction.

Mrs. Anne Campbell: I do not want to detain the House for very long, but I want to add a few remarks to those made by the hon. Member for Guildford (Sue Doughty), who made some very valid points about waste minimisation. The whole purpose of our recycling policy should be to reduce the amount of waste material going into landfill sites, but the hon. Lady will doubtless join me in congratulating the Government on increasing recycling in an astonishing way—one that I did not think possible in 1997.

In my own local authority, when Labour was in control in 1998, we were recycling 14 per cent. of domestic rubbish. That gave the Liberal Democrats a target of 28 per cent. to achieve by 2004, which they failed to realise. They have also failed the further target of 36 per cent. this year. I am sorry about that, because many things could quite easily be done to enable the council to meet its recycling targets.

I understand that the hon. Member for Guildford is talking about waste minimisation rather than recycling, but I hope that she agrees with me that the higher the rate of recycling, the less waste needs to go to landfill sites. I know that it is not always the case, but manufacturers sometimes seem intent on vying with each to produce more and more packaging, so we all end up with more packaging in our shopping bags at the end of the day. If we can increase the amount of waste for recycling, less material will need to go to landfill.

Sue Doughty: The hon. Lady mentioned two figures relating to recycling in Cambridge. I cannot comment on the second, because I have not looked into it, but I understand in respect of the first figure that it had nothing to do with the change of council administration and a sloppy attitude, but reflected a change in the way waste was counted. It would not have mattered which council took over from the previous council: the figures would have risen in any case.

Mrs. Campbell: That was the excuse offered by the Liberal Democrats on Cambridge city council, but the Government have not accepted it. It is not sensible to start quibbling about the figures; we should look at further ways to enhance recycling and improve waste minimisation.

In response to the intervention of the hon. Member for Lewes (Norman Baker), when Cambridge city council first introduced green bins, I was visited by one of the council's officers, who wanted to know why I was putting so little into my green bin. The answer was that most of the stuff that should have gone into my green bin had actually been deposited on my own compost heap. That is an eminently sensible way of dealing with the problem, rather than leaving it for someone else, though many people without large gardens have to resort to that.

Norman Baker: The hon. Lady seems to agree with me and I noticed the Minister nodding helpfully. What seems to have happened is that the Government, with the best of intentions, have driven councils down the recycling route—we are all in favour of recycling—but not down the minimisation road. Councils now often actively recycle to get their figures up, instead of minimising in order to get the waste down.

Mrs. Campbell: I take the hon. Gentleman's point. There is some good sense in what he says and I began by observing that I agreed with much of what had already been said in the debate. Given the importance of waste minimisation and given that the hon. Member for Guildford mentioned plastic bags a few moments ago, I

am surprised that she did not mention—perhaps it is inappropriate in the context of the particular provisions that we are debating now—the idea of having a plastic bag tax, as in Ireland, where it has proved to be a sensible measure. I must say, Mr. Deputy Speaker, that I find it infuriating when I go into a supermarket with my rucksack—of course, I cycle there—and I am immediately offered plastic bags to put all my shopping into. As well as being infuriating, it is completely unnecessary.

Sue Doughty: I appreciate the hon. Lady's comments and I believe that we are of one mind on the issue. She will be pleased to hear that what she suggests will, subject to a full environmental impact assessment, become Liberal Democrat policy.

Mrs. Campbell: I am pleased to hear it. At the national policy forum, which I attended in July, a resolution was passed to include in our relevant policy documents the need for a review of the plastic bag tax. I am pleased that Ministers felt able to accept that proposal.

Paddy Tipping (Sherwood) (Lab): In taking that argument forward, is my hon. Friend aware that the Department is now investigating the environmental cycle of plastic bags and that there may be a downside as well as an upside? Does she agree that placing a tax on plastic bags would raise the profile of waste management? Should we not now get on with it?

6.45 pm

Mrs. Campbell: I entirely agree with my hon. Friend, who makes an excellent point. Yes, let us get on and do that.

I want to deal with the recycling of plastics generally, which has been a hot issue in my own constituency. I carried out a survey, based on a form that was sent to every household. I received more than 600 responses—not bad considering that people had to pay to post them back to me. What people wanted more than anything else was kerbside collection of plastics. I believe that it is a very good idea; I know that my waste bin is full of plastic, partly because I am reduced to buying convenience foods that all come neatly wrapped in rather rigid plastic containers.

I discovered, however, that it is difficult to carry out kerbside recycling of plastics, largely because of the bulk, which the hon. Member for Guildford mentioned. When plastics are collected, it is probably necessary to have a crusher to reduce the volume. Cambridge city council has proposed kerbside recycling of plastics and collecting them separately from other products such as tins, papers, glass bottles and so forth. I understand that most of the energy saved by recycling the plastic will be used in oil when the material is taken to China, melted down and re-used. I cannot believe that that is a sensible use of council tax payers' money. If the hon. Lady had some fresh ideas and could offer them to her Liberal Democrat colleagues on the council, I would be most grateful. I understand that that policy will increase council tax in Cambridge by about 10 per cent.—a horrendous amount for people to pay. I am advised that it will cost about 20p per plastic bottle recycled. That cannot be a sensible way forward, though it may appear to be so on the surface.

Sue Doughty: I think that we are both of one mind on the need to recycle plastics. The fact remains that, if more were done to stimulate the market for plastic recycling in this country, it would not be necessary for materials to go over to China. I looked into the problem and I am concerned about boats coming over full and going back to China, so—

Mr. Deputy Speaker: Order. The hon. Lady must not go on making mini-speeches in her interventions. There is only a relatively small amount of time left for debate.

Mrs. Campbell: I do not want to add anything further to what I have said and I know that we are all interested in hearing what the Minister has to say in response.

Miss McIntosh: I rise to support amendment No. 28—

Mr. Deputy Speaker: Order. I suspect that the hon. Lady means to speak to amendment No. 29.

Miss McIntosh: I am most grateful to you, Mr. Deputy Speaker. I mean amendment No. 29, which relates to clause 50. I draw the Minister's attention to the instructions in the briefing sent by the Environment Agency to all right hon. and hon. Members. It deals with how to apply section 59 of the Environmental Protection Act 1990. The amendment would remove "may" and insert "shall", thereby requiring the relevant authority—the Environment Agency—to clear fly-tipped material or rubbish from all land. Once the landowner has proved that the material was fly-tipped—namely, dumped without his knowledge, consent or permission—we believe that that should be enough to qualify for removal: not at the landowner's expense, I hasten to add, but at the expense of the local authority.

Sue Doughty: Will the hon. Lady give way?

Miss McIntosh: No, we have heard quite enough from the hon. Lady about this group of amendments.

The briefing says that we must stamp out all forms of fly-tipping. It is a form of environmental crime which is increasing. It has an element of cowboy activities with a strong criminal undertone, and we must remove the results from private land as well as public land. Why should landowners have to put up with what could be hazardous, noxious and very unpleasant waste on their land?

The purpose of the amendment is to require the relevant authority to clear fly-tipped material from all land. That would occur only when the occupier had established his defence that the material was fly-tipped. Without the amendment, authorities will continue not to clear waste from land in their areas, so the true scale of fly-tipping will never be ascertained and the necessary resources to deal with the problem will never be allocated.

I shall not speak at length on the note from the Environment Agency, but I wanted to draw the Minister's attention to it before he responds. It states

[Miss McIntosh]

clearly on page 1 that the agency cannot and would not want to require an occupier or landowner to remove waste or remediate against the deposit if there was no evidence that they were responsible. It also states that the agency does not have the power to require any other person, including the culprit, to remove waste unless they are the occupier or landowner. Again, the agency cites the background data to the effect that in 2003 it served 131 notices under section 59.

In conclusion, I humbly submit to the Minister that the Environment Agency is not empowered to require an occupier or landowner to remove waste or remediate against its deposit if there is no evidence that they are responsible. Clearly, it believes that illegally dumped waste on privately owned land is a more difficult issue than that on public land. Neither the local authority nor the Environment Agency is under any legal obligation to remove the waste. However, the agency states that in some circumstances it will remove illegally deposited waste to mitigate an imminent risk of pollution or harm, and then seek to recover its costs. That is unacceptable. Fly-tipped waste should be removed from all land regardless of whether ownership of that land is private or public.

Alun Michael: It is interesting how much ground has been covered during this short debate and I pay tribute to all hon. Members who have taken part.

The hon. Member for Guildford (Sue Doughty) acknowledged some of the actions that we are taking to improve our performance on waste disposal. I accept that the matter is fraught with difficult decisions and challenges. Indeed, so much could be said on the issues that have been raised that I will write to hon. Members who have taken part in the debate and will place a copy of my letter in the Library.

The impact on existing contracts, which are often—but not always—long term, is a serious issue. The hon. Member for Lewes (Norman Baker) complained that recycling and composting targets do not reflect waste minimisation. That is true at the moment. We have focused on recycling and composting in current targets, but another best value performance indicator—the number of kilos of household waste per head—takes account of waste minimisation. We are reviewing the local authority recycling targets this year, along with a review of waste strategy 2000, and we will consider further levers to encourage waste minimisation as part of that. There are some points on which we can have a meeting of minds in attempting to deal with the issues.

I am particularly grateful to my hon. Friend the Member for Cambridge for her helpful contribution on the whole range of issues before us.

New clause 15 is resisted because Government policy seeks to drive the management of waste up the waste hierarchy. Waste minimisation sits at the top of that hierarchy so, when planning for waste management, the potential for minimisation must be evaluated before consideration of any alternatives.

Derek Conway (Old Bexley and Sidcup) (Con): On a point of order, Mr. Deputy Speaker. I apologise for interrupting the Minister, but will you confirm that in five minutes you will be required to put the Question on this stage of the Bill's consideration without the House having had the opportunity to discuss amendment No. 11 and dogs? We shall be unable to discuss that not because the Chair has forgotten about it, but because the restrictive programming motion leaves us no time to consider it.

Mr. Deputy Speaker: The hon. Gentleman may be premature in making his point of order. The Chair does not know what will happen in the next few minutes.

Alun Michael: Well, the Standing Committee had a good debate on dogs. When we discussed the programme motion, the hon. Member for Old Bexley and Sidcup (Derek Conway) took up some time referring to various organisations, which I have met and engaged with in recent weeks. I assure him that his and their concerns have been addressed. We can make progress, even if he is frustrated and prevented from making his contribution on the only issue in the Bill that seems to bother him.

New clause 15 is resisted because a number of means exist by which the same objectives can be pursued, including the new landfill tax escalator, the packaging obligations, and the waste and resources action programme. I shall expand on some of those and other issues in a letter to hon. Members.

New clause 16 is also resisted. We accept that waste disposal contracts must deliver the outcomes in a waste disposal authority's long-term strategy for sustainable waste management and deliver the infrastructure needed to reach those outcomes, as set out in the authority's local development framework. However, local authorities are autonomous bodies and responsible for making their own decisions on procurement within the regulatory framework. Sufficient mechanisms are in place to ensure that existing contracts are reviewed and that future contracts do not cause conflict.

The duty of best value, as the hon. Member for Guildford said, requires local authorities to secure continuous improvement in service delivery through challenge, comparison, consultation and competition. When an existing contract does not meet statutory obligations, the authority must find a way of taking additional action within or separately from the contract to address the problem, or face the consequences. That could involve formal intervention by the Government as a last resort if the authority is failing to deliver best value or a financial penalty under the landfill allowance trading schemes. A number of mechanisms exist—I would be happy to expand on them—that allow us to go in the direction that has led to the drafting of the new clause.

New clause 17 is also resisted. There are two separate issues: increased packaging recovery and persuading more consumers to recycle more. Both are vital, but it is not clear that compulsory provision of take-back facilities for packaging in-store is the best way of achieving both, although that may play a role. We do not believe that such a duty would add value to the mechanisms already in place. We are also concerned that the proposal would disregard the fact that local authorities have a statutory duty to collect and dispose

of household waste, including household packaging waste. It is not clear how the amendment would fit with that duty. There would be practical problems with identification of material supplied from a particular outlet, lack of support from consumers, and so on. However, I do not deny that the proposal could make a contribution and that it is worth exploring further.

New clause 18 is resisted because waste disposal contracts must be environmentally sustainable, but local authorities are autonomous bodies, responsible for making their own decisions on procurement within the regulatory framework. Sufficient mechanisms are in place to ensure environmental sustainability of contracts, including a duty of best value, statutory performance standards and so on.

Amendment No. 37 is resisted because it would limit the flexibility of the enforcing authorities to take the most appropriate enforcement action at the most appropriate time. It would not allow them to search vehicles that were reasonably believed to be about to be used to commit an offence. Instead, they would have to wait until the offence was committed and only then proceed to carry out the search. It is important to retain the power to search vehicles that are, it is reasonably believed, about to be used to commit an offence.

Amendment No: 29 is resisted because the national and local taxpayer—

It being three hours after the commencement of proceedings, MR. DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [this day].*

The House divided: Ayes 25, Noes 246.

Division No. 88] **[6.59 pm**

AYES

Allan, Richard
Baker, Norman
Barrett, John
Breed, Colin
Burnside, David
Cable, Dr. Vincent
Carmichael, Alistair
Chidgey, David
Davey, Edward *(Kingston)*
Foster, Don *(Bath)*
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Holmes, Paul
Hughes, Simon *(Southwark N)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Lamb, Norman
Paisley, Rev. Ian
Pugh, Dr. John
Sanders, Adrian
Stunell, Andrew
Taylor, Dr. Richard *(Wyre F)*
Teather, Sarah
Tonge, Dr. Jenny
Tyler, Paul *(N Cornwall)*
Webb, Steve *(Northavon)*

Tellers for the Ayes:
Bob Russell and
Sue Doughty

NOES

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foulkes, rh George
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jowell, rh Tessa
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Killoyle, Peter
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Hara, Edward
Olner, Bill

O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Mr. Jim Murphy and Gillian Merron

Question accordingly negatived.

MR. DEPUTY SPEAKER *then proceeded to put forthwith the Questions necessary for the disposal of the business to be concluded at that hour.*

Clause 50

POWER TO REQUIRE OWNER OF LAND TO REMOVE WASTE

Amendment proposed: No. 29, page 46, line 31, at end insert

', in subsection (7)(c) after "authority", leave out "may" and insert "shall".'.—*[Miss McIntosh.]*

Question put, That the amendment be made:—

The House divided: Ayes 138, Noes 246.

Division No. 89] **[7.13**

AYES

Allan, Richard
Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Butterfill, Sir John
Cable, Dr. Vincent
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Teather, Sarah
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. Crispin Blunt and Mr. David Ruffley

NOES

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger

Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foulkes, rh George
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jowell, rh Tessa
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Laszarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearham, Linda
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wooles, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Mr. Jim Murphy and
Gillian Merron

Question accordingly negatived.

New Clause 11

AUDIBLE MOTOR VEHICLE ALARMS: AMENDMENT OF THE ROAD VEHICLES (CONSTRUCTION AND USE) REGULATIONS 1986

'(1) The Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) are amended as follows.

(2) In regulation 3(2) (interpretation), in the Table, at the appropriate place in alphabetical order, insert—

Expression	*Meaning*
"audible motor vehicle alarm	a system fitted within a motor vehicle which involves the sounding of a horn, bell, gong or siren with the purpose of raising an alarm as to the theft or attempted theft of the vehicle or its contents, or a forced entry or attempted forced entry into the vehicle.
bell	includes references to any instrument or apparatus capable of emitting a sound similar to that emitted by a bell.
gong	includes references to any instrument or apparatus capable of emitting a sound similar to that emitted by a gong.

horn	an instrument, not being a bell, gong or siren, capable of giving audible and sufficient warning of the approach or position of the vehicle to which it is fitted.
siren	includes references to any instrument or apparatus capable of emitting a sound similar to that emitted by a siren."

(3) In regulation 37 (audible warning instruments)—

(a) for paragraphs (7) and (8) substitute—

"(7) The provisions of paragraph (4) shall not apply so as to make it unlawful for a vehicle to be fitted with—

(a) an audible car alarm, or

(b) in the case of a bus, a bell, gong or siren the purpose of which is to summon help for the driver, conductor or an inspector.";

(b) in paragraph (9), for the words "(4) to (8)", substitute the words "(4) to (7)"; and

(c) in paragraph (10), omit sub-paragraphs (a) and (b).

(4) In regulation 99(5) (exemptions from general restrictions on use of audible warning instruments), omit the word "or" after paragraph (a), and for paragraph (b) substitute—

"(b) an audible car alarm, or

(c) in the case of a bus, a horn (not being a two-tone horn), bell, gong or siren to summon help for the driver, the conductor or an inspector."

(5) After regulation 99, insert—

"99A Restrictions on audible motor vehicle alarms on certain motor vehicles first used on or after 1st January 2007

(1) Subject to paragraph (2), this regulation applies to a motor vehicle first used on or after 1st January 2007.

(2) The provisions of this regulation do not apply to—

(a) motor vehicles of the kinds listed in regulation 37(5), or

(b) buses.

(3) The audible motor vehicle alarm of a motor vehicle to which this regulation applies—

(a) may not at any time emit a noise exceeding 55 decibels,

(b) may not emit a noise for a continuous period of more than ninety seconds,

(c) may not emit a noise for more than ninety seconds in response to a single event initiating the emitting of a noise, and

(d) shall be maintained in good working order so as to comply with the requirements of sub-paragraphs (a) to (c).

(4) In this regulation—

'A-weighted sound pressure level' has the same meaning as that given in BS 7445;

'BS 7445' means British Standard BS7445: Part 1 1991/ International Standard ISO 1996-1: 1982 'Description and measurement of environmental noise. Part 1. Guide to quantities and procedures';

'decibel' is a unit of both A-weighted sound pressure level and equivalent continuous A-weighted sound pressure level as given in BS 7445.

99B General restrictions on audible motor vehicle alarms on certain motor vehicles first used before 1st January 2007

(1) Subject to paragraph (2), this regulation applies to a motor vehicle first used on or after 1st October 1982.

(2) The provisions of this regulation do not apply to—

(a) motor vehicles to which regulation 99A applies,

(b) motor vehicles of the kinds listed in regulation 37(5), or

(c) buses.

(3) The audible motor vehicle alarm of a motor vehicle to which this regulation applies—

(a) may not emit a noise for a continuous period of more than ninety seconds,

(b) may not emit a noise for more than ninety seconds in response to a single event initiating the emitting of a noise, and

(c) shall be maintained in good working order so as to comply with the requirements of sub-paragraphs (a) and (b).".'.—[*Norman Baker.*]

Brought up, and read the First time.

Norman Baker: I beg to move, That the clause be read a Second time.

Mr. Deputy Speaker: With this it will be convenient to discuss the following: New clause 12—*Audible motor vehicle alarms: amendment of the Motor Vehicles (Tests) Regulations 1981*—

'(1) The Motor Vehicles (Tests) Regulations 1981 (S.I. 1981/ 1694) are amended as follows.

(2) In regulation 20 (fees for examinations)—

(a) in paragraph (3A)(b), after the reference to "anti-lock braking system warning device", insert—

"audible motor vehicle alarm", and

(b) in paragraph (7)(c), before sub-sub-paragraph (i), insert

"(ai) audible motor vehicle alarm,".

(3) In Schedule 2 (the prescribed statutory requirements)—

(a) in paragraph 1(a) (which relates to light motor bicycles and motor bicycles), in the Table, after the row relating to item 5A, insert—

Item No.	*Regulations*	*Affecting*
"5B	99A and 99B	Audible Motor Vehicle Alarm"

(b) in paragraph 2(a) (which relates to light motor vehicles other than motor bicycles), after the reference to item 4, insert "5B";

(c) in paragraph 3(a) (which relates to motor cars and heavy motor cars), after the reference to item 4, insert "5B";

(d) in paragraph 3A(a) (which relates to certain minibuses), after the reference to item 4, insert "5B";

(e) in paragraph 4(a) (which relates to certain passenger-carrying and public service vehicles), after the reference to item 4, insert "5B";

(f) in paragraph 4A (which relates to certain passenger-carrying and public service vehicles with forward-facing seats), after the reference to item 4, insert "5B";

(g) in paragraph 5(a) (which relates to certain public service vehicles), after the reference to item 4, insert "5B";

(h) in paragraph 5A(a) (which relates to certain public service vehicles), after the reference to item 4, insert "5B"; and

(i) in paragraph 6 (which relates to certain goods vehicles), after the reference to item 4, insert "5B".'.

New clause 13—*Audible motor vehicle alarms: amendment of the Goods Vehicles (Plating and Testing) Regulations 1988*—

'(1) The Goods Vehicles (Plating and Testing) Regulations 1988 (S.I. 1988/1478) are amended as follows.

(2) In regulation 16 (fees for re-tests), in paragraph (6)(c)(i), for the words "and 16", substitute the words "16 and 16A".

(3) In paragraph 1 of Schedule 3 (the prescribed construction and use requirements), in the Table, after the row relating to item 16, insert—

Item No.	*Regulation*	*Subject Matter*
"16A	99A and 99B	Audible motor vehicle alarm".'.

Norman Baker: I am pleased to have the opportunity to introduce these new clauses. Those who pay particular attention to the workings of Parliament may note that there is a striking similarity between them and the Bill that I introduced which is due for a Second Reading on 18 March. I also record the fact that that Bill, which is replicated in the new clauses, has the support of Conservative and Labour Members of Parliament, and I hope that it will generate a response similar to the all-party support that I had for my motion on climate change two weeks ago. The Minister is not nodding now, but perhaps he will later on.

There is undoubtedly a problem with car alarms in environmental and noise nuisance terms. The Government have correctly identified the need to tackle noise nuisance through the Bill's proposals concerning audible intruder alarms. My colleagues and I broadly welcome what the Government have done on that issue. However, the Minister will also accept—he referred to it in an intervention on Second Reading—that there is a nuisance from car alarms. They can legally sound up to 120dB—the same level as a pneumatic drill or a rock concert. They tend to go off quite frequently, and they are assumed by those who hear them to be false alarms. When people hear an alarm go off, they do not say, "My goodness. A car has been broken into. I must telephone the police." Instead they curse the alarm, put pillows over their heads and try to go back to sleep. Car alarms are not even effective in what they try to do.

The new clauses have two aims. The first is to eliminate the environmental nuisance associated with car alarms and the second is to improve the security of motor vehicles. If people assume that a car alarm going off is a false alarm, it is obviously no deterrent. When I first raised the issue, one journalist to whom I spoke said that his car was broken into in the street in broad daylight, the alarm went off and the intruder just looked at passers by and said, "Bloody car alarm"—if I am allowed to use that phrase in the Chamber—and carried on with the theft of the car. All the people in the street simply walked by without responding. It is clear that car alarms are ineffective.

The Minister may be aware of the attempt made in New York to ban car alarms. If he has seen the evidence, he will know that 75 per cent. of 800 New Yorkers polled said that car alarms interfered with their sleep and 90 per cent. said that car alarms diminished their quality of life. More to the point in terms of the crime element, the New York police department, in a booklet that it produced, labelled audible car alarms as

"an annoying and sometimes unbearable disturbance for residents in their homes".

It said:

"audible car alarms frequently go off for no apparent reason"

and that such devices

"invite both further disorder and serious crime."

In other words, alarms not only fail to arrest crime, but generate it. The report pointed out that in Williamsburg during the year in question, two cars were purposely set ablaze because their alarms kept being triggered. There have been other stories of cars being vandalised because alarms have spontaneously erupted, so we can assume that car alarms create crime, rather than preventing it.

7.30 pm

A better way forward would be for manufacturers to stop using 1960s technology—that is essentially what car alarms are—and move towards more effective crime prevention measures that are also less environmentally intrusive. The Minister will be aware of alternative existing technologies, such as immobilisers, which prevent a car from being driven away. He will be aware of pager alarms, which replace the siren in conventional alarms by instead sending a signal to the mobile phone, pager or landline telephone of the car's owner. He will also be aware that tracking systems are up and running that allow a signal to be sent from a car that has been taken, to its owner. That technology has the benefit of not only returning the car to the owner, but identifying the criminal who takes the car. Other systems that are currently available include anti-carjacking systems, so plenty of technologies exist that are far more effective than conventional alarms at detecting crime and preventing car theft, and much less environmentally intrusive.

The Minister might be aware that Val Weedon, the secretary of the UK Noise Association, wrote to the Secretary of State for Environment, Food and Rural Affairs on 10 February. The letter read:

"I am writing to ask whether the recent Private Member's Bill on audible car alarms, presented in parliament yesterday by Norman Baker MP, could be incorporated into the new Clean Neighbourhoods and Environment Bill, presently making its way through parliament? I understand a similar thing was done with the Anti Social Behaviour Act and a Private Member's Bill on fireworks."

I am pleased to say that the letter went on to support my Bill. Incorporating my Bill in the Government's legislation would be an excellent idea, so the new clauses make that possible. I hope that the Minister agrees that alarms are ineffective and "alarmingly useless", to use the phrase of a pressure group campaigning against them. I also hope that he will take the view that manufacturers should be encouraged to replace traditional audible car alarms with devices that prevent crime more effectively and eliminate the noise nuisance that currently exists.

It seems to me that insurance companies are the driving force behind the continuing use of car alarms. Although I do not wish to misquote the manufacturers, they tell me that insurance companies require such alarms to be fitted. Insurance companies should examine whether there are more effective ways of preventing car theft and change their policies accordingly.

Train horn noise is not directly addressed by the new clauses, but it is germane to the matter that we are discussing because it leads to people suffering an intrusion similar to that caused by car alarms. Train horn noise is also about 120 dB and new trains require louder horns than the old slam-door rolling stock. I am disappointed that the Government have not addressed

[Norman Baker]

that problem. Individual hon. Members of all three parties have been required to put pressure on the relevant rail companies and we are making a little progress. The Bill addresses intruder alarms sited at a fixed point, but it singularly fails to deal with alarms on mobile technology—if I may call cars and trains that. The new clauses would limit the maximum sound emitted from a car alarm to 55•dB, which is the equivalent to background traffic noise, and would set a maximum sounding time for a car alarm of 90 seconds.

The Minister responded to a point about the matter that my hon. Friend the Member for Guildford (Sue Doughty) made on Second Reading by citing the Noise and Statutory Nuisance Act 1993, which states:

"noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street"

can be dealt with. He also pointed out that local authorities can

"enter or open a vehicle, if necessary by force, to silence a car alarm and to remove the vehicle from the street to a secure place."—[*Official Report*, 10 January 2005; Vol. 429, c. 121.]

That is undoubtedly true, but the legislation is not working. Not all local authorities operate 24-hour services, and those that do will not respond within 90 seconds, which under my private Member's Bill would be the maximum time for which a car alarm could sound. In practice, local authorities come out only if an alarm has been sounding for two, three or four hours, by which time an entire neighbourhood could have lost its sleep.

The new clauses plough the same furrow as the Government's attempt to limit noise nuisance. The Government have identified the problem of noise nuisance, and although they have addressed stationary alarms in the Bill, they have missed a trick by not dealing with car alarms. It is not sufficient to hope that manufacturers will adopt modern alarm systems, because they are relying on 40-year-old technology instead. I hope that the Government will give a sympathetic hearing to the new clauses, because they are an attempt to make life better not only for car owners, but for those who suffer from the noise nuisance caused by car alarms.

Alun Michael: I am aware of the enthusiasm of the hon. Member for Lewes (Norman Baker) on this subject, and I acknowledge that a range of options are now available for people who want to try to prevent car crime—both the theft of vehicles and breaking into vehicles. Indeed, one could point out that that range of options has made a significant contribution to the reduction of car crime.

In addition to achieving excellent public relations for his private Member's Bill, the hon. Gentleman recalled that I commented on car alarms on Second Reading. In fairness, he went on to remind the House that I also pointed out that legislation exists to address the problem. I reinforce that point now. Car alarms can be silenced under the Noise and Statutory Nuisance Act 1993, which amends the Environmental Protection Act 1990 to include

"noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in the street".

It allows local authorities to enter or open a vehicle, if necessary by force, to silence an alarm and to remove the vehicle from the street to a secure place. The hon. Gentleman acknowledged that point, but suggested that the legislation was not working. However, I suggest that we should not consider whether that legislation is working, but the extent to which a real problem exists. He will know that consultation on the elements that form the Bill arose from considerable discussion with local authorities, and that the provisions are based on problems with which local authorities must deal after the public have brought them to their attention.

It is worth pointing out that under the Police Reform Act 2002, the police can seize any vehicle that causes annoyance or nuisance. It must also be borne in mind that there might be occasions when a car alarm needs to sound for longer than 90 seconds— for example, if it detects continued interference. Additionally, establishing requirements for the duration of alarms and assessing that during MOT tests could generate a lot of alarm noise around MOT stations, which might not be all that popular.

The hon. Gentleman told us about the experience in New York, so he might be interested in some of the findings from this country, as they come from rather closer to home—the area in which he wishes to legislate. In 1999–2000, the Department for Environment, Food and Rural Affairs national noise attitude survey questioned 2,849 people—I am not sure where the 2,850th person, to allow the figures to be rounded up, was. One question was:

"When you are at home, how much do you personally feel bothered, annoyed or disturbed by noise from car alarms?"

The UK results were 39 per cent. "not at all", 13 per cent. "a little", 5 per cent. "moderately", 2 per cent. "very", 2 per cent. "extremely" and 40 per cent. "don't hear".

If we rank specific traffic noise sources in terms of the proportion of respondents bothered, annoyed or disturbed, we get an interesting hierarchy of complaints. At the top, at 34 per cent., are vehicles accelerating or going too fast; private cars and taxis are at 27 per cent.; heavy lorries are at 24 per cent.; motor bikes and scooters are at 24 per cent.; music from vehicles is at 23 per cent.; and problems associated with residential estate roads and country lanes are at 22 per cent. Car alarms are only seventh in the hierarchy, at 21 per cent.

We are not aware of specific statistics on complaints to local authorities about noise from car alarms, because they do not show up on current record keeping and reporting statistics. However, the complaint does not seem to get the attention from local authorities that the hon. Gentleman gives to it.

Norman Baker: I challenge the Minister's logic. The fact that six things are higher on the list does not mean that the seventh, about which 21 per cent. have complained, should not be dealt with. It is a curious logic to say that we should deal only with the top one or two on a list. There is an issue to address. Many people are irritated by car alarms, and the Minister should be less complacent.

Alun Michael: I am not being complacent. I am saying that measures are in place to allow local authorities and the police to tackle the issue when it is a real problem. I tried to give a sense of proportion to the extent to which it is a nuisance. Clearly, it is a nuisance in some circumstances, and provisions are available to use in those cases.

The new clauses are not appropriate because their provisions could be achieved by changing relevant regulations made under the Road Traffic Act 1988. More importantly—this would be a serious concern for the House—they would involve the use of primary legislation to amend secondary legislation made under a different Act. That would result in amendments that could be amended or revoked only by primary legislation, while the rest of the regulations would still be amendable or revocable by secondary legislation. That would produce an unworkable hybrid.

I acknowledge the enthusiasm with which the hon. Gentleman tries to address the problem in his private Member's Bill and in the new clauses, and the way in which he has pursued the problem. My point is that if more action needs to be taken—although that does not come through strongly in the consultations that we have undertaken or in the views of the Local Government Association—the means are to hand. The hon. Gentleman will clearly pursue the matter further in his private Member's Bill and will receive a response to that when it is debated in due course, but the provisions are already in place. If a local authority has a problem, it can tackle it.

The primary problem is that the new clauses are not appropriate. They would require primary legislation to amend secondary legislation under a different Act, and that makes them totally unworkable as a proposition. The hon. Gentleman has succeeded, as he has a talent for doing, in airing the issue, but I hope that he accepts my problem with the technicalities, if not the principles, behind the new clauses. He raises his concerns quite genuinely, but I urge him to withdraw the motion.

Norman Baker: I am grateful to the Minister for considering the issues. I am always happy to accept that anything tabled by people who are not on the Government Benches may be imperfect, because we do not have the advantage of a parliamentary draftsman. He knows that the reason for tabling amendments and new clauses is to raise issues. We do not necessarily expect them to be adopted by the Government—although I always remain hopeful that that will be the case.

The Minister addressed one issue—the problem of noise nuisance, which is, after all, the primary purpose of this part of the Bill. I do not accept that the nuisance is as limited as he suggests. I have had correspondence from people up and down the country saying, "Thank God someone's raising the problem." Those of us who have followed the issue have had some indication that there is popular support for further measures to tackle car alarms. It may well be the case that for many people that has never been an issue, but for some it is a big nuisance and affects their quality of life dramatically. It is incumbent on us to find a way to help them, and I am sorry that the Minister did not come up with an alternative.

7.45 pm

The Minister says that relevant provisions exist in legislation enacted in the past 10 to 15 years. I do not agree that they are effective. I do not agree that the police are interested. They are stretched—overstretched, one might say—and their general response when an environmental health issue arises is to refer people to the local council. I spoke to Sussex police about car alarms. Their standard response when they are telephoned is to assume that it is a false alarm and refer people to the council unless there is immediate evidence that someone is breaking into a car. If someone rings up and says, "I can hear a car alarm," Sussex police say, "Ring the council." The police assume that no crime is being committed. The nuisance issue is not as minimal as the Minister suggests.

The provisions are not effective because they rely on councils taking action. They invariably take a long time before they do so, because if they responded immediately every time they were called out to a car alarm, they would do little else. I am not convinced that current legislation is effective in dealing with the nuisance.

The Minister did not refer to my point that car alarms, as used, are largely ineffective in preventing—

Alun Michael: I did.

Norman Baker: I beg to differ. It passed me by. I do not mean to be discourteous, but the Minister concentrated on the nuisance rather than the crime aspect.

Alun Michael: I concentrated on the nuisance aspect because that is what is in the Bill. I also acknowledged that there is a wide range of other ways of preventing car crime and that there are effective options and means for people to consider.

Norman Baker: The Minister did say that, and I am happy to accept his point. However, he did not conclude, as I hoped he might, that the new clauses—or at least the spirit behind them—would propel manufacturers to consider more effective, readily available and comprehensively applied ways of limiting car crime. Manufacturers are resting on their laurels with existing car alarms. They are covered by insurance companies. The manufacturers say that they have done their job and can tick the box, but they are not doing people who buy cars a service and providing decent effective alarms. The spirit behind the new clauses would have the effect of driving manufacturers further along that road. The need to do that has not been fully accepted.

However, I have had my run around the track. I may get another one—who knows?—if my Bill's Second Reading on 18 March is successful. I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

Clause 99

ABANDONED SHOPPING AND LUGGAGE TROLLEYS

Miss McIntosh: I beg to move amendment No. 6, in page 73, line 23, at end insert—

'(6) In proceedings against a person under sub-paragraph (4) for enforcement of a charge, it is a defence for the person to prove that he took all reasonable steps to prevent abandonment of his trolleys.'.

Local authorities are involved in a revenue-raising exercise in respect of abandoned trolleys. I am reliably informed that shopping trolleys are more of a problem than airport or railway trolleys, and we want to address supermarket trolleys in particular.

Local authorities currently send invoices to retailers for amounts between £50 and £2,000 per retail unit for the cost of trolley recovery, storage and disposal. One can imagine why retailers are already taking steps to prevent the abandonment of trolleys, as even £50 per trolley represents a significant loss. Retailers and DEFRA have identified a lack of communication between local authorities and retailers who are not alerted to the problem despite taking reasonable steps to manage their shopping trolleys. The amendment would encourage partnerships between retailers and local authorities to identify the problem and find a common solution, instead of a local authority sending an invoice to retailers without first making them aware of the problem.

The issue has been identified as a problem by at least one major supermarket company, which has worked with the British Retail Consortium in undertaking an effective exercise alerting us to the dangers of the omission from the Bill. I hope that the Minister will be minded to accept the amendment, and I commend it to the House.

Alun Michael: It is interesting that on the issue of chewing gum the hon. Lady wanted to add to the burdens on business, but she takes a different view on this clause. She was quite wrong, and under a misapprehension, when she suggested that our approach was inflexible. I must resist the amendment because the intention of the clause is to place responsibility on trolley owners. The regulatory impact assessment accompanying the Bill estimates that the overall cost to local authorities of dealing with abandoned trolleys is of the order of £2 million. That is currently paid for by the taxpayer, but I consider that it is reasonable for businesses to pay a higher proportion of that cost. That does not mean that the approach is inflexible or that this is merely a matter of sending letters or a demand for money with menaces, as the hon. Lady implied.

We have made it absolutely clear that through guidance we will encourage local authorities and retailers to work together to reduce trolley losses, such as through the installation of wheel-locking devices. The Government have encouraged that approach in many circumstances, and it is in the interests of the retail trade as well as of local authorities. The schedule already allows local authorities to approve trolley collection schemes and to agree not to impose charges. The whole point is that that is a matter for the local authority to decide in relation to local circumstances. The hon. Lady seems not to understand that the Bill allows and encourages a partnership approach involving businesses and local authorities. The guidance will encourage that approach. I say to her strongly that accepting her amendment would be a retreat from the encouragement of the partnership approach.

Valerie Davey (Bristol, West) (Lab): The Minister may be aware that in connection with the "Living Rivers" project in the Bristol area recently, 135 trolleys were rescued. The cost of storing and disposing of them was considerable. However, that did not happen without contact being made with supermarkets and their being aware of technical devices that lock wheels when trolleys go beyond the perimeters of premises. Is that not to be applauded, and could not other supermarkets do the same?

Alun Michael: My hon. Friend makes the point precisely: a partnership approach at local level can make an enormous difference and there are mechanisms that can be used. This is not just a question of fines or of putting burdens on business, but of asking business to work with local authorities. I recently experienced something similar when I took part in a study of the way in which voluntary action is cleaning up the River Thames. Trolleys were in evidence, along with all sorts of things that would be a great shock to anybody—spoiling the main river running through our capital city. I have seen the same in my city of Cardiff. It is sad when major cities and environments that should be enjoyable for everybody are spoiled by trolleys.

I do not seek to place the blame on the supermarkets alone, because the real problem is clearly individuals taking trolleys and leaving them in inappropriate places. A partnership between the local authority and business can achieve the implementation of mechanisms of the sort that my hon. Friend described, to discourage bad behaviour and to try to avoid the defacing of the local environment by trolleys—trying to achieve what we all want: better behaviour and less degradation of the local environment. That is what most of the measures in the Bill are aimed at, and it is why they have received such support from people such as my hon. Friend, and the many hon. Members who spoke on Second Reading.

I understand the wish of the hon. Member for Vale of York not to put inappropriate burdens on business. I share that desire. That is why the schedule creates conditions for partnership and encourages local authorities and business to get together to create the right environment locally, for the benefit of business and of everyone in the locality.

Miss McIntosh: I listened very carefully to the Minister, but I regret to say that he is plain wrong. If he really is saying that Members on both sides of the House want to promote better behaviour, we should be seeking to reward those who are taking measures to retain trolleys on their premises. Let us take the classic case of Morrisons, which is a very good local supermarket where I live in North Yorkshire, although now that it has taken over Safeway, its methods will benefit many more parts of the country. I do not have shares in Morrisons, so I can say that. It has established a practice

of inserting £1 to take a trolley, which can be reclaimed when the trolley is redeposited. We want such good practice to be rewarded.

Alun Michael: The hon. Lady was engaged in deep discussion when I made the point earlier. I do not think that she appreciates the fact that the schedule allows local authorities to enter into partnership approaches and therefore to lighten the burdens on business while tackling the issue. Does she believe that the burden should continue to fall on the council tax payer rather than following the principle that she mentioned earlier—that the polluter pays? Partnership between the local authority and business should be the method used to eradicate the problem, as the schedule allows.

Miss McIntosh: I again cite the experience of Morrisons, although I believe that other companies, too, pursue that responsible policy.

Alun Michael: It is in the schedule.

Miss McIntosh: The Minister may say that, but if he reads between the lines of the regulatory impact assessment, he will conclude that the Government are imposing a burden too far, and too extensive, on business. Businesses have quantified that in answer to me: up to £2,000 per retail unit. Therefore, I commend the amendment to the House.

Question put, That the amendment be made:—

The House divided: Ayes 105, Noes 281.

Division No. 90] **[7.58 pm**

AYES

Amess, David
Atkinson, Peter *(Hexham)*
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Butterfill, Sir John
Chapman, Sir Sydney *(Chipping Barnet)*
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Djanogly, Jonathan
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Fallon, Michael
Flook, Adrian
Forth, rh Eric
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hammond, Philip
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hoban, Mark *(Fareham)*
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Wiggin, Bill
Wilkinson, John
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Young, rh Sir George

Tellers for the Ayes:
Mr. David Ruffley and Mr. Crispin Blunt

NOES

Abbott, Ms Diane
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barnes, Harry
Barrett, John
Barron, rh Kevin
Battle, rh John
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Breed, Colin
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Chidgey, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, Don *(Bath)*
Foulkes, rh George

George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hancock, Mike
Hanson, David
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lamb, Norman
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Hara, Edward
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Perham, Linda
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sedgemore, Brian
Sheerman, Barry
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Stunell, Andrew
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Gillian Merron and
Mr. Jim Murphy

Question accordingly negatived.

It being four hours after the commencement of proceedings, MR. DEPUTY SPEAKER *put the Questions necessary to dispose of the business to be concluded at that hour, pursuant to Order [this day].*

Clause 103

SECTIONS 101 AND 102: SUPPLEMENTARY

Amendments made: No. 38, in page 76, line 40, after 'cases)', insert '—

(a) '.

No. 39, in page 76, line 41, leave out ', (fb)'.

No. 40, in page 76, line 41, at end insert

', and

(b) after paragraph (a) insert—

"(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—

(i) the artificial light is emitted from industrial, trade or business premises, or

(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;".'.

No. 41, in page 76, line 41, at end insert—

'(2A) After section 80(8) insert—

"(8A) For the purposes of subsection (8)(aza) a relevant sports facility is an area, with or without structures, that is used when participating in a relevant sport, but does not include such an area comprised in domestic premises.

(8B) For the purposes of subsection (8A) "relevant sport" means a sport that is designated for those purposes by order made by the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales.

A sport may be so designated by reference to its appearing in a list maintained by a body specified in the order.

(8C) In subsection (8A) "domestic premises" means—

(a) premises used wholly or mainly as a private dwelling, or

(b) land or other premises belonging to, or enjoyed with, premises so used.".'.

No. 42, in page 76, line 43, after 'cases)', insert '—
(a) '.

No. 43, in page 76, line 44, leave out ', (fb)'.

No. 44, in page 76, line 44, at end insert
', and
(b) after paragraph (a) insert—
"(aza) in the case of a nuisance falling within paragraph (fb) of section 79(1) above except where—
(i) the artificial light is emitted from industrial, trade or business premises, or
(ii) the artificial light (not being light to which sub-paragraph (i) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility;".'.

No. 45, in page 76, line 44, at end insert—
'(4) After section 82(10) insert—
"(10A) For the purposes of subsection (10)(aza) "relevant sports facility" has the same meaning as it has for the purposes of section 80(8)(aza)." '.—*[Mr. Jim Murphy.]*

Order for Third Reading read.—[Queen's consent, on behalf of the Crown, signified.]

8.11 pm

Alun Michael: I beg to move, That the Bill be now read the Third time.

It gives me great pleasure to introduce the Third Reading of the Clean Neighbourhoods and Environment Bill. The Bill addresses the real concerns of people in urban and in rural areas, and I am delighted to have been associated with it. It has arrived here not only through the drafting at a policy level of the issues that it addresses, but from a great deal of consultation and discussion, particularly with the Local Government Association and with those who have to deal with the practicalities of enforcement.

When people are asked what is most important to them about the environment, most mention the state of their own neighbourhood. People want to live in communities that are not blighted by litter, graffiti, fly-posters and burnt-out cars. Rural and urban communities alike see this as a major issue. It is rather sad that the Conservatives' amendment on Second Reading, which demonstrated that they have a complete lack of understanding of the problems in rural and in urban communities, was negative about what the Bill seeks to do.

Derek Conway: The Minister mentioned the consultation that has taken place. I am puzzled by that because he made the same observations in Committee. I wonder whether he would care to comment on an e-mail dated 13 January—after Second Reading—that was sent to me by the National Dog Warden Association and states categorically:

"The NDWA have not been consulted on this Bill and a number of matters we feel need referring back to the Committee."

Given that the provisions on the control and care of dogs are being changed, perhaps rightly, for the first time in 100 years, will the Minister explain to the House exactly whom he has been consulting if not the body of people who round up the stray dogs of Britain on our behalf?

Alun Michael: There has been the widest of consultations, including wide public consultation. We have tried to promote discussion around the country from all sorts of organisations. On the provisions on dogs, as I said in Committee two organisations approached me to express concerns—the Kennel Club and the Dogs Trust. I immediately agreed to meet them to discuss those concerns, which we addressed in Committee. Indeed, amendments to the Bill deal with one specific concern that both organisations expressed—the possibility that there might be the transfer of responsibilities that are currently shared between the police and local authorities without an appropriate transfer of resources. For that reason, I agreed to amend the Bill in order to state that the commencement of that provision would take place only once agreement had been reached on the appropriate transfer of resources. I gather that discussions are proceeding.

Generally, there has been a welcome for the fact that under the Bill one organisation will be responsible for dealing with strays. The organisation that the hon. Member for Old Bexley and Sidcup (Derek Conway) mentioned saw fit to concentrate on briefing Opposition Front Benchers, but there are other organisations concerned with the future of dogs. The issues have been discussed at length with the police and local authorities, which have the greatest experience of dealing directly with the problems of strays. I appreciate that the hon. Gentleman, frustrated by being unable to debate specific amendments in relation to dogs, brought us back to the issue that has caused him concern, and did so in an appropriate manner.

The Conservatives made a major mistake in opposing the Bill when we first had our discussions on Second Reading. We believe that the problems that it addresses are of direct concern to urban and rural communities throughout the country. That is why we see it as such a priority and why it is an integral part of the Government's wider strategy on the environment and community safety. We want people to feel safe in their local community, and that can happen only if the environment is treated with respect. Fly-posting, fly-tipping, graffiti and other things that damage the local environment make people not only feel that they are in a place that is not cared for, but that is not a safe place to be.

The purpose of the Bill is to improve the local environment as it directly affects people's quality of life, wherever they live. Neglecting the local environment creates a sense of unease and that "nobody cares around here", which directly leads too many people to say, "I don't need to care." That can lead to escalating problems of antisocial behaviour. There is an important link between the state of the local environment, antisocial behaviour and the fear of crime. That is why the Bill takes a strategic, cross-Government approach to the local environmental issues that affect our quality of life. I am particularly pleased by the joint working at official and ministerial levels between colleagues at the Office of the Deputy Prime Minister and the Home Office, as well as the National Assembly for Wales, which has some responsibilities in relation to Wales.

The Bill forms a key part of wider Government action. It will be the backbone of our cross-cutting "Cleaner, Safer, Greener" agenda, which, again, is dealt with by several Departments. It tackles antisocial behaviour by building on the Crime and Disorder Act

[Alun Michael]

1998 and the Anti-social Behaviour Act 2003. It also links closely with a number of other policies that we are taking forward, such as on abandoned cars. This is not a single stick approach. We are approaching this not only from the point of view of legislation, but of working closely with local authorities on improving performance, working through the best value agenda and the use of comprehensive performance assessment to place an emphasis on local environmental quality. Our work with the Local Government Association, in particular, has been very productive; I am pleased by its cross-party support for the approaches embodied in the Bill.

The Bill provides enhanced powers for local authorities and the Environment Agency to tackle local environmental quality and antisocial behaviour. It is the result of two years of intensive consultation, including our "Clean Neighbourhoods" consultation last summer, a series of road shows around the country with practitioners, and many meetings with community groups, local authorities and other organisations. I am also pleased that it is complementary to other approaches, such as the Home Office's "Together Academy" approach towards promoting local community safety and crime reduction. That placed an emphasis on dealing with local environmental crime and the two approaches are therefore complementary. The Office of the Deputy Prime Minister's sustainable communities approach again includes consideration of environmental issues. There is a balance to be struck in regeneration between environmental, economic and social issues. All are complementary.

Throughout the process, key gaps were identified in the legislation on which local authorities and the Environment Agency rely to deal with the antisocial behaviour that affects the quality of our neighbourhoods. They often find current legislation difficult to use. It is not wrong, but perhaps there are bureaucratic obstacles to ensuring that requirements are enforced or that available mechanisms are used effectively. The Bill therefore responds directly to calls from those agencies for improved, more practical powers—better ways of doing things.

The Bill creates the environment for better partnership working between local authorities and the police, together with the local communities that they both serve. It will involve parish councils, local businesses and community groups in the fight against antisocial behaviour and help create strong, healthy local communities. Some parish councils are small and some do not want to use the powers for which the measure provides. However, many will want to exercise leadership locally. That is being encouraged through the quality parish council scheme and the work that we are undertaking with the National Association of Local Councils and the Society of Local Council Clerks. I pay tribute to the engagement of both organisations with trying to improve the quality of leadership at that most local level of our democracy.

Sir Nicholas Winterton (Macclesfield) (Con): A year or so ago, the Minister presented a quality award to the Poynton-with-Worth parish council. It was very grateful and so was I. Will he give an assurance that active councils that want to take up the extra powers will have the resources to do so? Sadly, everything for which the Government legislate has a resource implication.

Alun Michael: In some cases there is no resource implication, but in others powers need to be given to enable people to do things more simply. The way in which parish councils can undertake their work depends on the atmosphere of co-operation that we and the National Association of Local Councils and the Local Government Association engender through a contractual arrangement between the principal local authorities in an area and the parish and town councils that want to take their responsibilities further.

Local government in this country has come to recognise the value of the contribution that parish and town councils can make to achieving outcomes. The hon. Member for Macclesfield (Sir Nicholas Winterton) may agree that there is sometimes conflict and competition between different levels of government. Counties and districts have not always treated each other with mutual respect, love and affection. Principal local authorities have certainly not always fully appreciated the potential of local councils—the parish, town or community councils—in Wales. Sometimes the very local organisations have tended to be too inward looking, concentrating on the capacity to study the minutes of the previous meeting and say no to whatever is proposed for the area.

I believe that that has changed. Many principal local authorities have changed their attitude towards parish councils. That has been reciprocated. For example, parish councils have been encouraged through the parish plans approach not to wait and react to applications in their area, but to begin to consider the sort of future that they want. Poynton-with-Worth is a good example. That parish council has tried to look forward. Thinking through what is wanted for the parish in the long term helps to inform the principal authorities' decisions. That constitutes the partnership approach that it is in the interests of all parties to encourage.

The Bill shows respect for parish councils' capacity to undertake duties when they want and are able to do that. They are not forced to do so. The measure further encourages partnership by, for example, recognising the principal authorities' greater capacity for enforcement, thus allowing parish or town councils to exercise their powers, if taken up, in partnership rather than as if the different levels of local authorities existed in separate vacuums. They all exist together and, at their best, complement each other effectively. I hope that that deals with the hon. Gentleman's point. He is rightly proud of the performance of the Poynton-with-Worth council, where I enjoyed a productive visit and much discussion.

The Bill takes a strategic approach to engaging everyone in the work of improving the local environment and reducing crime and disorder in the local community. It especially extends the objectives of crime and disorder reduction partnerships, which are led by the police and local authorities, specifically to include local environmental crime.

The Bill also provides better tools for local authorities and the Environment Agency to deal with fly-tipping, litter, fly-posting, abandoned vehicles and other

nuisances that blight our communities. Talking to people in my area and places such as Splott, which has experienced antisocial behaviour and environmental degradation, or constituents who complain that new graffiti is not a coincidental to the return of someone who has been in one of Her Majesty's institutions for some time, underlines the importance of making connections and ensuring that we create a better environment. I hear similar comments when I speak to farmers or those in rural communities who say that their areas are often degraded through fly-tipping or abandoned vehicles. Providing better tools for local authorities to tackle those problems is important. Local authorities and the Environment Agency have a will to tackle those issues better.

Throughout the Bill, we make greater use of fixed penalty fines and give local authorities the power to adapt them to fit with their local priorities. That is important. Fixed penalty fines can be imposed without the bureaucracy and obstacles that exist if people have to be taken to court. Of course, the right must exist for them to choose not to pay the fixed penalty, and thus for the option of prosecution to kick in. In some circumstances, it is up to local authorities to determine the level of the fine in accordance with their experience of what works best and the nature of the problems in their area. We are also giving greater powers to parish and town councils so that the most local level of our democratic structures can play a part in making things better. They will have the power to issue fixed penalty notices for litter, graffiti, fly-posting and dog offences.

Doing nothing is not an option. Dealing with local environmental quality and antisocial behaviour costs agencies about £3.4 billion per year. That is a massive amount of money and a burden that is ultimately borne by the taxpayer and the council tax payer. Abandoned vehicles cost local authorities £26 million in 2002–03. That is the cost of removal, clear-up and disposal. Even more significant is the damage to the morale of the local community. The measures in the Bill will help us to tackle these problems and to reduce the costs involved.

I know that the Minister for Housing and Planning, my right hon. Friend the Member for Streatham (Keith Hill), has been a great supporter of the Bill, and I am delighted that he is here in the Chamber with us as we reach the latter stages of its consideration on Third Reading.

The Bill is a major part of the Government's strategy for improving the environment, for developing a more sustainable future and for dealing with antisocial behaviour. It will help to ensure a real improvement to the quality of life of many people in communities throughout the country, and I commend it to the House.

8.28 pm

Miss McIntosh: I echo the nuances expressed by my hon. Friend the Member for Old Bexley and Sidcup (Derek Conway). These proceedings have been marked by a flawed consultation procedure. To take the example of dogs, it is beyond belief that the one organisation that has been responsible for looking after stray dogs—the National Dog Warden Association—was not even consulted or called in to see the Minister until we raised the issue in Committee. Many of the offences in the Bill already exist. I pay tribute to the Conservative councils that are implementing to the letter the powers provided in previous legislation—notably the Environmental Protection Act, which was passed in 1990 under a Conservative Administration—to enable them to fight environmental crime.

The cumbersome legislation before us today has not been given adequate scrutiny. It was deprived of such scrutiny in Committee, and I do not recall such an arbitrary use of knives and guillotines as we have seen today. We have been left with two hours for our Third Reading debate, and I hope that that will give us time to cover some of the remaining points. We were not allowed the time to give the Bill in-depth scrutiny in Committee or on Report, however, and the record will show our disappointment in that regard.

I want to talk briefly about costs. The Minister has referred in Committee and today to the reliance that the Government are putting on fixed penalty notices. I have a table here that has been prepared by the House of Commons Library, which is known for its impartiality and independence of thought and research. First, however, I must point out that as the Minister has failed to answer certain questions, either in Committee or on Report, I have taken the opportunity to ask the Solicitor-General what guidance she has provided to the Crown Prosecution Service on legislative provisions introduced since 1997 that involve a reversal of the burden of proof in environmental crimes—we learned today that that applies primarily to fixed penalty notices—and to ask her to make a statement to help us to understand such provisions. This was obviously a source of embarrassment to the Government. The Minister said that he had been talking to people in the countryside, but I am surprised that anyone there would want to talk to him at all since the Government have imposed the ban on hunting through their very ill-thought-out Bill.

Alun Michael: First, the Bill to which the hon. Lady refers is not ill-thought-out. It is very practical and straightforward and, as long as people want to obey the law, they will not have a problem in doing so. Secondly, people in the countryside are far more exercised about fly-tipping and the other issues that are dealt with in the Bill. Those matters are a bigger priority for rural people, as they are for urban people.

Miss McIntosh: I shall return to the serious issue of fly-tipping later.

The Solicitor-General did not wish to make a statement today. In fact, she did not have to answer my question until today, which was probably very convenient. She has refused to give the information that I requested, and has promised to write to me shortly. It is most regrettable that the Government are not going to provide us—and the wider British public—with the information that we need to form a view on the Bill.

On the existing offences that are being extended, we believe that the categories involved are very confusing. The Bill creates three separate categories: nuisance parking; abandoned vehicles; and illegally parked vehicles. We learned on Second Reading that the provisions on abandoned vehicles will be purely discretionary. It will be entirely up to a local authority to decide if it wishes to apply them. We are also told that if fixed penalty notices are paid at a rate of 75per cent.,

[Miss McIntosh]

that is quite high. However, at the last Home Office questions we learned from Ministers that Home Office fixed penalty notices are paid at a rate of only 70 per cent. So, assuming that that rate reached the giddy heights of 75 per cent. in the first year in respect of the provisions on abandoned vehicles, local authorities in England and Wales would raise only £1.68 million across the board. The Library note tells us that the estimated cost of dealing with abandoned vehicles—this is from the Local Government Association briefing, which was provided to us in December for use in Committee—is £34 million. That would leave a £32 million shortfall on that one provision alone.

In Committee, we were staggered to learn from Westminster city council that including chewing gum and redefining it in the description of litter will increase the cost to that council to more than £9 million, yet we see in this well-crafted table from the Library that it will get no extra receipts under the fixed penalty notices. It will have to pay that additional £9 million bill due to that one redefinition alone.

Alun Michael: It really is irresponsible of the hon. Lady to repeat suggestions that have already been rebutted. She knows full well, because I made this absolutely clear in Committee, that all the Bill does in relation to chewing gum is ensure that those who are in any doubt about whether dropped chewing gum is litter have the matter clarified. The suggestion that it involves additional costs or additional requirements is an error on the part of Westminster city council. I have pointed out to her previously that her reliance on Westminster city council as her only source of advice and suggestions is a mistake on her part.

Miss McIntosh: On Second Reading, the hon. Member for Guildford (Sue Doughty) quoted a similar figure from Kensington and Chelsea, so we are in no doubt as to what the costs are. The Minister obviously was not listening when I said this very day from this very Dispatch Box that he has singularly failed to clarify that point, which involves the staggering sum of £9 million.

I commend the Library table to the House, because on fixed penalty notices, assuming a 75 per cent. take-up rate on street litter clearing notices, only £75,000 would be earned as revenue across the board, whereas the total cost would be £342 million. That is a new figure.

Sir Nicholas Winterton: I have been listening to this part of the debate very carefully, and if the Minister needs to intervene again I hope my hon. Friend will give way.

I was under the impression that the Minister said that the cost of removing chewing gum does not incur an additional cost to local authorities, but I can only say from my experience in the Macclesfield borough, where the shopping precinct is blighted by chewing gum, that adequately and properly removing it from the pedestrian areas involves a huge cost. If I have misheard the Minister I apologise, but I hope he can clarify precisely what he said.

Miss McIntosh: I am happy for the Minister to clarify what he said, but I think my hon. Friend is right.

Alun Michael: I am grateful to the hon. Lady for giving way. The hon. Member for Macclesfield (Sir Nicholas Winterton) has quite misunderstood what I said. I was referring to the provisions of the Bill, which do not change in any way the onus on local authorities to remove staining—a very expensive and difficult problem for all local authorities. He is absolutely right on that. The claim made by Westminster city council and conveyed by its messenger on the Conservative Front Bench in Committee was that the Bill will place on it a new obligation to remove those stains. That is not the case. We simply discovered that some local authorities were being advised that there was a doubt as to whether chewing gum when dropped was a piece of litter. The answer is that it is already, but the Bill puts that beyond all doubt. That is the only change in relation to the issue, but it was misinterpreted by Westminster city council.

Miss McIntosh: Without going over the ground that we covered in Committee, I think that Westminster city council has a valid point. The point that I made on Report was simply that, due to the size of a blob of chewing gum, it is difficult to catch someone in the act of dropping it. That is the point that Westminster city council raised through us in Committee and on Report today. Unfortunately, when someone steps on chewing gum as soon as it has been dropped but before it has been identified as litter, a stain is left on the floor. The Minister is being disingenuous in raising the issue, which will doubtless be revisited when the Bill reaches the other place for, I hope, more in-depth scrutiny.

The Minister spoke about the serious issue of fly-tipping, which according to Environment Agency estimates, costs local authorities £100 million to £150 million to remove 50,000 fly-tipping incidents a year. The Minister mocked my claim that the Bill pits urban against rural areas and put it on record again today that the Environment Agency is responsible for removing fly-tipping from publicly owned land in a town or urban area. In relation to a piece of land being rural and privately owned—our amendment on the matter was rejected—the Environment Agency, which is responsible for implementing this part, has said:

"There have been a number of cases where the landowner has been a party to the unlawful deposit. However, in most instances the landowner is a victim of this crime and may either choose to pay for the clean-up themselves or else do nothing. The Courts may award costs if these have been presented during the prosecution case, but cannot require the wastes to be removed or the land cleaned up."

I submit that that means that it is all right for the Environment Agency to pay for and use local council tax payer's money to remove waste that has been fly-tipped on to publicly owned land in an urban area, but it is not empowered, under either existing legislation or the Bill, to so relieve a perfectly innocent landowner who has had no knowledge of, and has not given his consent to, having waste fly-tipped on to his land. It is the landowner's choice to remove that from his privately owned land, and he must bear the expense. That is

distressing and unacceptable, and has been a source of great concern to both the National Farmers Union and the Country Landowners Association.

Paddy Tipping: The hon. Lady makes a false argument. In urban areas, there is both publicly and privately owned property, as in rural areas. The Bill applies across the board, and it is a false dichotomy to pit urban people against rural people, which shows that she is wrongly and falsely pursuing another interest.

Miss McIntosh: I have had excellent co-operation with ENCAMS and the Environment Agency in my area. They are alert to the fact that the Government have signed up to a number of directives that have led to an increasing incidence of fly-tipping, often with a criminal element involved. That is why we take this issue seriously. The onus should be on the Environment Agency to remove this stuff, and if it can identify the criminals who have placed it on private land in the country, it should prosecute them, which would help to defray the costs. Signing up to the waste electrical and electronic equipment directive and the landfill directive has seen increasing amounts of white goods being fly-tipped in rural areas. As co-disposal of hazardous and non-hazardous wastes is no longer allowed, there are not sufficient sites to take those and landfill is closing down. I believe that we will return to this issue ad nauseum. The Bill provided an opportunity to rectify that balance and ensure that landowners were put in the same situation as others.

It is fair to add that the National Farmers Union welcomes many aspects of the Bill, although it has raised a number of concerns with us. I want to put those on record, because the Government failed to consider them sympathetically and act on the amendments that we tabled on the NFU's behalf. On gating orders, the union said:

"It is unclear on whom the responsibility of the installation, maintenance and operation of the barrier or gate would lie. This issue needs to be clarified."

Clause 2, entitled "Gating orders", did not clarify it.

On clause 11, "Notice of removal", the NFU said:

"Vehicles abandoned on farm land blight the countryside, have the potential to cause pollution and are a hazard, yet do not seem to be addressed."

Part 3, which deals with "Litter and refuse", includes clause 20, "Litter clearing notices". The NFU

"would like to see land where illegal events, such as raves or illegal encampments have occurred included in this list."

So far, they have not been.

Part 4 deals with "Graffiti and other defacement". We were not permitted to reach it today, although there were concerns about it, too. The NFU mentioned

"a requirement that any unauthorised advert should be removed. Farmers working land that"

—by its very nature—

"is widely spread, not easily accessible or infrequently visited may not be aware of an illegal advert."

The NFU believes that farmers could be seen to be being victimised. The union would have welcomed Government guidance enabling authorities to deal with illegal deposits of waste, but I made that point at some length a moment ago.

As for clauses 42 and 43 and fly-tipping,

"The NFU is concerned that the identification of the true culprit can be difficult to establish, and that the landowner or occupier is more easily established . . . The NFU would urge that landowners and occupiers should not have to pay for costs of enforcement, recovery, or clean-up until the final outcome of any appeal is known."

Clause 50 is entitled "Power to require owner of land to remove waste".

The NFU

"strongly believes that clear guidelines should be put in place"

so that landowners and occupiers are not required

"to remove the fly-tipped material simply on the basis that the perpetrator cannot be found. Enforcing agencies"

—in this case the Environment Agency—

"should be required to show that all reasonable measures have been taken to identify and act against the culprits."

Sir Nicholas Winterton: My hon. Friend is making an interesting case, but because of my other activities in this place and because I was not on the Standing Committee, much of this is new to me. Does she accept that fly-tipping and dumping—dumping cars in the countryside, for instance—and other antisocial acts are a result of people behaving badly? Does she agree that the way in which to deal with that is to impose firm and severe penalties on those who are identified and taken to court for such offences? I have not heard what we will do about offences that desecrate the countryside.

When I go home on a Thursday night, the first thing I do on Friday morning is clean up the litter outside my house—litter dumped not by the local authority, not by government, but by people who do not appreciate the value of the countryside, or people in urban areas who do not appreciate the environment in which they live.

Miss McIntosh: I think my hon. Friend will find that the Bill is silent on that, particularly cases involving privately owned land. If the perpetrator cannot be found, it is the landowner's responsibility to remove the waste.

Andrew Selous (South-West Bedfordshire) (Con): Does my hon. Friend share my frustration? When a number of my constituents contacted me about a very nasty serial fly-tipper, I took great pleasure in relaying to local police what that individual was doing. When he eventually came up before the courts, he was fined the measly sum of £500 and asked to do some community service. He has now returned to fly-tipping just as badly as before, and we hope to catch him again. Does my hon. Friend agree that the courts need to take note of the genuine concern felt by all hon. Members in all parts of the House about the gravity of the situation, and that the courts are perhaps not taking this issue seriously enough?

Miss McIntosh: The problem seems to be apprehending the perpetrator, whether that involves seizing the vehicle or finding out who dumped on the land, the issue about which we have expressed greatest concern. That remains a flaw in the Bill's provisions on fly-tipping. The same is true of fly-posting: we tabled a number of amendments on over-posting, which, regrettably, the Government did not see fit to accept. However, all is not lost, and I hope that it will be possible further to scrutinise this issue in the other place.

[Miss McIntosh]

I turn to the last point that the NFU asked us to take up, which, again, we were unable to discuss because we did not reach the amendment on dogs. I hope that the Minister agrees that when the Countryside and Rights of Way Act 2000 is fully implemented, it may become apparent that there are specific areas of farmland where dog control orders will be required to combat dog-related nuisance. I hope that the Government will seek to fulfil expectations in that regard.

On provisions relating to dogs, I yield to none other than my hon. Friend the Member for Old Bexley and Sidcup, who has done sterling work in this regard. I apologise to him and to the House for the fact that because of the way in which the knives fell—the decision was not ours but the Government's—we were unable to move and debate amendment No. 11. There is a real need for such an amendment because the Bill is silent on how local authorities will implement such provisions. As my hon. Friend is aware, not every local authority will have a dog warden or access to kennels, and most will not provide a 24-hour dog warden service, as is currently provided. The Bill will require the provision of kennels to house stray dogs in each local authority area, and it will require the provision of treatment for injured dogs—and, regrettably, the putting down of dogs that are too badly injured. We did not have a huge amount of time to discuss that in Committee.

Derek Conway: I read the deliberations of the Committee on which my hon. Friend did such a sterling job in very limited time; indeed, only about 45 minutes were spent on the subject. Does she share my amazement that no real figures have yet been given, to the House or the Committee, on the additional costs to local authorities? The Dogs Trust has estimated a cost of £13.2 million if just one additional dog warden per local authority were appointed. I hope that the Minister might be able to put a bit of flesh on the bones of those costs. I could not find such figures in the Committee's deliberations, although my hon. Friend was clearly pressing the Minister.

Miss McIntosh: Indeed. The Library has come up with a figure for dog control offences. Receipts from the issuing of fixed penalty notices at a rate of 75 per cent. would yield only £112,500 across all local authorities in England and Wales, whereas the actual cost would be between £1.8 million and £13.2 million. Those figures represent the estimated cost to police, plus the cost of one dog warden at £30,000 per annum, multiplied by 440 local authority areas in England and Wales. That information is taken from the Dogs Trust briefing to Committee members. I hope that it assists my hon. Friend.

Alun Michael: I hate to interrupt the conversation between the hon. Lady and the hon. Member for Old Bexley and Sidcup (Derek Conway), but I do not want the House inadvertently to be misled. Section 149(9) of the Environmental Protection Act 1990 requires any stray dogs detained by a local authority

"to be properly fed and maintained."

That clearly includes the treatment of sick and injured dogs. That is why, had we reached the clause that the hon. Lady mentioned, I would have explained why it was unnecessary.

Secondly, the authority's duty to deal with stray dogs is clearly set out in the 1990 Act. When the Bill comes into force, local authorities will be solely responsible—a decision greatly welcomed by the police. As I have already explained, commencement of this part of the Bill will be dependent on agreement over the transfer of resources, which will enable the local authority to undertake those duties. The duty is not restricted to daylight hours, so local authorities will need to have suitable arrangements in place to deal with stray dogs on a 24-hour basis. It does not necessarily involve kennels; arrangements with the local vet could be utilised, as already happens in some rural areas. These are all practical issues and I have to point out that they were debated in Committee.

Miss McIntosh: The Minister confirms the point that my hon. Friend the Member for Old Bexley and Sidcup and I have consistently made: either there was sufficient consultation and the Bill has been well thought out in a consistent and comprehensive manner, or the Bill has been rushed through—*[Interruption.]* It goes to the core of the matter. If the Minister wants the Bill to succeed, there must surely be a mechanism for approving the transfer of resources. Very helpfully from the point of view of Conservative Members, the Minister has highlighted the fact that there is no guarantee of the transfer of resources, as it is currently up for discussion. I raised that matter in Committee and my hon. Friend the Member for Old Bexley and Sidcup raised it on Second Reading. It should not have been necessary to delay implementation of this part of the Bill.

Alun Michael: The hon. Lady is wrong yet again. It was the Kennel Club and the Dogs Trust that raised the matter directly with me and I undertook to take their concerns seriously, as I made clear in Committee. I then tabled an amendment to ensure that commencement of this part of the Bill can happen only once the transfer of resources has been agreed. It is all very straightforward.

Miss McIntosh: It was so straightforward that the Minister did not consult or seek the views of the Kennel Club, the Dogs Trust or the National Dog Wardens Association. What confidence can we and the great British public have in a Bill that has been so shoddily thought through and so poorly consulted on that we are where we are now?

Derek Conway: I must tell the House that I do not know how my hon. Friend has managed to stay so calm. The Minister intervened to say that it would all have been covered in earlier consideration had we got to it. We did not get to it and my hon. Friend could not move her amendment because of the guillotine imposed on the House by the Minister. The fact that we have not properly considered the details has nothing to do with my hon. Friend: it has happened because the Minister has managed to whip through a curtailment of our debate. She is absolutely right to put the Minister on the spot, which is supposed to be the point of a Standing Committee and of our remaining stages. I hope that

those in the other place will read our deliberations and press the Minister taking the Bill through the upper House. I have read what this Minister said in Committee and it is not the same as what he is saying to the House now.

Miss McIntosh: Indeed, and it is important to place on the record the fact that consultations and meetings were not sought. It is unacceptable to be at the final stages of the Bill's passage through this House without having received a firm and clear commitment from the Minister that a transfer of resources will take place. Is it good enough at this stage to say that the transfers are still being discussed? We have been left with two hours to debate the issues and we were not able to put these matters to a vote earlier.

Liz Blackman (Erewash) (Lab): Will the hon. Lady clarify for the House whether she is voting for or against the Bill this evening?

Miss McIntosh: I want to make some progress and it will not be long before the hon. Lady finds out.

Alun Michael: I feel as though I am watching a dog chewing an old bone, because the hon. Lady keeps coming back to issues that have been dealt with time and again. I have made it absolutely clear—we have amended the Bill—that there will be no commencement of the requirement that places responsibility solely in the hands of local authorities until there is agreement on resources. That matter has been dealt with. It is not just a question of an assurance from the Dispatch Box, because we have amended the Bill to deal with the matter following an approach from the Dogs Trust and the Kennel Club, and my discussions with them.

Miss McIntosh: We can move on, because we agree to disagree.

I turn to other matters that we were unable to discuss earlier. They include amendments covering graffiti and the huge expense that it causes, as well as the problem not just of fly-posting, but of over-posting. I am delighted that, on this occasion if no other, we have the support of the Liberal Democrats. That is most welcome and we look forward to going into the Division Lobby together.

I said earlier that all fly-tipped waste should be removed and I referred to amendment No. 11, about dogs. An interesting situation occurred on light pollution. The Minister told us categorically that there was no issue concerning light pollution, particularly from sports pitches and playing fields. Subsequently, Sir Trevor Brooking went to see him; perhaps that was another consultation that did not happen with due diligence and in time for the Committee stage. Two or three weeks ago, we tabled a series of amendments that appear on the amendment paper today. We wanted the opportunity of perhaps pressing them to a Division, but we did not reach them because the guillotines fell inappropriately, too frequently and allowed too little scrutiny of the Bill. Those matters were not discussed sufficiently or were not discussed at all.

I dwelt at length on costs. The figures collated by the Government and their advisers, ENCAMS, demonstrate that local authorities will be unable to afford to implement the Bill. It is clear that receipts from fixed penalties will contribute only a fraction of the costs involved. Unless the Government are prepared to force local authorities dramatically to increase council tax bills or to offer alternative funding, many of the measures in the Bill will be unenforceable. They are discretionary for the most part, which shows that the Bill has been badly thought out. Its purpose is to grab headlines—it is another of the Government's eye-catching initiatives. Its flaws could not be corrected during the few Committee sittings or the little time available this afternoon and this evening. The Government have failed to listen or to amend the Bill to accommodate any of the concerns and representations raised with Conservative Members. The Bill is in need of further examination. We will not oppose it further in this place, but we hope that the other place will have the scope and time for more in-depth and fuller scrutiny than has been possible today.

9.3 pm

Colin Burgon (Elmet) (Lab): I thank the hon. Member for Vale of York (Miss McIntosh) for her contribution. It looks as if someone has been fly-tipping on the Dispatch Box in front of her.

The Government have had a good record since 1997 on tackling antisocial behaviour and improving the local environment. Those two themes make a valuable contribution to the quality of people's lives. Labour Members recognise that a good quality environment reduces antisocial behaviour and the fear of crime. A theory developed in New York was the "broken windows" argument—that the degradation of a place leads to higher levels of crime and disorder. If an area is increasingly neglected, either through lack of individual or community control or neglect by a local authority, people begin to lose confidence about the regulation of their community space and a downward spiral of neglect and disorder is inevitable.

Underpinning the Bill is the attempt to make a cultural shift in our society, whereby values of respect and responsibility for personal and shared property lead to a decrease in antisocial activity. Most MPs realise from our work in our local communities the central importance of those values for our constituents. We are often told that we should talk more about relevant issues. Few issues are more relevant than those we are discussing today, so I welcome the philosophy behind the Bill as well as some of the specific points that it covers. I am conscious of the time and of the fact that other people want to speak so I shall try to be as brief as possible.

Central to the Bill is ensuring that crime and disorder reduction partnerships will take into account low level antisocial behaviour and environmental crimes such as littering and graffiti. That sends the important message to people that disfiguring and degrading our local environment is a crime and will be treated as such. We need to get that message across. I welcome the greater powers that will be given to local councils to deal with alleyways affected by antisocial behaviour. I hope that such powers will be used to restrict public access to alleyways that are used to facilitate crime and vandalism. In an experiment in North Whinmoor, in my constituency, the local community, aided by Councillor Pauleen Grahame, has done a great job constructing an alley gate in the area, which has proved a great success.

[Colin Burgon]

Graffiti and fly-posting are other important issues tackled in the Bill. Both contribute to poor environmental quality and neighbourhood decline. I have to admit that I struggle to appreciate the artistic merit in some of the works of graffiti that I see in our public spaces—be they parks, community buildings or the sides of railway routes. I note that local councils will be able to vary the fixed penalty amounts for graffiti offences, and I hope that my right hon. Friend the Minister will exert pressure to ensure that the fines levied are meaningful and not a laughable amount that leads graffiti artists to think that they can carry on their work unhindered.

I warmly welcome the provisions on fly-posting and advertisements. Councils will be able to recover the costs of removing illegally displayed posters or placards. Will my right hon. Friend assure us that the Government will do everything possible to ensure that those powers are vigorously enforced? Increasingly, as we drive along motorways and major routes, we see mobile advertisement boards sprouting up on the sides of old lorries and so on. They blight our local environments and communities.

I am also concerned about fly-tipping. As my right hon. Friend has a fantastic grasp of geography he will know of the example that I am about to give: Leeds lane in my constituency, which links Wakefield road with Swillington lane—*[Interruption.]* Yes, that is the one and it is the bane of my life. It is a rural lane overlooking Garforth and I drive along it almost every day that I am in my constituency, and I think that somebody is deliberately trying to psyche me out. Almost every week, household materials are dumped at the side of the footpath. It may be a tribute to the way that Labour is running the economy that baths, fridges, cookers, gas canisters and various bits of furniture are thrown out. Perhaps that just shows how rich our society is. What irritates me is that we never see who is throwing those things away. Should not we invest in a mini CCTV system, which could be hidden in trees or camouflaged in various ways, so that we can track down the people who are responsible? I realise that the police cannot wait at that spot for hours on end, nor can neighbourhood wardens, so let us think creatively and use some money to develop the technology that will catch people who dump rubbish. I offer Leeds lane as a prime site for the Government to make that grand experiment. They will have my full support.

I welcome the new powers in the Bill, especially those that enable councils and the Environment Agency to recover their investigation and clear-up costs when tackling the problem of fly-posting. I note that local councils will be able to issue fixed penalty notices and keep the receipts from such penalties. I am pleased that the Bill introduces a more effective system to stop, search and seize the vehicles used in illegal waste disposal and gives the courts the power to require the confiscation of the vehicles used in that crime. I hope that we can detect them on Leeds lane.

I ask the Minister to urge councils to set up a hotline, staffed by someone who is aware of how big a concern this issue is to people. My constituents have often rung the local supposed hotline, which is actually a lukewarm line, to be treated by the person at the other end to a long inquiry, boring questions and so on, when people want action to be taken.

The Bill covers a wide range of issues, including the problem of dog fouling—an issue that came to my attention in Great Preston, when I spent some time with a ground worker last Friday. This may sound like the ultimate pub quiz question, but I am indebted to the Library for telling me that UK dogs produce 1,000 tonnes of dog mess every day, which is equivalent—the Minister will not believe this—to the total weight of beef imports into the European Union. I have no idea why the Library draws that parallel.

There are other interesting facts in relation to litter. As I said earlier, I noticed the litter on top of the Opposition Dispatch Box. It is interesting to note that 120 tonnes of cigarette-related litter is discarded on our streets daily and that cigarette litter generates about 40 per cent. of all street litter.

I also note that the Bill will give councils greater flexibility in dealing with noise nuisance from things such as burglar alarms, which have been mentioned, and from licensed premises that ignore warnings to reduce excessive noise levels. Light pollution is also addressed, particularly with respect to badly positioned security lighting and the glare of unshielded bright lights that cover car parks.

In contradiction to what the Conservatives have said, this is a good Bill. It follows, from my reading around it, widespread consultation with people. Legislation is important. The Minister talked about joint working with other Departments, but one of the key Departments that may have lost out is the Department for Education and Skills. I honestly believe that there is a place in schools for teaching about the local environment and that that should be part of the school curriculum. "Think globally, act locally" is the slogan, and I wish that we would take that up; but, obviously, what has the greatest role in education is what our parents tell us. I am one of those who was brought up to believe that if we generate rubbish—sweet papers and so on—we should not just drop it on the floor but take it home with us. That may be a homely view of things, but I wish that we could return to that in some respects.

I will not go on too long, but I wish to note that the Bill aims to create cleaner, safer, greener communities. In my view, that means stronger communities, which is what people like me think that politics is all about. This is a good Bill, and I hope that the Minister will explain, if he makes some further comments in closing the debate, how the £500 million cut in the Department for Environment, Food and Rural Affairs proposed by the Conservative party would damage some of the proposals that we have been discussing tonight.

9.13 pm

Sue Doughty: This is an interesting and important Bill, but in some ways we are disappointed because we could have done more to deal with a lot of the issues. The Bill does not go far enough. Nevertheless, stronger fines and longer sentences for those who pollute and measures to seize vehicles that are used to pollute are all absolutely essential. We need not only to fine fly-tippers at a level that would make a real difference to the viability of their business—that is what it is all about—

but to make it clear that such actions are environmental crimes and that environmental crimes really matter. They damage our environment; they damage the planet; and they are the sort of thing that should have no place in the modern world. Ours is an overcrowded planet and the harm that we do now not only to the land but to communities in a densely packed island like ours makes a difference, so we need to deal with the people who cause those problems.

We have some reservations about the Bill, but we are being practical by considering what it needs to do. We need to take a serious look at some other issues. One issue on which we did not table amendments is the problem of train horns. A number of Members get constituents constantly coming to them saying that nuisance is created not only by noise from premises but by things such as train horns which have got so much noisier. The Rail Safety and Standards Board has not taken on board the fact that there are alternative ways of raising alarms that are not so disruptive.

We had debates on Second Reading and in Committee about light pollution. I still feel uncomfortable with the fact that large organisations, such as ports, airports and harbours, have failed to recognise that, although some lighting is necessary for their effective and safe operation, they must do much more to deal with excess light. It often creates misery for the people living close by. Although some organisations take a good look at what they can do to minimise light pollution, not enough is happening. We certainly heard on Second Reading about the people who could see the light from a port—even though it was below the horizon, it still caused a glare.

We also have concerns about the provisions for fly-tipping. If it occurs on council land, it will be cleaned up. However, if it takes place on private land that belongs to farmers, the National Trust or other large landowning bodies, the landowners will have to pay for the clean-up even though they have done as much as they can to prevent fly-tipping by having proper gates, fencing and padlocks in place. We have not got very far on that. We also wonder how the Environment Agency will pay for the extra duties involved. Nowhere does it say who will pay for the work that the agency does.

As I said in Committee, I attended a parish council meeting in Worplesden that discussed whether to erect CCTV cameras to identify fly-tippers on the common. Although the council, the police and representatives from the parish were at the meeting, no one from the Environment Agency attended because it was thought that its staff were already overstretched and could do no more to help. In other words, no more work was going to be placed on the agency even though it had responsibility and could play a strong role in this issue. I am on record as saying that I am a strong fan of the agency, but I am not an uncritical fan. It needs resources and good calibre staff if it is going to do its work and if the Bill is to be successful. It lays further responsibilities on the agency.

Another of our big concerns is conviction and detection, and the agency often has to do the detection work that leads to conviction. The Bill contains strong penalties to deal with fly-tippers, but someone has to be convicted before they are imposed. That means that they must be detected first and if we do not do that, we will not be able to deal with the repeat fly-tipper who runs a business based on fly-tipping and knows that he will get away with that. We shall not even be able to deal with the curious cases in which someone fly-tips opposite a Travellers' site, because he thinks that the Travellers will be blamed and he will get away with it.

As we know, in 2003, the Environment Agency dealt with 5,399 incidents of fly-tipping, but there were only 254 prosecutions. That is not good enough. We need to get real deterrents in place, but that percentage of prosecutions is totally inadequate in sending the message that the polluter will and must pay. Much more needs to be done.

Although we agree with the Conservatives about some aspects of the Bill, I am worried about their attitude to it. They opposed it in the first place, so it seems that if they cannot have it their way, they are not keen on it at all. Liberal Democrats are not entirely happy with it, but we must support it because there is no way that we can walk away from a Bill that will get hard with polluters. I serve on the Environmental Audit Committee, which has investigated environmental crime and the courts, fly-tipping and graffiti. The Bill addresses many such problems. One of our reports said that more resources were needed, and although that needs to be considered in another place, we must support such a Bill because pollution has an impact on communities.

The Conservatives called for the Environment Agency to have the power of arrest, but the agency does not want that because it thinks that it would be inappropriate. Indeed, there is quite a bit of evidence to back that up. The Environment Agency rightly wants uniformed police to make arrests because the people involved in such activities are often deeply unpleasant and vicious individuals. We are also worried about who will clean up land.

The chairman of the Environment Agency wrote a letter that was published in *The Times* on 1 February in which he commented on the Conservative party's James report, and I have listened carefully to the Conservatives to find out how they would pay for their proposals. The letter said:

> "The James report for the Conservative Party on the savings to be made from bureaucracy proposes cutting government grants to the Environment Agency by £47 million, which it describes as cuts in 'intrusive enforcement by the Environment Agency' . . . As the Environment Agency actually spends £19 million on enforcement—acting on breaches of the law by the regulated sector as well as tracking down criminals acting outside the system altogether—my board would dearly like to understand what else is for the chop.
>
> Without further enlightenment, which is not available in the report itself, we are forced to conclude that it is the policy of Her Majesty's Opposition to significantly cut the policing of criminal dumping of waste and to reduce monitoring of the environment to safeguard public health, the maintenance of our natural habitats and upkeep of locks and weirs on rivers."

The letter went on to say:

> "In the circumstances we can hardly fail to conclude that Mr James's recommendations have no basis in even the most rudimentary understanding of our business."

I am sorry that such letters must be written, because whether we are Government or Opposition Members, we are all are trying to find better ways of running government. We all want to get best value for the taxpayer, but the Conservatives cannot say on the one

[Sue Doughty]

hand that they want more enforcement and powers of arrest, but say on the other that they would take away the money that would allow that to happen. We have heard nothing from the Conservatives about how they intend to pay for their proposals.

I am pleased about aspects of the Bill because they represent progress. I am glad that stronger action will be taken on abandoned vehicles. A lady who lives close to my constituency office, which is in a residential area that is not at the best end of town, takes it upon herself to record the numbers of abandoned vehicles and to feed them through the system, and she lets me know how she is doing. Such people need encouragement and to know that councils will act. Vehicles for sale on the streets cause a nuisance and the situation has been allowed to continue for far too long. That practice has started to be thought of as a fact of life because councils do not do much about it, so anything that makes the law to deal with the problem stronger is desperately important.

Miss McIntosh: I have been listening carefully to the hon. Lady and reading "A Better Environment, A Better Life: Liberal Democrat Policies for the Environment". If she is so committed to the Bill, why does it not feature in the Liberal Democrats' environmental policies?

Sue Doughty: I am interested in the hon. Lady's intervention, especially if she wants to discuss our entire policy manifesto, but we are debating a Government Bill. We have not listed all their Bills in our manifesto because we are the Liberal Democrats. I am sure that the Conservatives have taken it on themselves to support the occasional Bill and that that has not appeared in their manifesto. She will have heard that I support other aspects of waste management that are also becoming Labour party policy, in particular measures to deal with plastic bags.

We need to make progress. More needs to be done. The problem of chewing gum has not been satisfactorily resolved. With a little time, I hope that in the other place the Government will introduce stronger proposals on chewing gum, given the breadth of debate on the issue. We are all concerned about it, and we want some action.

I thank the Minister for his letter on insects. We had an interesting debate about insects, but more needs to be said about the infestation of insects from premises. I am sure that that will be raised in another place, because we need more clarification of what he suggested in his letter.

The Bill has our support. It is desperately important that we get a clear message out about how polluters must pay for what they do. I look forward to it being improved in another place.

9.26 pm

Liz Blackman: I shall be brief, because other hon. Members wish to speak and many points have been made several times over. Not surprisingly, I welcome the Bill. Time and time again, we have heard about the link between antisocial behaviour and poor, neglected and abused environments. It is right that the Bill focuses on breaking that link. Environmental vandalism exists in all our constituencies, in small and large areas.

The consultation was crucial in introducing the measures. As far as I can tell, it was extensive and rigorous. The outcome is that the Bill complements earlier legislation, including the Anti-social Behaviour Act 2003, with which I was pleased to be involved. One of the Bill's aspects is to strengthen existing partnerships by requiring responsible authorities to ensure that tackling such behaviour is at the heart of their strategies. It also extends powers to partners, including parishes, extends and toughens penalties, and simplifies processes and procedures, which is important because it makes them easier to implement.

I welcome in particular, as I am sure do my constituents, the wider use of fixed penalty notices, improvements to gating, which is especially relevant in Erewash, and tougher measures on fly-tipping, because Erewash has urban fringes that suffer from that crime, from graffiti, from nuisance vehicles and from dumped cars and litter. I recently conducted a large survey on issues that concern my constituents, and litter was at the top of the pile. In fact, it has risen to the top of the pile over the past couple of years.

Among the range of penalties and measures that the Bill provides to tackle litter specifically, one gem is the ability for responsible authorities to impose litter cleaning notices on private households. Interspersed between the well kept houses with beautiful gardens that people have taken an awful lot of time and trouble to nurture—the real homes—it is demoralising to see front gardens that look like the local refuse tip, or worse. For the first time, the Bill gives powers to require those people to clean up their act. I am delighted with that measure.

There is more to do on environmental crime, but for me the centrality of the Bill is whether the measures in it will be implemented by those that have been given the responsibilities. I want to give some examples of episodes in my constituency over the past year or so which have led us to pause with concern.

West Hallam community centre in the village of West Hallam belongs to the Conservative parish council of West Hallam. The playgroup that rents the centre asked me to write to the management committee of the building to ask it to remove graffiti, and this is what I got back:

> "We recognise graffiti is a problem and have on several previous occasions had it removed. In our experience, however, unlike the suggestion in your letter, we have found the removal of the graffiti gives the green light for it to appear again."

I am not speechless on many occasions, but that letter took my breath away. We are talking about transferring powers to such groups. I am not for one minute saying that all parish councils in Erewash hold that attitude—I am sure that they do not—but we must accept that there are still pockets of ignorance in our communities and we need to challenge them.

The other episode that I would like to mention concerns one of my leisure centres that has a big recycling park, which was covered in dumped rubbish a year ago at Christmas and new year. One of my constituents flagged up the problem, so I challenged the local Conservative council to do something about it. A year ago, I received a letter saying that the council had put in extra resources and would monitor the situation and make further resources available the following year.

I went to the leisure centre for a swim on 2 January this year, and what I saw took my breath away. The area was stacked with plastic bags full of Christmas refuse and children were playing in it. I again wrote a very strong letter to the council, and got this reply:

"We deliberately stepped up our efforts to keep our main recycling sites tidy during the Christmas period following the problems experienced in previous years... Whilst this extra activity was successful, the real problem is residents using the recycling points to dump residual waste. This is in fact fly-tipping, a criminal offence carrying a maximum fine of £2,500. Whilst the Council plans to provide similar enhanced collection services next Christmas, we will be playing a much stronger enforcement role and persons caught fly-tipping will be prosecuted."

The letter finally told me that both the tip and the recycling processing plant were closed at that time.

Local councils must get their act together. My council knew that there was a problem. It should have supplied more refuse collection facilities. It should also have challenged the behaviour of those fly-tipping, and should have ensured that the local tip was open. This is not just about enforcing the law but about ensuring that there is the capacity for people who want to dump their refuse legitimately.

Two years down the line, the council is putting a much better structure in place. It has made a significant investment in a warden system, which is about to come on stream, and more money is being invested in refuse collection and street cleaning. However, those measures must be implemented thoroughly and speedily, and the council must be transparent about its activities and schedules and make clear what people can expect from its services both on a regular basis and when a problem occurs. As my hon. Friend the Member for Elmet (Colin Burgon) has said, a hotline should be introduced so that people can report fly-tipping and littering, and feedback should be obtained on how services are working.

The Bill is good and the measures will work if all responsible bodies, and the public, understand that environmental crime can be tackled, but that we all have a role to play. It provides an excellent opportunity to do more to clean up the environment.

9.35 pm

Derek Conway: It seems almost an eternity, Mr. Speaker, since I raised with you the question of whether we would get an opportunity to discuss a particular part of the Bill, about which I have driven the Minister to boredom and distraction because of my insistence on trying to flesh out some of the details of the legislation dealing with dogs. I do not apologise for my interest in the matter. I have served on several Standing Committees with the Minister and I know how he likes to operate—if he can cross the street for a punch-up, he always will. I have no doubt that when he replies to my observations, which I hope will be brief, he will give me a kicking.

Conservative Members have made it plain that our opposition to parts of the Bill, which contains many good clauses, is not tooth and nail, and I do not have a great deal of difficulty with the Minister's proposals on the control of dogs and handling stray dogs. However, he should not have taken umbrage at a number of interventions—in particular, my interventions—because it is his job to explain the reasoning behind his proposals and it is our job to press him. I hope that he will not take undue offence at our pressing him, although we agree with much of what he is trying to do, because that is what he is paid for.

Sadly, I missed the seventh sitting of the Standing Committee on 27 January, because I was next door chairing the Committee on the Identity Cards Bill, which was equally riveting. The Minister was obviously having a good time that morning, because everybody was getting a good beating, and he mentioned that he had discussed the Bill with the Kennel Club, the Dogs Trust and a vet. When I spoke briefly on Second Reading, however, those organisations had not been consulted.

Alun Michael: The meeting took place after Second Reading, when those organisations approached me with their concerns. We examined those concerns and amended the Bill, as I said earlier. We originally hoped that the discussions on the transfer of resources would be ready so that the Bill could be implemented as originally drafted three months after Royal Assent, but to put the question beyond all doubt, we amended it to ensure that that part of the Bill will be commenced after the discussion on resources.

Derek Conway: I am grateful to the Minister for that reply, and commend him on listening to those worthy organisations, which are experienced in such matters, and on amending the Bill, which is to his credit—I am sure that those organisations are grateful. However, he must accept that hon. Members are astonished that a Minister could introduce a Bill to change the legislation on handling dogs, which has existed for more than 100 years, without consulting the biggest animal welfare charities that deal with dogs in the UK—the Dogs Trust, which used to be the National Canine Defence League, the Kennel Club and Battersea dogs home—it should properly be called the dogs home, Battersea—which is not a million miles from this place. Battersea dogs home says that more than 51 per cent. of the stray dogs that it is asked to take in arrive on a Monday after the weekend, so there is a problem with what goes on out of hours.

In the light of the Minister's long experience, and my briefer experience, in government, I find it difficult to believe that a Department would have the effrontery to put before the House a Bill that will place a difficult burden on animal welfare charities—including the National Dog Warden Association, whose representatives the Minister did not meet at all—without consulting them beforehand. Those are the people who are doing the job. We can talk about it here, but they are the ones cleaning up the mess that we humans leave when we do not treat our animals properly.

Alun Michael: I am not crossing the road to beat up the hon. Gentleman, but I want to correct his assertions. The only outstanding issue is that of the transfer of resources necessary to make one organisation—the local authority—responsible for dealing with strays, which, as far as I can make out, everybody supports. That was the only reasonable point that was made—all the others were misapprehensions about what the Bill would do, and I was able to correct them. Often, the problem is not a lack of consultation but a

[Alun Michael]

misunderstanding about what a piece of legislation does, which needs to be corrected by additions long after the consultation has been completed.

Derek Conway: The Minister utters honeyed words, and I am tempted to believe them, because I know that he has the best of intentions. However, even when he did eventually deign to meet the biggest animal welfare charities that are doing the work that his Department is dealing with in the Bill, their conclusions—I think that they were circulated to him—were negative. The Dogs Trust, which he met, stated in a briefing:

"Insufficient evidence has been taken as to the problems that will be created."

It continues:

"Adequate funding must be made available."

We wait to hear, because nobody yet knows, what this will cost or where the money will come from. The Minister is plucking figures out of the air. One would think that the House of Commons had some kind of fiscal responsibility concerning the government of our country, and would be entitled to know whether we are talking about millions, or hundreds of thousands, of pounds. My hon. Friend the Member for Vale of York (Miss McIntosh) gave some figures earlier, but the Minister is the man who is being paid to do that.

The briefing continues:

"There are no proposals to enlighten the general public about what to do when finding a stray dog."

Whether we like it or not, when the Bill becomes law there will be confusion about who cares for the dog.

Miss McIntosh: I entirely support my hon. Friend. Is he even more shocked and alarmed that the National Dog Warden Association says in its conclusions:

"We have not proposed any amendments as we believe that the legislative proposals are wrong because they have no prospect of being financed properly"?

Derek Conway: My hon. Friend makes a good point. I find it incredible that the Minister has not met the NDWA. He talks about local authorities, but it is not the chief executive or the clerk of some town council who rounds up dogs, but the people with the vans.

Alun Michael: The hon. Gentleman is making a meal of half a biscuit. I remind him that dog wardens are employed by local authorities, which have been fully consulted and engaged all along with the transfer of responsibilities. At no time—I underline this—has the NDWA sought a meeting, at ministerial or official level, with DEFRA. All the proposals have been in the public domain for a very long time. The hon. Gentleman is making a tremendous effort to find something to criticise, but if this is the worst he can do, we have done pretty well.

Derek Conway: The trouble is that when the Minister moves on to greater things, or whatever he does, it will be NDWA members who are rounding up the dogs. They, not he or any of the rest of us who take part in these debates, are the men and women out there in the cold trying to sort out society's problems when abandoned animals run off.

It is all very well for the Minister to be caustic about the NDWA and to write it off in the rather high-handed way that anyone who has had dealings with this Government has come to expect, but it will not wash. The other place will not unreasonably conclude not only that the time that this House has had for scrutiny was wholly inadequate—not because of you, Mr. Speaker, but because of the Government motions that have been forced upon us—but that it is incredible that the very bodies that will be involved in clearing up the mess left behind were not even remotely consulted, until the Minister was pressed on Second Reading to find out what they had to say.

I appreciate that other hon. Members have sat throughout our long debate and now wish to take part, so I shall conclude shortly. Although the Minister has made it clear that the responsibility is moving from the police to the local authorities, the chief executives of which he tells me he has consulted, he said, as is recorded in column 253 of the *Official Report* of the Committee's proceedings on 27 January, that the police could get hold of dogs and would retain some responsibilities. Some confusion therefore exists. The explanatory notes do not say that at all. Page 30 conveys a confused message about responsibilities when the Bill is enacted.

None of us claims that what the Minister is trying to do is bad. He is not a bad man and we do not say that the Bill is a bad measure. That is probably why the House will not divide on it. However, although the intentions are good, we are worried, especially from an animal welfare perspective, about whether the practicalities of some of the measure will be effected. I believe that local authorities will be confronted with a much higher bill than they or the Minister anticipate, and that the dog wardens who do the job and the animal welfare charities that try to rehome the dogs or care for those that local authorities do not put to sleep, made a reasonable point. However, they had to make it to the Minister in a grudging form because he and his officials did not see them before the Bill was introduced.

The Minister is trying to do something without thinking about it seriously, and I predict that, sadly, hon. Members will have to revert to the matter—doubtless when he has moved on to greater things.

9.46 pm

Andy Burnham (Leigh) (Lab): It is a pleasure to make what I believe will be the last contribution on the Bill in this place. It is an excellent measure and my right hon. Friend the Minister deserves congratulations on piloting it through our proceedings. It shows that the Government are on the side of residents in my constituency—and others like it throughout the country—who play by the rules and want to live in a decent community. It is squarely in touch with their concerns. That contrasts sharply with the 40-minute whinge that we heard from Conservative Front Benchers, from which it was not even clear whether the Conservative party would support the Bill.

The measure will be directly relevant to all my constituents. It will deliver more for them and their lives than another high profile Bill with which the Minister

has been involved. It addresses a subject that other hon. Members have mentioned: a growing anxiety about what people perceive as a decline in standards of respect and the culture of consideration for others. We all feel that there has been a trend in the past 15 or 20 years towards greater disrespect for others, antisocial behaviour and standards of behaviour that fall below what would have been acceptable 15, 20, 25 and 30 years ago.

In my constituency, people casually break bus shelters, drop litter and scrawl graffiti. I trace that to parenting and the importance of accepting parental responsibility—I hope that the Government will revert to those issues in their manifesto.

Colin Burgon: Thatcherism.

Andy Burnham: My hon. Friend is right to mention Thatcherism, which meant that communities such as mine were cut adrift. The infrastructure was abandoned and neglected and people were left to fend for themselves. Today, we are picking up the pieces of the mantra of, "There is no such thing as society." It will take a generation to eradicate that culture, which the Conservative party bequeathed to the country.

The roots of the behaviour are complex but, as my hon. Friend the Member for Elmet (Colin Burgon) said in his excellent contribution, we must prevent it from becoming self-perpetuating. Communities witness the decline—the broken windows and the litter on the streets—and people decide that there is no point in getting involved and acting because things will not get better.

The Bill tries to tackle that defeatist culture, which can take hold of a community, whereby more and more properties go downhill and, as my hon. Friend the Member for Erewash (Liz Blackman) said, the decent residents who look after their front gardens are in the minority and private landlords allow their properties to go to rack and ruin and do not care as long as the cheque comes in at the end of every month.

Only last Friday, I met a group of residents from Glebe street in the heart of my constituency. More than anything else, they want the encouragement to fight back. They want to know that if they are going to make the effort to improve their community, they will have the power to do so and that they will get the encouragement to take positive, practical steps to clean up their community. They do not want to feel that the authorities are not on their side or that they are wasting their time. The Bill gives direct backing to those groups of residents who want to transform their communities, which is one of its key strengths.

I want to talk briefly about the provisions in clause 2 that deal with gating orders. The borough of Wigan has made a great effort to look into alley-gating schemes. It probably has among the highest number of back-to-back terraced properties in the country, both in the main towns of Wigan and Leigh and in the outlying towns of Golborne, Atherton and Hindley. One of the peculiarities of our borough is that, on the Wigan side, the backs—the alleys behind the terraced houses—are unadopted, so the council has been able to proceed with alley-gating schemes without any legal hindrance. The backs can be closed off without recourse to the courts. In my constituency, however, most of the backs are adopted highways, and the council has therefore had great difficulty in introducing orders to enable them to be gated for the benefit of the residents.

I can tell the Minister that those backs are the focal point for crime and antisocial behaviour. Only a few months ago, a young toddler in my constituency stepped on a discarded syringe in the backs behind his house. It is common for syringes to be discarded there, and he had the misfortune to step on one. His mother was beside herself with worry about him, as the Minister can imagine. This flags up the general problem that these places are used by people for drinking and drug taking, and they create an appallingly unsafe environment that causes great concern to the residents.

We have been trying to introduce alley-gating schemes in my constituency, but, as I have said, the alleyways there are adopted. At the moment, the council is bringing a test case under the Countryside and Rights of Way Act 2000, citing severe antisocial behaviour and public safety as reasons to have the public highway permanently gated. The case has been pioneered by my constituent, Deborah Murphy, who is the chair of the Wigan road residents association and neighbourhood watch. She has doggedly pursued efforts to gate the backs behind her house. Gates were erected, but they had to be taken down again because of legal difficulties relating to gating an adopted highway.

I hope that the Minister will dwell on this point as the Bill continues its passage through another place. The provisions in clause 2 relating to gating orders state that the Government may require

"a council to hold a public inquiry"

in regard to the gating of a particular area or community. My concern is that too much bureaucracy and red tape will be put in the way of residents such as Deborah Murphy, who are trying to do something to improve their community.

Alun Michael: It is appropriate that there should be a permissive ability to hold public inquiries, because in some circumstances damage to others could be created as a result of closing off access to an alleyway. We are moving from an automatic requirement for a public inquiry, precisely to address the issue that my hon. Friend raises. In some circumstances, it is manifest to everyone that alley-gating is the best thing that could happen, and that it happen with a minimum of bureaucracy. I can assure him that our aspirations—and the way in which these provisions are set out in the Bill—will address the issues that he is raising.

Andy Burnham: I am grateful to the Minister for that clarification; it will greatly reassure those of my constituents who are considering these schemes. My point is that if the procedure became excessively bureaucratic, people would lose heart. If they were faced with too much bureaucracy when trying to take positive action to change their community, they would quickly be put off. We must not allow that to happen. People who are trying to get actively engaged in their community should not feel the walls of bureaucracy rising up around them. However, I take the Minister's point.

Wigan council's director of engineering, Peter Taylor, has asked the Minister to consider whether the process should be akin to that for traffic regulation orders,

[Andy Burnham]

which would make it much easier for the authority to take things forward. We are still bringing the order through under the 2000 Act as an interim measure, but I very much hope that the use of public inquiries will be the exception, not the norm, and that residents will be actively encouraged to take forward initiatives to have their alleyways gated when they believe that that could make a substantial difference.

Following those few remarks, I want to congratulate the Minister on introducing this legislation, which will directly benefit my constituents. I know it will be warmly welcomed and I very much hope that the Bill is not the beginning of the end of rebuilding a culture of respect and higher standards in our communities, but part of a long process in which the Government are engaged.

We must carry on getting tougher on antisocial behaviour until we can genuinely say that the streets of towns such as Leigh, and others represented by hon. Members who are present, are safe and decent places where the law-abiding majority are in the ascendancy, and that the culture is one in which people show respect and consideration for others.

Question put and agreed to.

Bill accordingly read the Third time, and passed.

DELEGATED LEGISLATION

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

NORTHERN IRELAND

That the draft Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2005, which was laid before this House on 26th January, be approved.—*[Margaret Moran.]*

Question agreed to.

COMMITTEES

EUROPEAN SCRUTINY

Ordered,

That Mr Liam Byrne be added to the European Scrutiny Committee.—*[Mr. John McWilliam, on behalf of the Committee of Selection.]*

Economic Regeneration (Burton)

Motion made, and Question proposed, That this House do now adjourn.—*[Margaret Moran.]*

9.56 pm

Mrs. Janet Dean (Burton) (Lab): My constituency has benefited enormously over the past few years from the investment through Government and European aid, as well as the increase in Government funding for our public services, programmes such as new deal and the massive increase in support for hard-working families. Most of the regeneration money has been concentrated in the inner wards of Burton upon Trent. However, the six northern rural parishes of my constituency previously received the former European regional development fund objective 5 funding. Uttoxeter, which received no Government help in the early 1980s when more than 2,000 jobs were lost with the closure of Bamford's agricultural factory and the local dairy, is, I am pleased to say, one of the towns that have received funding through the Government's market towns initiative.

The need to address the problem of pockets of deprivation in Burton upon Trent has been recognised with millions of pounds of investment in the past 10 years, secured through objective 2 funding; the single regeneration budget—rounds 2 and 6; the neighbourhood management initiative; and Sure Start. The £20 million of regeneration funding has gone a long way to open up an area of Burton upon Trent called Centrum 100 for inward investment, as well as helping to reduce unemployment and raise educational attainment.

SRB 6 money is being used to undertake work in three local high schools and five primary schools, which is improving results as well as personal and social development. In the neighbourhood management initiative area of the town, local people are being involved in improving the local environment and feel safer due to the proactive work of the neighbourhood wardens who have been funded through the initiative. The Sure Start programme is making a real difference to local families and has recently moved into the new children's centre, which is bringing together all the local children's services, including—I believe uniquely—paediatric specialists.

I am proud of my constituency, which is probably one of the most varied in the country, owing to its fine mix of urban and rural areas, as well as a population with many different backgrounds and origins. I am proud of all those who are working hard to improve the local communities in my constituency and the lives of local residents and I am proud of the increase in Government investment since 1997, which has brought more teachers, nurses, doctors and police officers, as well as improvements to our school buildings, such as the new Stapenhill sixth-form centre and the replacement Mosley primary school. I am glad that almost 4,000 pensioner households in Burton now benefit from the pension credit, and that more than 9,000 hard-working families are being helped by the child and working tax credits. I am pleased that unemployment in Burton has fallen by 68 per cent. since 1997, and that by March 2004, 800 young people were helped into work by the new deal for young people, and 400—

It being Ten o'clock, the motion for the Adjournment of the House lapsed, without Question put.

Motion made, and Question proposed, That this House do now adjourn.—*[Margaret Moran.]*

Mrs. Dean: Four hundred people were helped by the new deal for over-25s, and 380 by the new deal for lone parents. The number of people unemployed for more than one year fell by 95 per cent. between 1997 and 2004.

Having described many of the improvements that the policies of the Labour Government have achieved, as well as the successes of regeneration funding, I must say that I believe that we have only just commenced the regeneration of Burton upon Trent. We need a prolonged and sustained effort for at least another 10 years if we are really to address some of the key challenges that face the local community.

While youth unemployment has fallen by 67.8 per cent. since 1997, it is proportionately higher in Burton upon Trent, at 30.1 per cent. of the total number unemployed, than in Great Britain as a whole. In Burton ward, youth unemployment is as high as 46 per cent. of the total.

In education, although GCSE attainment has improved dramatically at Paget and Paulet high schools as a result of SRB intervention and the hard work and dedication of the staff, the number of pupils attaining five or more GCSEs at grades A to C in Burton schools is still below the national average at 46.1 per cent., compared with 53.7 per cent. nationally. That figure masks the low attainment levels of about 30 per cent. in the heart of Burton neighbourhood management area, which demonstrates the under-achievement in some parts of the town and among children from ethnic minority communities across Burton.

Furthermore, the Basic Skills Agency found that 28 per cent. of the inner-Burton working population have poor literacy skills, and 30.6 per cent. have poor numeracy skills compared with 24 per cent. nationally. The 2004 indices of deprivation revealed that east Staffordshire has three super-output areas—which, as my right hon. Friend will know, contain 1,000 to 5,000 people—in the top 10 per cent. most deprived super-output areas in the country. Those are all located in Burton upon Trent, within Winshill, Shobnall and Stapenhill wards.

Income deprivation is an issue for around a third of the population, particularly in areas of those three wards. Lack of employment is also a problem, primarily in areas of Stapenhill, Horninglow and Anglesey wards. Education is an issue in areas of Stapenhill, which are in the top 5 per cent. most deprived super-output areas in the country. Two areas, one in Winshill and the other in Burton ward, also show up in the top 10 per cent. most deprived for crime in the country.

The living environment domain considers poor housing conditions and air quality, and deprivation is found in areas of Anglesey, Shobnall and Eton park wards such that they are in the top 5 per cent. most deprived super-output areas in the country—I do not know who came up with the idea of super-output areas, but it is very difficult to say.

The population of inner Burton is accommodated in more than 20,000 households, and more than a third—39 per cent.—live in terraced properties. That is well above the average for England and Wales of 26 per cent., and is more akin to cities rather than towns the size of Burton upon Trent. Recent studies undertaken by East Staffordshire borough council on the condition of the houses show that many millions of pounds need to be invested to bring these terraced properties up to modern standards.

Another challenge is to address health inequalities. Between 1998 and 2002, the rate of death from circulatory disease and from coronary heart disease in Burton was noticeably above the England rates—59.7 and 36.5 under-75s per 10,000 people respectively. Victoria ward's rates were more than double the national average for both diseases, while Edgehill and Waterside wards' rates were significantly above the England average for both causes of death. Rates of death from circulatory disease are well above the England average in the wards of Broadway, Eton and Horninglow.

In the 1980s and 1990s, the borough lost more than 9,000 jobs as a result of restructuring of the brewing industry. Although, thankfully, the industry appears to have reached a period of stability after many years of uncertainty, a recent economic forecast study undertaken by East Staffordshire borough council suggests the loss of another 3,500 manufacturing jobs in the period up to 2020.

The economic difficulties faced by Burton upon Trent are acknowledged in the Advantage West Midlands corporate plan, which states:

"In addition there are a number of other towns within the region, which do not fall within the scope of the Market Towns Initiative, that are experiencing economic difficulties and which require Agency intervention. Over the Corporate Plan period the Agency proposes to begin to address the issues in these towns, initially starting with Hereford, Telford and Burton upon Trent."

It is vital for the need for continuing regeneration funding for Burton to be recognised, so that it is possible to maintain and build on the improvements achieved in recent years. Single regeneration budget, Sure Start, neighbourhood management initiative and European regional development fund moneys are all due to end in the next two years. It is important for future regeneration funding, whatever form it takes, to recognise pockets of deprivation in towns such as Burton upon Trent, as well as considering the needs of rural areas and market towns like Uttoxeter.

Regeneration strategies that focus on the urban areas of the west midlands and north Staffordshire have little impact on my constituency because of the distance from those major conurbations. Lying on the eastern edge of Staffordshire and the north-eastern edge of the west midlands, Burton upon Trent abuts the Swadlincote area of south Derbyshire in the east midlands region. Indeed, the town relates both socially and economically to Swadlincote in what many already recognise as a sub-regional entity. Burton upon Trent itself is a popular and thriving sub-regional shopping centre, and the town has a wide catchment area for leisure activities and services including Queen's hospital. The Burton travel-to-work area extends east and west from the town to include Ashby and Uttoxeter.

Burton upon Trent has a distinctive identity. Known for its brewing industry, it has a strong cluster of food and drink businesses. The town's central location, with good transport links to the west midlands as well as to

[Mrs. Dean]

the north and east, has encouraged companies to locate in the area. Indeed, the rise in the number of businesses in the sub-region in the last five years upstages the rate in England in two sectors: other services, and transport and communications. There is pressure for development in the Burton area for housing, employment and retail growth.

People want to live in Burton, and increasingly housing is being developed on reclaimed sites, bringing life back to the town centre. Businesses want to invest in the area, but we need an early resolution of the promised commitment of £14 million to develop the land south of Branston for employment. I hope that the Government office for the west midlands can speedily complete its appraisal of the project to allow the £7 million of ERDF moneys, together with the similar amount provisionally allocated by Advantage West Midlands, to open up the area and help to create 1,100 new jobs. Making that land available is crucial to ensuring that economic restructuring can continue, to compensate for the potential toss of manufacturing jobs in the future.

Securing that funding from the two regional agencies from the west midlands would not only help development of the land south of Branston but, perhaps, help to unlock significant private-sector investment to allow 400 acres of brownfield land at the former Drakelow power station in south Derbyshire to be developed. That would help both the sub-region and the wider conurbations of the east and west midlands. There is a real opportunity to consider the economic regeneration of Burton upon Trent as part of the "Smart Growth: the Midlands Way" document, which is currently undergoing consultation. Efforts to ensure the area's economic prosperity are enhanced by the greater collaboration of the east and west midlands regions.

In summary, there has been a great deal of progress in tackling deprivation and under-achievement in areas of Burton, but there is a lot more to do. We need to continue to raise educational achievement and the skills base, and to develop industries that raise income levels. We need massive investment in housing in the inner wards of Burton, and we need to tackle existing health inequalities. To address these problems, we need to continue to receive regeneration funding, as well as the record investment in public services that we have seen since 1997. We need a Government who are committed to continuing the new deal to help people into work, rather than to scrapping it, as the Conservatives have promised to do.

I realise that my right hon. Friend will not be able to tell me what form of regeneration funding will replace the current programmes, but I hope that he will ensure that pockets of deprivation in constituencies such as mine, which are away from the major conurbations, will continue to receive the help that they need. Regeneration funding is essential to ensure that land is available to continue the economic restructuring necessary to compensate for any displacement of manufacturing jobs. I hope that my right hon. Friend will ensure an early commitment to the release of the £14 million provisional sum allocated to land south of Branston, so that we can see the creation of 1,100 new jobs and the possibility of improved cross-border working, bringing greater prosperity to the whole sub-region.

10.11 pm

The Minister for Housing and Planning (Keith Hill): I begin by congratulating my hon. Friend the Member for Burton (Mrs. Dean) on securing this debate and on bringing this important issue to the attention of the House. This is an opportunity not just for the House to hear how the people of Burton have benefited from the Government's regeneration policy, as she so eloquently demonstrated; it is also an opportunity for me to place on the record our continuing commitment to regeneration policies that have been shown to work. I have to say that the Government were already aware of the challenges facing Burton, not least due to the assiduous representations that my hon. Friend has made on her constituents' behalf. After tonight, I am even more comprehensively informed.

During the 1990s, Burton lost more than 9,000 manufacturing jobs. Although it played an important role in the industrial revolution, it was perhaps best known for its contribution to the beer pumps of the world. Sadly, following the closure of many breweries, its importance as the centre of the nation's brewing industry has also diminished. The people of the area have had to confront changing economic realities and it has not been easy. As my hon. Friend said, three areas in the borough are among the 10 per cent. most deprived in the country, and average earnings lag behind the rest of the country. However, with household names such as JCB, Pirelli, Holland & Barrett and Marmite still based in the area, and with unemployment levels falling by nearly twice the national average, Burton has some real strengths on which to build. The pride and commitment of local people, as we have heard, has been buttressed by the funding provided for regeneration from a wide variety of sources.

As we have also heard, parts of Burton have been eligible for European structural funds under various programmes since 1994; indeed, Burton has received grants in the region of £5.5 million. We have further heard about the impact of such funding in providing new skills for local people. It has provided a purpose built centre—WIRED—in which film and radio production, audiovisual editing and website design skills can be taught. I recognise that the current funding programme finishes in 2006, but I am afraid that, as my hon. Friend acknowledged, it is simply too early to say what the outcome of the European structural fund negotiations will be at this stage. Again, as we have heard, there is also the single regeneration budget, which has provided much needed support to initiatives across Burton, such as the Burton investing in inclusion programme. That scheme shows how the SRB has succeeded in levering in extra resources. Burton is receiving additional funding worth more than £6.5 million awarded by the regional development agency, Advantage West Midlands.

Again as we have heard, Advantage West Midlands is playing a welcome role in the regeneration of Burton and surrounding areas. It has identified, as one of its key delivery vehicles, 10 business clusters. Advantage West Midlands is investing some £16 million in cluster projects next year, some of which will be particularly helpful in stimulating regeneration in the Burton area.

With its history of involvement with the food and drink industry, Burton is particularly well placed to take advantage of two cluster projects: the food and drink information centre, which provides regular industry information; and the trade and consumer development project, which supports small and medium-sized enterprises in the staging of consumer and trade events. The latter project also provides assistance with product listings of retailers and caterers to enable local firms to take full advantage of marketing opportunities. It has to be said that some local products need little help. With 180,000 jars of marmite leaving the Burton factory every day, somebody, somewhere must love it. I know I do. As a regular consumer of this excellent spread, I can definitely say that "Marmite is my mate"!

On a somewhat more serious note, Advantage West Midlands is also looking at improving higher education provision in the town to ensure that the people of Burton have the necessary skills to take advantage of every opportunity that arises. Discussions with Staffordshire university and Burton college regarding the provision of a higher education centre at Burton further education college are at an early stage, but even at the concept stage, this £4 million project has already attracted potential funding partners such as the Higher Education Funding Council, Burton college itself, Staffordshire learning and skills council and Advantage West Midlands. The provision of higher education facilities in the town can only benefit the local community and help Burton people to gain the confidence to take control of their own regeneration needs.

That is why the heart of Burton neighbourhood management pathfinder is so important. It is one of 35 pathfinders launched in 2002–03 with a brief to drive improvements to local services by making them more responsive to local needs. The pathfinder covers parts of the wards of Eton Park and Shobnall in the town centre, with a population of 10,000. It has an expected allocation of £3.5 million over seven years, supported through the new ventures fund, of which around £1.4 million has been spent to date.

This pathfinder has identified low educational attainment and lack of access to child care as barriers to employment, particularly to higher paid work. It is therefore supporting initiatives to provide coaching for GCSE pupils and other measures to improve school attendance, such as first day contact—a scheme to tackle the problem at the very start of a new school career and to stop non-attendance becoming a habit. The heart of Burton pathfinder has also, together with Sure Start and European funding, contributed to a children's centre, which provides 60 child care places, helping parents to take up offers of work. The really important aspect of that work is the way in which the community is being involved in managing its own neighbourhood.

I have already spoken about the importance of the neighbourhood level, but as we have heard this evening, there is also a need to ensure that Burton has its place in regional economic growth strategies. I would agree with my hon. Friend that Burton now has the opportunity to act as a gateway between the west and east midland regions. The plans for "Smart Growth—the Midlands Way" give the town the perfect opportunity to take advantage of development opportunities, for instance with the site referred to by my hon. Friend already as the land south of Branston. It is a 120-acre site on the southern edge of Burton and it is well connected to the road network, with direct access to the A38. The site has the potential to help Burton take its rightful place in the new regional spatial strategy for the west midlands. Although I cannot make any announcement this evening, I certainly undertake to maintain a strong interest in the progress being made in bringing the site into development.

Burton should continue to make its case to take real advantage of all of the opportunities available. It needs to continue to exploit its position as a gateway linking the M6 in the west midlands with the M1 in the east midlands. I can assure my hon. Friend that the Government are committed to continuing to support regeneration and neighbourhood renewal. We are getting better at targeting the pockets of deprivation that she mentioned, and we will continue to do so.

I wish to take this opportunity to commend my Department's five-year strategy, "People, Places and Prosperity", to the House. It sets out our policy towards regeneration and should give my hon. Friend, the House and the country at large reassurance that we will not deviate from the successful policies that she described as working in Burton. We are also committed to a continual programme of improving the targeting and operation of those policies, which, as we know from careful monitoring, are having an impact. The Government are pledged to a programme that has already brought benefits to Burton, as we have heard this evening, and to many other locations all over England. I wish every success to the people of Burton and other parts of my hon. Friend's constituency and to my hon. Friend herself, who is working so hard on their behalf.

Question put and agreed to.

Adjourned accordingly at twenty-one minutes past Ten o'clock.

House of Commons

Tuesday 22 February 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

PRIVATE BUSINESS

HBOS GROUP REORGANISATION BILL

Read a Second time, and committed.

LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL *(By Order)*

Order for Second Reading read.

To be read a Second time on Tuesday 1 March.

Oral Answers to Questions

HEALTH

The Secretary of State was asked—

NHS Trust Staff

Simon Hughes (Southwark, North and Bermondsey) (LD): What percentage of staff employed by NHS trusts in England on 1 January, or the latest date for which figures are available, were (a) directly employed and (b) agency staff. [216966]

The Minister of State, Department of Health (Mr. John Hutton): The Department does not collect specific information on the numbers of NHS staff who are directly employed or hired through agencies. In 2003–04, the estimated agency spend as a proportion of the total NHS pay bill was 5.4 per cent.—a reduction of almost 7 per cent. from the previous year.

Simon Hughes: Do Ministers accept that under the Labour Government there appears to have been an increase of approximately 50 per cent. in the spend on the health service—which, of course, is welcome—but a 300 per cent. increase in the number of agency staff employed by the NHS in England? Will Ministers say categorically that it is always better where possible to have directly employed rather than agency staff? What will they do to keep driving the numbers of agency staff down and fully employed staff up? That is what patients want, and what all the other workers in the NHS prefer.

Mr. Hutton: The answer to the specific question is yes, of course it is. We are making significant progress in reducing the spend on agency staff, and I referred to the overall figures for the NHS pay bill in my answer. The hon. Gentleman might be interested to know that last year in London, where spending on agency staff accounts for about 35 per cent. of the total spend across the NHS, there was a significant fall of about 14 per cent. in the use by the NHS of nurse agency staff. That was partly driven by the excellent work of the South West London strategic health authority, but also by a better and more intelligent use of the framework agreements that we negotiated through the NHS Purchasing and Supply Agency with the nursing recruitment agencies themselves. I am quite confident that we shall continue to see significant reductions in the overall spend on nursing agency staff.

Mr. Patrick Hall (Bedford) (Lab): My right hon. Friend will know that Bedford general hospital featured on "Panorama" last Sunday. The key message that came across was the high quality and strong morale of the whole staff team of both directly employed and agency staff. Will he join me in welcoming and celebrating their professionalism, dedication and commitment to solving problems, which has reduced waiting times, delivered high-quality services to patients and made the best use of the sustained increase in resources that the NHS has received?

Mr. Hutton: I certainly join my hon. Friend in paying tribute to the outstanding work of NHS staff in Bedford and many other parts of the country who are doing a brilliant job in improving the quality of care, reducing the time that patients wait and improving the overall patient experience. The right way to make sure that we continue to do so is to bring the investment in and not introduce charges for hospital operations.

Mr. Peter Lilley (Hitchin and Harpenden) (Con): Will the Minister confirm that that huge reliance on agency staff at immense cost is proof that ultimately one cannot buck the market? Attempts to staff our hospitals with nurses with different pay and conditions mean that we cannot balance demand and supply domestically. We have to import 15,000 nurses a year because we are losing 8,000 British-trained nurses overseas, and nearly one third of nurses with British nurse training go elsewhere. Ultimately, to achieve a balanced domestic supply we must pay a proper rate for our nurses rather than wasting money in this way.

Mr. Hutton: I agree strongly that we need to pay nurses more and give them a better rate of pay. That is precisely what we are doing with "Agenda for Change", which has been negotiated with nurses and the Royal College of Nursing in particular. It gives us an opportunity to make significant progress in this important area—something that was quite invisible when the right hon. Gentleman's party was in charge of the national health service.

Lawrie Quinn (Scarborough and Whitby) (Lab): Does my right hon. Friend agree that a key part of work in the NHS is teamwork and the dedication of directly employed staff on a daily basis? He will know of recent concerns about Whitby hospital in my constituency, so I wonder whether he can help me to facilitate a meeting with the strategic health authority and the primary care trust to make sure that all the key partners who deliver

an excellent service for the people of Whitby and the surrounding district can continue to do so in future? Will he commend those staff and congratulate them on delivering PCT services in one of the largest community hospitals in England?

Mr. Hutton: Yes, the NHS staff in my hon. Friend's constituency are doing an excellent job, and I pay tribute to their commitment and professionalism. I shall certainly help facilitate the meeting that he asked for. That will not be a problem. I also pay tribute to my hon. Friend's outstanding support for the national health service in his constituency.

Mr. John Baron (Billericay) (Con): The Government are well aware that many agencies recruit NHS staff from overseas countries. The recent Save the Children study accused the UK of contributing to the collapse of health systems in many poor countries, and a British Medical Association statement criticised the UK's shameful record of exploitation in taking nurses from developing countries—an issue that the Opposition have raised many times. Given this new evidence, if the Minister accepts that poor countries need their nurses even more than we do, why will the Government not ban the NHS from using recruitment agencies that have not signed up to their own code of practice?

Mr. Hutton: The hon. Gentleman has drawn attention to the matter a number of times, but he always fails to point out that the UK leads the world in the ethical recruitment of medical staff. The code of practice that we have formulated and promulgated, which has now, I am glad to say, been extended to the independent health care sector, is held up as a model of good practice by the World Health Organisation. We do not recruit in developing nations in Africa. On the point that we should support those countries with the cost of training health care staff, I should point out to the hon. Gentleman that in the past five years the Department for International Development has provided more than £500 million worth of aid and development costs for African countries to help them train the nurses and doctors that they need for the future.

Helen Jones (Warrington, North) (Lab): Further to the comments of my hon. Friend the Member for Bedford (Mr. Hall), will the Minister join me in congratulating the staff—both agency and directly employed—at Warrington hospital on the magnificent way in which they worked during and after the fire at the hospital just over a week ago? Will he show his appreciation in a tangible way by considering what can be done to help the hospital through this difficult time, and ensure that it is not penalised for missing targets where that failure results purely from the fire at the hospital?

Mr. Hutton: I shall look at the last point raised by my hon. Friend. There was a tragedy at the hospital, which she has been working closely with her constituents to resolve, and I appreciate the work that she has done. It is right to say that it is not just NHS staff who do an outstanding job for NHS patients. Many agency nurses and agency staff do a brilliant job as well, and it would be wrong to give the impression that that was not the case. They are dedicated to their patients and they do a good job for the NHS.

Continuing Care Report

2. **Sandra Gidley** (Romsey) (LD): If he will make a statement on the Government's response to the Parliamentary Health Ombudsman's report on continuing care. [216967]

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): The written ministerial statement that was made to the House on 9 December 2004 outlined our plans to develop a national framework for fully funded continuing care. The framework will improve consistency and ease of understanding and will help to ensure that users' and carers' reasonable expectations are being met.

Sandra Gidley: I thank the Minister for that explanation. There have been 4,000 complaints to the ombudsman since the February 2003 report, which recommended the establishment of clear national minimum eligibility criteria that are understandable to health professionals, carers and patients. It also stated that the local criteria are over-assessed and poorly applied. Why has it taken so long to draw up national minimum standards, and what will the Minister do to make sure that those are properly and transparently applied?

Dr. Ladyman: We started off with 96 different sets of criteria. We reduced those to 28, which we ensured were legally reliable and properly administered before we started the review. The review of the outstanding cases is complete in all but one strategic health authority area, and even that one will be finished shortly, so we have made substantial improvements. In developing the national framework, we must now make sure that we go down to one single framework that is easy for patients and carers to understand and can be reliably implemented by professionals. By establishing best practice, that is exactly what we shall do.

Mr. David Hinchliffe (Wakefield) (Lab): On the issue of long-term care, under the previous Administration there was a significant increase in the number of elderly people institutionalised in private care and nursing homes, and this Government have a proud record of moving in the opposite direction. Will the forthcoming Green Paper possibly set targets for a further reduction? Can my hon. Friend set out roughly how soon we will have the Green Paper and tell us what positive policies it will include on developing alternatives to the institutional care sector inherited from the previous Administration?

Dr. Ladyman: First, I can promise my hon. Friend that the Green Paper will be available shortly. Of course, as a Green Paper, it will not contain specific targets, but I promise him that it will reaffirm the direction of travel—the direction that older people themselves tell us that they want us to take. They want to stay in their own homes for as long as possible. If they cannot do so, they want to move to accommodation where they can maintain their independence. They do not want to be shuffled off into residential care, which is the policy of the Opposition parties.

Mr. Stephen Dorrell (Charnwood) (Con): Can the Minister confirm that the continuing uncertainty and confusion about entitlement to residential care date back to the Coughlan judgment, which was handed down almost six years ago? Is this not a sorry tale of incompetence and bungling by the Government, compounded by the fact that the Minister promised that, by March 2004, all those who had overpaid their charges would receive back their overpayments? How many of those people are still waiting for overpayments that were declared illegal six years ago?

Dr. Ladyman: I will not confirm that it goes back to the Coughlan judgment. It goes back to when the previous Government ordered 96 health authorities to write separate sets of eligibility criteria. The right hon. Gentleman ought to know that; I rather suspect that he was Secretary of State at the time when it was ordered. The fact is that the ombudsman asked us to go back in our review to 1996 precisely because the confusion arose from the point at which the criteria were issued. We are cleaning up the Conservative party's mess, and we are doing so at great expense to the taxpayer.

Mr. Simon Burns (West Chelmsford) (Con): May I tell the Minister that he is living in cloud cuckoo land? This is a miserable episode for the Department of Health. His own deadlines for sorting out the problem have been missed eight times, and the ombudsman has accused the Government of bungling the cases, criticised the Department for issuing unreliable information to her about its review and found that, in half the reviewed cases that she has looked at, the reviews have not been properly carried out. Can the Minister tell us when there will be completion for all the people who have complained? Can he also tell us more about the compensation? Will it be compensation solely for the money that people inadvertently and wrongly had to pay? What will happen to people who had to sell their homes, when it now turns out that there was no reason whatever for doing so?

Dr. Ladyman: Let me deal with that last point first. Since 2001, we have allowed all local authorities to defer payments, so property needs to be sold only after people's death. That is available in every part of this country. It is a policy that means that people do not have to sell their homes, and it would be swept away by the policies of both the Conservative party and the Liberal Democrats if they were implemented. The simple fact is that we have a serious and complex problem to clean up. We had to go from 96 sets of eligibility criteria to 28 sets, and we had to ensure that people could understand them. All the cases in which people requested their review by the March deadline have now been completed. Other cases are coming in continuously, and we are paying compensation on the basis that, where the national health service received unjust enrichment, we are paying the money back to people. We are paying £180 million to clean up a mess left by the hon. Gentleman's Government.

Health Provision (Wales)

3. **Huw Irranca-Davies** (Ogmore) (Lab): What discussions he has had with the new Minister for Health and Social Services in the National Assembly for Wales Government on strategic approaches to health provision in England and Wales. [216968]

The Minister of State, Department of Health (Ms Rosie Winterton): My right hon. Friend the Secretary of State has not yet met the new Minister for Health and Social Services in the National Assembly for Wales, but he regularly meets his fellow UK Health Ministers to discuss matters of common interest.

Huw Irranca-Davies: I seek the indulgence of the House to pay tribute to the staff in acute care and ambulance services at Morriston hospital, Swansea, who saved my father's life over the Christmas period. I also pay tribute to the work carried out in the national health service throughout the country.

I am sure that the Minister agrees that one of the benefits of devolution is that we can learn lessons from both sides of Offa's dyke, and the Assembly should be applauded for its work on primary care, healthy living initiatives and so on. When the Minister meets Dr. Brian Gibbons, the new Health and Social Services Minister, will she take the opportunity to bolster his good work on waiting times by discussing the excellent initiatives in England such as targeted waiting times and mobile units?

Does she think that some matters will be off the record in those discussions—

Mr. Speaker: Order. That is three supplementaries; we will not go into a fourth.

Ms Winterton: I am sure that the staff will appreciate my hon. Friend's comments, because NHS staff are too often not thanked for their work. My right hon. Friend the Secretary of State will meet the Health and Social Services Minister in the Welsh Assembly Government, and I am sure that he will be happy to discuss how we have made dramatic improvements on waiting lists, which is a problem that we inherited, by setting clear national targets and adopting innovative approaches such as mobile units. I am also sure that he will be happy to discuss improvements to public health in Wales.

My hon. Friend asked which matters will not be on the agenda. The introduction of patient charges in the NHS, taking £1.2 billion away from the NHS and the dreaded patient passport will certainly not be on the agenda, because, unlike the Conservative party, this party believes in the NHS being free at the point of need.

Chris Grayling (Epsom and Ewell) (Con): While the Minister is discussing public health, will she undertake an urgent review of strategy for health protection and food safety with the devolved Administration in Wales and its counterpart in Scotland in the light of this week's contamination of the food chain? In particular, will she undertake to review the role of the Food Standards Agency, given the slow and chaotic way in which it has responded to the crisis?

Ms Winterton: The most important point is ensuring maximum protection for the public, and we expect the FSA to do just that. We will examine the episode to see what lessons can be learned, but we will take no lessons from the Conservative party, which brought us bovine spongiform encephalopathy. The Conservative plans in the James review include cutting the Meat Hygiene Service, which was set up to protect the public.

Ian Lucas (Wrexham) (Lab): Does my hon. Friend agree that it is not acceptable for patients from Wales who are seeing the same consultant as patients from England at the same hospital to wait twice as long to obtain similar treatment? Will she discuss that issue as a matter of urgency with the new Minister in the National Assembly for Wales and impress upon him the great success of the NHS in England in reducing waiting times?

Ms Winterton: I hope that my hon. Friend recognises that those matters are obviously for the Assembly, and, if he feels it necessary, I am sure that he will make those points to Assembly Ministers. In March, guidance will be published on payments between Welsh and English trusts and on waiting times.

Dame Marion Roe (Broxbourne) (Con): How can the Minister possibly believe that the people of Wales are receiving value for money when, despite a 31 per cent. increase in funding between 2000 and 2003, the number of finished consultant episodes actually declined by 1 per cent. in that time?

Ms Winterton: The hon. Lady knows that the matters that she raises are for the Welsh Assembly to determine. The Conservative party did not support devolution to Wales. We do, and those matters are for the Welsh Assembly.

Waiting Times (Diagnostics)

4. **Tom Brake** (Carshalton and Wallington) (LD): What his Department's policy is on reducing waiting times for diagnostics. [216969]

The Secretary of State for Health (Dr. John Reid): By 2008, the maximum time from GP referral to the start of treatment will be down to just 18 weeks. That includes diagnostic procedures.

To that end, I announced last week an increase of 2.75 million extra scans and diagnostic procedures by 2008, all of which will be delivered to patients in the national health service free of charge at the point of need.

Tom Brake: On the latter point, the Secretary of State knows of the grave concerns about the previous contract for MRI scans, especially the problems of hidden costs, staff leaving the NHS, tests having to be repeated and wrong diagnosis. Why is he confident that the same problems will not occur under the new contract?

Dr. Reid: Because there is not a shred of evidence to show that there were undue problems with the first contract. Twenty-five thousand treatments have been carried out under that contract and patient satisfaction is 96 per cent., which is comparable with anything that we have ever done in the NHS. Of course, when one embarks on such an undertaking, there are teething problems. However, we should be careful to ensure that we are on the side not only of the health care providers in the NHS but of the patient. I know that the Liberals always put the interest of the patient second to that of the producer, but the 600,000 extra scans that we procured for NHS patients mean that, for example, in Newham hospital, which I visited last week, people are now waiting less than one week. That is a huge improvement for patients. It is one of the reasons why, when purchasing another 2.4 million scans, I was willing not only to extend the number of NHS scans by 1.4 million but to procure another 1 million from the independent sector, in the knowledge that they would all be delivered free—with no charges, unlike what would happen under a Conservative Government—to all patients in the NHS.

David Taylor (North-West Leicestershire) (Lab/Co-op): The constituency of North-West Leicestershire is mainly served by the University Hospitals of Leicester Trust—one of the largest in the country—which sees 2,500 people a day as new or follow-up out-patients. It had a disappointing record until recently. Will my right hon. Friend the Secretary of State come with me to the hospital to see how the position has been significantly transformed? All waiting list targets have been fulfilled six months in advance of the Government's requirements, all suspected cancer patients are seen in 14 days, and the management and staff are among the finest in the country. Will he accompany me to inspect what has been done?

Dr. Reid: I shall certainly try to arrange that in my schedule, but in any case I congratulate the staff not only in the hospital that my hon. Friend mentioned but throughout the country, who have matched the investment that the taxpayer has been prepared to invest in the NHS with reform and finding new ways of working so that output is greater, whatever the level of investment. The speed with which people can see GPs or be referred from GPs to consultants is light years ahead of what it was under the Conservative Government. However, I accept that, when more people are going through far more quickly, there is a potential bottleneck at the diagnostic level. That is why I am not only rapidly expanding the number of NHS scans, tests and diagnostic treatments but procuring from the independent sector. I stress to all hon. Members my pledge that, under this Government, charges will not be introduced for basic operations or basic treatments on the diagnostic side. To do so would be at odds with the founding principle of the NHS, and the Government will do no other than stand against such an outcome.

Dr. Richard Taylor (Wyre Forest) (Ind): The Secretary of State referred to the teething troubles with some of the reporting from private sector MRI scans. How will he tackle those troubles, especially given that there is no longer any contact between the referring clinician for the scan and the radiologist who does the reporting? In the past, that contact was incredibly helpful.

Dr. Reid: There is continual liaison with the Department on this matter. Before embarking on this course of action, the Department consulted widely on it, including with the royal colleges, and we will continue to try to identify any problems involved. We should not pretend that there are never any problems in diagnostics in the NHS. There are, and they include huge delays, but I can tell the hon. Gentleman that, as a result of the medical programme to which he referred, waiting times

for diagnostics have been cut right across the NHS. For instance, in Huddersfield, access times have been cut from 38 weeks to eight weeks; in Ipswich, they have been cut from more than 30 weeks to five weeks; and in Newham, they have been cut from 18 weeks to less than a week. While I accept that we have to deal with the problems that arise—including problems involving a degree of opposition to any novel procurement outside the NHS from people inside it; we have to take that into account—the patient must come first. The patient is getting far better, quicker service than ever before and, I repeat, all of it is free at the point of need.

Mr. Paul Burstow (Sutton and Cheam) (LD): These are the hidden waiting lists that the Government say they will finally publish. They will not, however, publish them until after the general election. The Secretary of State has just rehearsed some figures on improvements in diagnostics, but will he share all the figures that he has with Members of the House, so that we can see for ourselves how the NHS is improving? Will he also confirm that the announcement that he made last Friday in fact involves expending from existing NHS budgets to deliver the new contracts, rather than from new NHS funds? Will he allow the local NHS to take decisions for itself about how best to cut diagnostic waits, rather than bouncing it into a nationally arranged contract? Will he also ensure that all NHS scanning equipment is being used to the full, rather than sitting idle, as much of it is now?

Dr. Reid: On the hon. Gentleman's first point, the reason that we cannot publish comprehensive lists of waiting times for diagnostics is that, for 60 years and under successive Governments, that information was never collected. It is unfair that we do not include that information when we calculate the waiting time for operations, and I therefore pledge that it will be published. By 2008, it will be not only published but included in the calculation of the waiting time, which will be counted not just from the last little bit of the journey but from the beginning right to the end. And we pledge that it will be 18 weeks.

The hon. Gentleman also asked whether we would allow local providers of health care to have the power to choose how they would provide it. No, I will allow the patients to decide how, where and when they will gain access, and I will allow them to do that in days, in some cases, rather than weeks or months. I will certainly not do what some people in the Liberal party want to do, which is to break up the NHS by making it rely effectively on local authority control. That would allow inequalities to grow in the most impoverished areas, while the most affluent areas could provide better access. That, to me, is as bad as the charging regime that the Tories want to introduce.

Mr. Speaker: Order. Before I go on to question 5, I must point out that that is where we are, although we are halfway through Question Time. I must ask for briefer answers and, of course, briefer questions.

Local Improvement Finance Trust (North Staffordshire)

5. **Paul Farrelly** (Newcastle-under-Lyme) (Lab): How much is being spent on the NHS local improvement finance trust programme in North Staffordshire. [216970]

The Secretary of State for Health (Dr. John Reid): I apologise for the delay while I open my book, Mr. Speaker.

Around £5.4 million of public capital has so far been provided to support the North Staffordshire LIFT project. A further £4.5 million of private capital has been committed to fund the first two buildings. This will provide patients with modern accessible health care, in purpose-built, high-quality premises and, I hope, provide my hon. Friend's constituents with a far better service than before.

Paul Farrelly: I thank the Secretary of State for that welcome confirmation of additional investment in my local NHS. Two of the brand new health centres in the programme are due to be built in two of my local communities—Audley and Cross Heath. Does my right hon. Friend agree that these are examples of our real achievement in bringing the NHS right to our constituents' doorsteps? It is on that record, that achievement and that investment that we will rightly be judged, come the next general election.

Dr. Reid: Yes, I agree entirely with my hon. Friend. Patients in his area—both buildings to which he referred are expected to open to patients around the end of this year—as well as in the rest of North Staffordshire and throughout the country will benefit from the new facilities, which focus on their well-being as well as treatment for illnesses. The House might be interested to know that the LIFT scheme is delivering new primary care facilities in some of the most deprived areas of the country, resulting in improved health care for patients in areas of greatest need: 75 per cent. of the most deprived primary care trust areas are part of an NHS LIFT scheme.

Health Expenditure (Manchester)

6. **Mr. Keith Bradley** (Manchester, Withington) (Lab): If he will make a statement on the effects of using the results of the 2001 census on health expenditure in the city of Manchester. [216971]

The Minister of State, Department of Health (Mr. John Hutton): Revenue funding has been allocated to primary care trusts using the 2001 census since 2003. For the 2006–07 and 2007–08 allocations, population data have been revised to take account of undercounting and projected increases in populations. As a consequence, Central Manchester PCT, North Manchester PCT and South Manchester PCT will receive increases of 26.4, 21.7 and 28.2 per cent. respectively, compared with a national average increase for all PCTs of 19.5 per cent. for the same period.

Mr. Bradley: I am grateful for that answer. The people of Manchester hugely welcome the incredibly large increases for the three PCTs, although they were concerned about the population base because of the Office for National Statistics failing to count the people of Manchester properly and missing out 20,000 people who required health care in the city. I clearly welcome the fact that my right hon. Friend has now made the adjustment to that baseline figure. Can he confirm that

any shortfall in previous years' budgets that is due to that failure will be properly reflected in the budget allocations for future years?

Mr. Hutton: Yes, I can give my right hon. Friend the absolute assurance that that will be so, using the data for the allocations for 2006–07 and 2007–08. He might also be interested to know, as might my other hon. Friends who represent Manchester, that, in addition to those resources, we have put into the baseline budgets for all the Manchester PCTs £20 million of capacity building resources. That was included originally in 2003 on a non-recurrent basis. Essentially, that means that an additional £8 million has gone into the baseline budget of the Manchester PCTs.

Mr. Graham Stringer (Manchester, Blackley) (Lab): I am grateful to my right hon. Friend for that answer, or at least I think I am. Can he confirm that his answer on the budget for the Manchester PCTs from 2007 onwards—he says he will adjust the baseline—is in contradiction to the letter that he sent me about three weeks ago, in which he said that he would not change the baseline? If it is, I welcome it; if not, I look forward to continuing the discussion with him on Friday afternoon in the Adjournment debate.

Mr. Hutton: We have not retrospectively adjusted the PCTs' budgets in relation to the undercount that my right hon. Friend the Member for Manchester, Withington (Mr. Bradley) referred to earlier. What we have done, as he asked me to confirm, is put right that undercounting for 2006–07 and 2007–08. That has informed the revenue allocations for the Manchester PCTs for 2006–07 and 2007–08.

Tony Lloyd (Manchester, Central) (Lab): My right hon. Friend will be aware that people in Manchester are genuinely very grateful and that they recognise the enormous amounts of money that this Government are putting into health generally, but will he reflect on the fact that we in Manchester still face some of the most entrenched problems of health inequality? My constituents, like those of my Manchester colleagues, will die younger than others and be sicker for large parts of their life. In that context, it is difficult for us to accept that, because of a failure of the ONS, moneys were withdrawn and will not be replaced. Will he seriously consider whether that is fair to a population who are, by all accounts, deprived in health terms?

Mr. Hutton: I can only say to my hon. Friend that Manchester PCTs are getting some of the biggest increases in resources that they have ever had. That is because of the additional resources that are available to the NHS and because we have also targeted additional resources on Manchester to deal precisely with the concerns that he has raised about the health inequalities gap, which separates Manchester from the rest of the country. It is true that a baby boy born in Manchester today will live seven years less than a baby boy born in Dorset. That is totally unacceptable. My right hon. Friend the Secretary of State is making £500 million of additional investment available this year to provide support in respect of the problems to which my hon. Friend rightly draws attention.

Special Needs

7. **Bob Russell** (Colchester) (LD): What his policy is on ensuring that those with physical disabilities and learning difficulties who attend hospital for treatment have their special needs taken into consideration. [216972]

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): The Government are committed to patient and user-centred hospital services that are accessible for all.

Bob Russell: May I invite the Minister to visit Colchester general hospital to see some exciting, pioneering work that is being undertaken by disability nurse specialists? I believe that it is the first such hospital in the country to have such an appointment. It is funded by the John Grooms disability charity and the Rank foundation for two years. The work undertaken by disability nurse specialist Chrissie Wiseman has been a particular success story, not just for patients with physical disabilities but in terms of financial savings to the NHS. Will he accept an invitation to come and see this pioneering work, with the intention of rolling it out across all hospitals in the United Kingdom?

Dr. Ladyman: I am forced to begin by breaking the habit of a lifetime and being nice to a Liberal Democrat. I must thank the hon. Gentleman not only for bringing this scheme to my attention and letting my office know about it but for the praise that he has given to such an excellent initiative. If we want hospital services to be genuinely built around people's needs, we must mainstream our thinking about people with disabilities and ensure that services are designed that are really appropriate to them. The scheme in Colchester that he has outlined is an excellent initiative and a good model for the future. It is also a good example of the contribution that the voluntary sector can make to the health service. I congratulate everybody who is involved with it and look forward to being able to visit it at some point in the future.

Mr. Tom Clarke (Coatbridge and Chryston) (Lab): In thanking my hon. Friend for his excellent work in this field, may I ask him whether he is aware of the letter that appeared in *The Independent* on 2 February, signed by a number of distinguished experts in health care? It pointed out that, in terms of preventable mortality, people with learning disabilities are four times more likely to suffer than the rest of the population. Will he therefore consider annual health checks for people with learning disabilities and perhaps an inquiry that is sensitive to the fact that those figures impact on an important group of patients?

Dr. Ladyman: I thank my right hon. Friend for his words. I do not recollect seeing the letter to which he refers, but I am well aware of the issue. He is absolutely right that mortality levels for people with learning disabilities are much higher than for the rest of the population, and other factors are now coming into play: for example, a high proportion of people with Down's syndrome are now reaching retirement age, and a much higher proportion of them have Alzheimer's and forms

of dementia. What he says is absolutely right, and we need to consider health checks for people with learning disabilities. We are working on that in the Department at the moment, and we are consulting interested bodies such as Mencap on how we can best implement it. We want to move ahead on this issue.

Rev. Martin Smyth (Belfast, South) (UUP): May I support the pressure applied by the right hon. Member for Coatbridge and Chryston (Mr. Clarke), and ask the Minister about the extent to which the implementation of such good intentions is being scrutinised? It is important that that is spread around, especially with regard to the good news from Colchester. Will he bear it in mind that some of the most difficult cases are those with hidden disabilities, such as those who have gone to waiting rooms, not heard their names called and been harangued afterwards because they did not answer?

Dr. Ladyman: The hon. Gentleman is absolutely right. That is unacceptable, and I am afraid that it does happen. Whether it is in relation to people receiving treatment in primary care or in hospitals, we must root that out and resolve such issues. The "Valuing People" support team is actively engaged with all local health authorities, and is trying to ensure that the messages in that White Paper are being implemented. We try to keep pressure continually on this area. Of course, where best practice is identified, such as the John Grooms service in Colchester if it proves to be the success that we believe it will, we shall ensure that it is well disseminated among the rest of the health service.

Dr. Brian Iddon (Bolton, South-East) (Lab): Will my hon. Friend join me in congratulating the Down's Syndrome Association on the launch of its health alert campaign in February 2002? With the help of St. George's hospital medical school in London, it has produced a website that is used to train medical students and other health professionals to combat discrimination against Down's syndrome people and others with learning difficulties in the national health service.

Dr. Ladyman: I certainly join my hon. Friend in congratulating the association. That is yet another example of the contribution that the voluntary sector can make to the health service—which is why I am keen for the sector to maintain its involvement, and why my right hon. Friend the Secretary of State has said publicly that he wants it to be involved more.

The education programmes that the Down's Syndrome Association is promoting with medical students are vital. Only when all health professionals really understand the needs of people with learning and other disabilities will we start to make progress in cracking this problem.

Dr. Julian Lewis (New Forest, East) (Con): Will the Minister guarantee that when people with physical or mental disabilities have to stay in NHS hospitals, they will at least have the benefit of being admitted to single-sex wards? Given that the Government have failed to keep their pledge to eliminate mixed-sex wards—

Mr. Speaker: Order. This is far too wide of the question.

Influenza Vaccine (Carers)

8. **Dr. Phyllis Starkey** (Milton Keynes, South-West) (Lab): If he will make a statement on NHS provision of influenza immunisation for carers. [216973]

The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson): The Joint Committee on Vaccination and Immunisation has recommended that, at the general practitioner's discretion, the main carers for an elderly or disabled person whose welfare may be at risk if the carers fall ill should be offered flu vaccine.

Dr. Starkey: May I draw the Minister's attention to a very successful project undertaken in my constituency by Milton Keynes primary care trust, together with the Milton Keynes carers project? Free flu vaccination is offered to all carers in the area through their GPs. May I draw particular attention to the side effect of that? Many GPs realised for the first time how many of their patients had a caring role, and were able to rethink the way in which they provided services for them throughout the year.

Miss Johnson: I am very pleased that my hon. Friend has drawn my attention to the good practice in her constituency. I should be delighted to receive more details, and I assure her that we will look at what is happening. We are keen to see more take-up, and given that 5.2 million people are involved in caring across the United Kingdom, we are keen for vaccination to be extended to them where that is appropriate.

Mr. Andrew Lansley (South Cambridgeshire) (Con): Is the Minister aware of the French Government's contingency plan for an avian flu pandemic? Has she read the plan? If so, she will know that the French Government estimate that in the absence of intervention, between 91,000 and 212,000 deaths could occur in France. On that basis, four months ago the French Government purchased 13 million doses of oseltamivir. Have the Government made any progress in deciding whether they will purchase protection for care workers, health workers and groups at risk in this country in the event of a pandemic?

Miss Johnson: Yes, and we will make an announcement shortly.

Mr. Lansley: I am afraid that the Minister's reply is simply not good enough. *[Laughter.]* It is not. Labour Members should realise that four months ago the French Government purchased—*[Interruption.]* Labour Members should listen to this. In the unhappy event that the avian flu experienced in south Asia continues to be transmitted from human to human—so far there have been two instances of that—they will need to know the facts.

Antiviral agents have been purchased by the French, Australian, Canadian, United States, Belgian and Dutch Governments, and the German Government are currently negotiating. The Secretary of State nods, but the British Government have not even begun negotiations to purchase oseltamivir as an antiviral agent. As I said, the French Government have purchased 13 million doses.

The British Government were quick enough to buy smallpox vaccine from PowderJect Pharmaceuticals. When will they take seriously their responsibility both to publish their contingency plan and to take measures to protect against the risk of a pandemic in the next 12 months?

Miss Johnson: I am sure that the hon. Gentleman recognises, as we do, that pandemic flu presents all countries with a major public health challenge. Along with other countries, we are drawing up plans that will be subject to consultation, with the aim of producing a coping strategy should a pandemic occur.

I have already said that we will make an announcement shortly. We have said that a plan will be available this spring, and it will be.

Vulnerable Adults

9. **Mr. Andrew Stunell** (Hazel Grove) (LD): What recent assessment he has made of delays by the Criminal Records Bureau in processing Protection of Vulnerable Adults First checks. [216974]

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): Departmental and CRB officials have met to discuss delays in processing Protection of Vulnerable Adults First applications, and the Department is monitoring the situation. The CRB's performance continues to improve, and it is currently processing 95.8 per cent. of valid applications within 48 hours, and 99.7 per cent. within 72 hours.

Mr. Stunell: I thank the Minister for that answer, which will be of some comfort to my constituents, who find that there are delays in getting appointments at care homes and with care home managers, who have had grave difficulties in staffing their homes because of the non-availability of those checks. Will he undertake to improve that performance yet more, so that the unacceptable shortfall on achieving the targets can be overcome and the Criminal Records Bureau can deliver the service that my constituents and care home owners and managers need?

Dr. Ladyman: I can certainly give the hon. Gentleman the assurance that I will do everything I can. He and his constituents should remember that, if it were still necessary for someone to have a complete Criminal Records Bureau check before they could take up work, often they would have to wait up to a month to take an appointment, which would not be acceptable to the sector. By introducing POVA First, we have given a mechanism whereby, theoretically at least, people can start to work within a few days. The advice that he should give his constituents is that, in order to facilitate the process, they should work as hard as they can to ensure that their applications are as accurate as possible. It is only when the accurate application is in that the POVA check can take place.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): I welcome the steps that the Minister has taken to protect the vulnerable elderly. Does he agree that much elder abuse takes place in the home and that there is a strong case for projects such as that run by Comic Relief to raise public awareness of the problem?

Dr. Ladyman: Elder abuse is horrifying and we need to eliminate it—there is no question about that. I welcome the focus that Comic Relief is putting on the issue. I have had discussions with it about what it is doing. I and the Department are working with it to try to raise the profile of the issue. I believe that there is a play on Thursday evening this week that will highlight the issue even more, but we must remember that there are difficult balances to be struck. When abuse takes place in an individual's home between family members, there is a limit to the extent to which the state can intervene. That is why raising awareness is one of the key things that we must do.

Complementary/Alternative Medicine

10. **Mr. David Tredinnick** (Bosworth) (Con): What steps he is taking to encourage primary care trusts to make use of complementary and alternative medical treatments. [216975]

The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson): It is the responsibility of primary care trusts to commission health care packages for NHS patients, including the use of complementary and alternative medical treatments.

Mr. Tredinnick: Will the Minister congratulate Hinckley and Bosworth primary care trust on its initiative to look at all aspects of complementary medicine in its health proposals? Is she not way behind what is happening in Wales, where, according to *The Western Mail*, the Welsh Assembly is issuing leaflets to the whole of the country about how people can access free complementary medicine?

I have given the Minister notice of this question. What does she think about the Get Well UK centre in north London, where it is possible, through contracts with GPs, which it provides, for people to find complementary practitioners who have a stamp of approval and meet the standards required? Has she looked into that initiative?

Miss Johnson: Health matters in Wales are matters for the Welsh Assembly, but I thank the hon. Gentleman for notice of the question in relation to Get Well UK. We understand the benefit that many people get from complementary therapies. Local commissioning is a matter for local discretion, but we can see the benefits to local practices of an intermediary pulling together a range of services in the area for alternative medical treatments. We accept that such developments are positive, and indeed they have been made possible by the fact that we have introduced a more flexible system of providing primary medical services.

Alistair Burt (North-East Bedfordshire) (Con): I had a long-running case where constituents fought continually with doctors to convince them that a simple change of diet would be beneficial in the treatment of their son, who was being given drugs to deal with mental

health problems after cannabis use. In encouraging PCTs to do more with complementary and alternative therapies, can she also encourage them to recognise more clearly the relationship between diet and behaviour in certain mental health problems?

Miss Johnson: That is a matter not only for the Department but for the relevant professional bodies and the mental health organisations, but I accept the importance of the connections that the hon. Gentleman describes. Indeed, diet and its importance to health is also a central plank of the public health White Paper.

Medical Supplies

11. **Mr. Edward Leigh** (Gainsborough) (Con): When the NHS Purchasing and Supply Agency will publish a list of prostheses that meet the National Institute for Clinical Excellence benchmark. [216976]

The Minister of State, Department of Health (Ms Rosie Winterton): The list of prostheses that meet the NICE guidance will be launched at the British Hip Society annual meeting on 3 March 2005, and a full list will be published on the NHS Purchasing and Supply Agency's website.

Mr. Leigh: The Minister will be aware that the May report of the Public Accounts Committee found that there was no evidence that the prostheses used by one in 10 consultants were adequate, so this is a serious problem. When the list is published, will she ensure that all consultants are aware of the NICE guidelines, and that they use only prostheses that meet them?

Ms Winterton: Yes, we certainly will. As the hon. Gentleman knows, the list has been independently evaluated, but we will work with the profession to ensure that it is disseminated, so that everybody who needs a copy has one.

Occupational Therapists

12. **Mr. Andrew Mackay** (Bracknell) (Con): If he will make a statement on recruitment of occupational therapists. [216977]

The Minister of State, Department of Health (Mr. John Hutton): Since 1997, the NHS occupational therapy work force has increased by 3,872, or 34 per cent. Over the same period, the number of occupational therapists in training has increased by 90 per cent. Improved pay, increased investment in training, more flexible working and better child care will allow us to continue to expand the number of occupational therapists working in the NHS.

Mr. Mackay: Why, then, is there still such a shortage of occupational therapists in my constituency, which is causing grave distress to many elderly and vulnerable people? Has not the Minister had seven years to put this right? Why is it still a problem?

Mr. Hutton: We have never said that every shortage has been dealt with; of course it has not. I will certainly look into the right hon. Gentleman's own primary care trust, but it is important to bear in mind the figures that I have just given. There has been a significant increase in the number of occupational therapists working in the NHS, and the number in training has doubled. None of that would have been possible if we had stuck with the spending plans that he supported.

Mr. Stephen McCabe (Birmingham, Hall Green) (Lab): Given the concerns of the right hon. Member for Bracknell (Mr. Mackay), is it not possible to recruit more immigrant labour to work as occupational therapists in Bracknell and elsewhere?

Mr. Hutton: Yes, that might well be possible.

Waiting Times (Cancer)

13. **Mr. Parmjit Singh Gill** (Leicester, South) (LD): What assessment he has made of waiting times for cancer treatment. [216978]

The Secretary of State for Health (Dr. John Reid): In 1997, 63 per cent. of people with suspected cancer were seen by a specialist within two weeks of urgent referral by their GP; today, that figure is more than 99 per cent. Treatment for certain types of cancer—breast cancer, for example—is now provided quicker than ever before. Some 97 per cent. of women start treatment within two months of an urgent GP referral. We are now ensuring that, through improved diagnostic and treatment services, this standard will soon be reached for all cancer patients.

Mr. Gill: A Royal College of Radiologists report published last year found that waiting times for treatment had actually increased across the country. Ministers often cite the two-week wait for diagnosis, but it is still difficult to get a picture of how long constituents such as mine have to wait for different types of cancer treatment. When will the Secretary of State's Department publish all the waiting times for the different types of cancer treatment?

Dr. Reid: I think that I answered most of those points earlier. It would be churlish of me to point out that if this matter were left up to the hon. Gentleman's colleagues, targets for waiting times would be abolished completely, which would cause such times to rise again. People are now seeing GPs more quickly than ever before. People with suspected cancers are being referred to consultants more quickly than ever before; indeed, 99 per cent. are seen within two weeks. However, I accept that that means that we now have to tackle the backlogs and bottlenecks in diagnostics and radiotherapy, which is why we are putting in so much extra money and introducing so many extra diagnostic tests. I have just announced another £1 billion for 2.4 million extra scans, all of which will be free on the national health service.

I do not pretend for one moment that we have perfection, but the hon. Gentleman should find, even in the limited time that he has represented the people of Leicester, South, that there have been huge and significant improvements in all cancer treatments. If he wants the proof of the pudding, the reality is that we have now seen 12 per cent. fewer deaths—

Mr. Speaker: Order. I want to make it clear that the propaganda issues at Health questions are going to stop.

Mr. Dennis Skinner (Bolsover) (Lab): What about them over there?

Mr. Speaker: Order. The hon. Gentleman says, "What about them?". When they are out of order, I will deal with them. When Ministers are out of order, I will deal with them as well, and the hon. Gentleman will not tell me how to chair the proceedings of the House of Commons. I put out more than a hint that I wanted to move through Health questions at a reasonable pace, and I am being ignored. It will not happen again.

Asian Tsunami

14. **Mr. Tam Dalyell** (Linlithgow) (Lab): What representations his Department has made to the World Health Organisation on clinical lessons that have been learned from treatment of victims of the tsunami. [216979]

The Minister of State, Department of Health (Mr. John Hutton): The Government's response to the tsunami was co-ordinated by the Department for International Development. The Department of Health and the Health Protection Agency have worked with the Department for International Development in supporting the UK's international response to the disaster, including responding to World Health Organisation requests for support.

Mr. Dalyell: Is there not a great deal to be learned from these dreadful events about post-traumatic stress?

Mr. Hutton: Yes, there certainly is, and I will draw my hon. Friend's remarks to the attention to the Health Protection Agency.

Prevention of Terrorism

12.31 pm

The Secretary of State for the Home Department (Mr. Charles Clarke): With permission, Mr. Speaker, I should like to make a statement about the Prevention of Terrorism Bill, which is being introduced today.

On 26 January, I told the House that I intended to bring forward a Bill as quickly as possible to repeal the powers in part 4 of the Anti-terrorism, Crime and Security Act 2001—the 2001 Act—and to replace them with a new scheme of control orders applicable to all suspected terrorists irrespective of whether they are British or foreign nationals and, in relation to most controls, irrespective of the type of terrorism with which they are involved. The Bill is designed to meet the Law Lords' criticism that the previous legislation was both disproportionate and discriminatory.

The Bill needs to be seen in the context of the scale of the continuing and serious threat to the security of the United Kingdom from terrorism. I will today publish a series of discussion papers that set out the Government's view of that threat and our strategy for reducing it. In 2004, I laid before the House a copy of the report of the noble and learned Lord Carlile of Berriew on the operation of the part 4 powers in the 2001 Act. Let no one be in any doubt that there are terrorists here and abroad who want to attack the UK and its interests.

Some believe that the absence in this country of a terrorist outrage such as 9/11 or Madrid means that the terrorist threat has somehow passed us by or failed to materialise. That view is short-sighted, complacent, ignorant of the facts and potentially cavalier in its disregard of the safety of this country. I pay tribute today to the vigilance and professionalism of our security authorities, including the police, for all that they have done and are doing to keep this country safe. It is their efforts, rather than any reduction in the ambition of terrorist organisations, that have protected us from such an attack.

My principal responsibility as Home Secretary is to protect this country and everyone within it. I am determined that we will take the steps necessary to ensure our safety. The Government's preferred approach—our first option—is to prosecute and convict terrorists. We are considering the scope for new offences, including that of being concerned in

"the commission, preparation or instigation of acts of terrorism"

and other measures, with a view to helping the police and prosecuting authorities to bring more cases to court. I intend to bring forward further counter-terrorist legislation on those issues as soon as parliamentary time allows.

Some suggest that we could bring more prosecutions, if only we would allow intercept to be used in criminal proceedings. I have thought carefully about that, but for all the reasons set out in my written statement to the House on 26 January, I do not believe that it is true. The reality is that intercept is only a part—often a small part—of the intelligence picture in such cases. Its main value is usually in helping the intelligence and law enforcement agencies to direct their resources, such as surveillance, most effectively to disrupt terrorist activities and gather evidence to support arrests and prosecutions.

The fact is that there will always be some people—including some extremely dangerous people—whom we cannot prosecute, either because the material that we have is inadmissible in criminal proceedings, or because it cannot be used for fear of revealing, and so endangering, sources and techniques. Some say that we should do nothing about those people, or that we should just monitor their activities through surveillance and so forth and hope to deflect them in that way. I do not accept that—the risk is too great. That is the reason for the Bill that I am publishing today.

The Law Lords' judgment on 16 December found that the part 4 powers in the 2001 Act were disproportionate and discriminatory in that they applied only to foreign nationals, and we had apparently managed to contain the threat from British nationals without detention. As I told the House on 26 January, I accept that judgment, and therefore believe that it is important to address those concerns. We should not simply renew the current legislation, which the Law Lords so overwhelmingly regard as flawed. We should replace it—with strong measures that are fully compatible with the European convention on human rights, and applicable to both British and foreign nationals.

The Bill that I propose empowers the Secretary of State to make control orders and to impose under them a range of controls on the individuals concerned that will be tailored to meet the threat that each poses. The purpose of the orders is to prevent an individual from continuing to carry out terrorist-related activities. The orders will be time-limited, but they will be capable of being renewed or remade if the threat posed by the individual justifies it.

The Bill makes provision for a range of controls to be imposed. The list will include prohibitions or restrictions on the possession of specified articles or specified services or facilities, on association and movement, and on an individual's place of residence, place of work or occupation. Other restrictions will be placed on those individuals' ability to travel, including abroad. A breach of a control order without prior consent will be a criminal offence, triable in the usual way through the criminal courts and punishable by imprisonment or a fine, or both.

At the top end, the obligations that could be imposed could include a requirement for the individual to remain in a particular place at all times, or some similar measure that amounted to a deprivation of liberty. The place in question will vary with the threat posed by the individual. It could be the individual's own home, or his or her parents' home. It could even, in certain circumstances, be in accommodation owned and managed by the Government.

However, such severe forms of control order would require a derogation from article 5 of the ECHR before they could be implemented. As hon. Members know, article 15 of the ECHR allows member states to derogate from certain aspects of the convention where there is a

"state of public emergency threatening the life of the nation"

and the measures proposed are

"strictly required by the exigencies of the situation".

Therefore, the basis of any derogation would be those two conditions—the threat to the life of the nation, and the necessity for measures that would deprive people of

[Mr. Charles Clarke]

liberty. The Bill therefore provides that I can make orders that require a derogation only if the following factors apply: first, if there is a designated derogation in force from all or part of article 5 in respect of a public emergency threatening the life of the nation; secondly, if the obligation imposed is such as has been described in that derogation; and thirdly, if I am satisfied that, on the balance of probabilities, the person is, or has been, involved in terrorism, and that the imposition of that obligation on that person is strictly required for the purposes of protecting the public from risks arising out of, or associated with, that public emergency.

In the event that a derogation was necessary, I would make the designated derogation order. It would come into force immediately, but under the Human Rights Act 1998, it would need to be confirmed by a vote in each House of Parliament within 40 days of its having been made if it were to continue in force. So the conditions of any derogation—that is, the threat to the life of the nation and the necessity for the measures that would amount to a deprivation of liberty—would be considered, assessed and voted upon by every Member of Parliament if it were to remain in force. I believe that this framework is robust and enables the security of this country to be properly addressed in all foreseeable circumstances.

These are rightly onerous conditions, which Parliament will have to consider at any time when a derogation is made. I have, of course, carefully considered the current situation, and I have to tell the House that it is not my intention to seek a derogation at this time.

I am clear that a derogation is justified on the basis of the threat that we currently face. As I told the House on 26 January, there is a continuing public emergency as a result of the threat from al-Qaeda, its agenda and its adherents, including the different groups and linkages that make up the al-Qaeda movement in its broadest sense.

However, on the second criterion for derogation—the necessity for the measures—I have been advised by the police and security authorities that they consider that the control orders that will be established by this legislation are sufficient to deal with the individuals concerned and that deprivation of liberty, although valuable, is not "strictly required", in the language of the convention. They support the measures in the Bill that allow me to impose obligations up to, but not including, a

"requirement to remain in a particular place at all times",

and the flexibility that they give me to tailor the controls imposed under any order to the threat posed by the particular individual. The security authorities tell me that at this stage they do not want to add anything to the range of controls that I am suggesting.

Of course, these circumstances may change in future, and quickly. Were the current situation to worsen, we could find ourselves in a position in which it was imperative that we were able to place a particular individual or individuals under an obligation to remain in their homes at all times, or to impose some other measure that amounts, in effect, to a deprivation of their liberty within the meaning of article 5 of the European convention on human rights. The Bill will allow me to impose such an obligation on a particular individual or individuals as appropriate, provided that a designated derogation order setting out such obligations is in force.

When considering whether to derogate, my starting point will be, as now, the threat that we face. I shall look to the security authorities to advise me on that and on the measures that they think are strictly required to meet that threat. I shall also take advice on the legal and other issues that arise in relation to any proposal to derogate before making a final decision.

If my decision is to derogate, I shall make the necessary designated derogation order and lay it before Parliament. As I said, the order will come into force immediately but will continue in force only if it is confirmed by a vote in both Houses within 40 days of being made.

Any derogation from article 5 of the ECHR raises serious issues. Were we to derogate, we would need to keep the need for such a derogation under regular review. The Bill therefore provides for me to lay an order, subject to the affirmative resolution procedure, before Parliament every year after the first to the effect that it continues to be necessary to have the power to impose derogating obligations by reference to the derogation. That derogating control order would have effect beyond the first year of the derogation only while such an order was in force, so Parliament would have an opportunity annually to have its say on whether any derogation continued to be necessary.

The Bill gives certain responsibilities to the Secretary of State. I know that some hon. Members would prefer those responsibilities to be allocated entirely to the judiciary. I have listened carefully to all that has been said on this point, both inside and outside the House, and I have sought in the Bill to address the concerns that have been expressed. However, as I said, the Government's, and my, prime responsibility is to protect the nation's security. In many ways, that is our paramount task. Decisions in this area are properly for the Executive, who are fully accountable to Parliament for their actions. However, when an individual is deprived of liberty for any length of time that is, of course, also a matter for the courts. Everyone must recognise that in the interests of security and speed an order may need to be imposed immediately, but in those exceptional cases of a clear requirement to make an order depriving an individual of his liberty, the courts must determine as soon as practicable whether the order should continue.

It follows that the judiciary has a critical role to play in the process. In relation to control orders not requiring derogation, its role is to review and, when appropriate, to confirm decisions made by the Executive. For derogating control orders, its role is to decide, on the merits, whether to continue the order or to refuse to confirm it. The Bill makes full provision for that.

The Bill provides for non-derogating control orders to be subject to challenge in the High Court by the person against whom the order has been made, and for the Court to apply the principles of judicial review in hearing the case. The Court will be able to consider the issues in both open and closed session, with a special advocate representing the interests of the subject of the order in closed sessions.

Derogating control orders will be subject, as befits the seriousness of the issues raised, to a different form of scrutiny by the High Court involving an automatic two-stage process. On being made, the order will have to be referred immediately to the Court for consideration within seven days at a preliminary hearing to assess whether the Home Secretary had reasonable grounds, prima facie, for making the order. Both sides will be represented. There will be open and closed sessions and the interests of the subject of the order will be represented in closed session by a special advocate.

If the Court were so satisfied, the case would be automatically referred to the High Court for a full hearing at which the Court would decide for itself, on an assessment of all the material, whether the order should have been made and what conditions should have been applied. Again there will be open and closed sessions and the interests of the subject of the order will be represented in closed session by a special advocate. It will be open to the Court at both stages to strike down the Secretary of State's order or give him directions to modify it.

I have published the Bill today in full confidence that it meets the situation that we face in three important respects. First, I believe that it meets the judgment of the Law Lords. Secondly, the Bill rightly confirms that the security of this country lies with the Government of the day, fully responsible to Parliament and the country. The Government are fully accountable to Parliament for the way in which they carry out their responsibilities, and under the Bill that accountability will be manifest, demonstrable and timely. At the same time, the process of judicial scrutiny that I propose should meet the genuine concerns that have been raised. Thirdly, the Bill will ensure that the measures that we put in place fully meet the threat that we face from terrorism, both as we see it today and as it might, despite all our best efforts and those of other countries, develop and mutate over time.

This is an important Bill. It raises serious and difficult issues. But we must have the capacity to protect our people now and in the future. It would be the gravest dereliction of duty to wait until we have suffered a terrorist outrage here, and then respond only after the event. I am not prepared to take a risk of that kind, and I hope the House will join me in that. On that basis, I commend the Bill to the House.

David Davis (Haltemprice and Howden) (Con): I thank the Home Secretary for the advance notice of the statement and for his advance briefing on the subject. The whole House will join us in paying tribute to the vigilance and professionalism of the police and security services who protect us so well.

I do not underestimate the difficulty of the problem facing the Home Secretary. I accept that there are no easy answers, and as far as I am aware, nobody is saying that we should do nothing. However, I have to tell him that I believe that he has settled on the wrong answers, which will sacrifice essential and long-standing British principles of liberty and justice in a way that is unlikely materially to enhance the security of our people—indeed, which may act to reduce that security.

The Government have been forced to this point by the decision of the House of Lords two months ago. One of the comments by Lord Hoffmann is particularly relevant:

> "I said that the power of detention is at present confined to foreigners and I would not like to give the impression that all that was necessary was to extend the power to United Kingdom citizens as well. In my opinion, such a power in any form is not compatible with our constitution".

But that, in effect, is what the Home Secretary is doing. Although he has qualified it—properly and in response to representations—with some safeguards, under these proposals, for the first time in modern British history, a politician will be able by order to restrain the liberties of a British subject. He will do that on the basis either of balance of probabilities or even of simple suspicion. He will do it for reasons, and on evidence, that may not even be known to the British subject whose liberty is lost.

A further quote from the Law Lords, this time from Lord Rodger, highlights just how extraordinary that step is:

> "The Government's assessment is . . . that it is not necessary to detain the British suspects in order to contain the threat that they pose. That is implicit in the entire policy that they adopted and emerges in any event from para 36 of the Home Office discussion paper on Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society issued in February 2004: 'While it would be possible to seek other powers to detain British citizens who may be involved in international terrorism it would be a very grave step. The Government believes that such draconian powers would be difficult to justify.'"

It should be noted that the Home Secretary told the Home Affairs Committee a few weeks ago that the terrorist threat has not materially changed in the last year, so presumably that comment is still true. He reinforced that point today with his comment that the security services do not believe that they need the full extent of the powers in the Bill at this point.

The question that has to be asked is: what is the immediate emergency that demands that draconian powers against British subjects be rushed through these Houses of Parliament without proper consideration, scrutiny or debate? What is the emergency that has arisen in the past 12 months that demands that, without proper debate, we give the Home Secretary the right to fetter the liberty of British subjects, from restricting their ability to communicate right up to and including house arrest? The only answer is, of course, the House of Lords' judgment. It is very clear from what I have quoted already that the Law Lords themselves did not envisage or encourage the proposals that the Home Secretary has put forward today.

Tomorrow, we will debate the details and principles of the Bill, but I want to raise one or two material concerns today. The first and most fundamental is the fact that the decision is to be made by the Home Secretary, not a court of law. The Home Secretary said that decisions that affect national security should be for a politician, not a judge, to make. That is a remarkable, novel and hazardous doctrine. Even in the second world war, when enemy spies threatened the lives of thousands, indeed hundreds of thousands, of soldiers and civilians, they were tried by a judge and jury under normal rules of evidence.

[David Davis]

I have heard it said today that the power is designed to allow the Home Secretary to act quickly. The Home Secretary's proposals for the strongest powers, above the derogation level, require review by a judge within seven days, yet under laws passed by the Government the police are already allowed to detain a terrorist suspect for up to 14 days without charge. It is, therefore, possible to detain a suspect for seven days, to bring them before a judge and have the judge make the decision, without giving the Home Secretary those powers—so the Home Secretary is abandoning a key principle of British justice for no obvious practical advantage. That thread runs through the proposals—a willingness to abandon proven principles of British justice, with little proven advantage in addressing the security threat.

Two weeks ago, the Prime Minister apologised for the Guildford four decision. He made that apology about a decision taken in open court, with a judge and jury, with a standard of proof based on "beyond reasonable doubt", but which was still a miscarriage of justice. Conventional wisdom says that that miscarriage of justice was in part caused by the emotions in the aftermath of a terrorist outrage. What if a decision, using these powers, was taken by a Home Secretary in the aftermath of another terrorist attack? Under these proposals, a British citizen could be confined at the behest of the Home Secretary, on the balance of probabilities, on evidence never seen by the accused. What then would be the odds on a miscarriage of justice?

The Government have quite properly and laudably put into effect measures to prevent the radicalisation of some groups in our society. These proposed laws, and the sense of injustice that they could create, could completely negate those efforts, and could indeed act as a recruiting sergeant for the enemies of the state.

I reiterate: the Home Secretary does not have an easy task here and he has my sympathy in that regard, but there are better ways to achieve what he seeks. First, the House should have proper time to consider these proposals carefully. To that end, we are willing to support renewal of part 4 of the Anti-terrorism, Crime and Security Act 2001 for a limited period, specifically to allow time to get this right. The Home Secretary has said that he does not think that will work, which gives rise to the question of why, earlier this month, he laid the draft order for that renewal.

We are willing, for that limited period, to co-operate in primary legislation that limits the bail conditions that the Special Immigration Appeals Commission can allow, in effect guaranteeing that the control orders the Home Secretary is outlining in the Bill—up to and including house arrest—would apply to the remaining Belmarsh detainees until properly considered legislation came into effect. That would limit the possible injustice to a small number of people for a short and limited time, and would also give the Home Secretary the certainty he is seeking for foreign nationals.

Meanwhile, I ask the Home Secretary to give proper consideration to the proposals that all Opposition parties—and, indeed, members of his own party—have made to him: allowing the use of intercept evidence in court, along with all the other evidence that surveillance generates; the use of an investigating judge to marshal and vet evidence for the court, to protect the interests both of the security services and of the defendants; the creation of new offences, to which he alluded in his statement, such as that of "committing acts preparatory to terrorism", or offences based on American anti-racketeering laws that deal with the same sort of problems in that country; and practical options, such as significant increases in the resources available to the agencies for surveillance and other purposes.

All those proposals, and others, will receive a constructive response from the Opposition, if they are allowed proper time for consideration. Nobody is suggesting to the Home Secretary that we should wait for a terrorist outrage, but we must consider these matters properly. If, however, the Government insist on rushing these measures through, I fear that they may do the opposite of what they want. They will create a sense of injustice among many British citizens, and do what I warned when we first discussed this: for every known terrorist that the Home Secretary confines, he may create 10 unknown terrorists, free to do harm to our people and to our nation. That would be more than a mistake; it would be a tragedy.

Mr. Clarke: I am afraid to say that the right hon. Gentleman has confirmed what I said at the beginning. He and his party are in the do-nothing camp—[HON. MEMBERS: "Oh!"] Do nothing, first and foremost, about the Law Lords' judgment—saying that nothing should be done about the 8–1 judgment indicating that the existing legislation is both disproportionate and discriminatory. If the Law Lords say that we have discriminatory and disproportionate legislation, I believe that there is an obligation on the whole House, not simply on the Government, to address that, and that is what we are doing.

Secondly, on the point of substance, I indicated, and the right hon. Gentleman knows, that there are cases in which we cannot prosecute potentially extremely dangerous people, either because the material we have is inadmissible or because it cannot be used for fear of revealing and endangering sources and techniques. He knows that extremely well, but his proposition in those circumstances is explicitly to do nothing whatever about people who offer that threat. He has made it clear, as has the Leader of the Opposition, that they do not favour control orders as a device for dealing with the threat. They do not favour addressing the question directly at all. That is why it is fair to say that the right hon. Gentleman is not addressing the threat.

Thirdly, on the judicial point, I have indicated absolutely clearly, very explicitly, substantial judicial involvement in the decisions that the Home Secretary of the day will take, including, particularly at the level of deprivation of liberty, the ability of a judge to hold a full hearing, on the balance of probabilities, rapidly to consider the Home Secretary's decision. That is not the unvarnished decision of a politician; it is the decision of a Minister of the Crown accountable to the House, subject to detailed judicial confirmation in the fullest possible way, and it should not be portrayed as anything different from that.

Finally, the right hon. Gentleman proposes renewing in the other place, and later in this place, the legislation that the Law Lords have struck down as discriminatory and disproportionate. As he knows, the fact is that were

we to seek such renewal, and even were that renewal to be agreed by the House and elsewhere, despite the fact that that flew in the face of the overwhelming judgment of the Law Lords, for all the reasons that were stated, it would be entirely possible for the individuals concerned to appeal that Act to the European Court of Human Rights at Strasbourg directly in that time scale. Secondly, in that situation, it would be entirely possible for SIAC, when considering the case of the individuals currently in Belmarsh, to say that the position we had taken did not allow detention in those circumstances, despite the fact that the order had been renewed.

If we were to accept the right hon. Gentleman's advice, we would be establishing a regime that was uncertain and unsolid, and flew in the face of the Law Lords, for a period of three, four, five or six months while the Opposition made up their mind about what they wanted to do. Even at this point, I urge them to reflect again as parliamentarians on their responsibilities to this country and to our security, and to face up to those responsibilities rather than flying away from them.

Mr. Mark Oaten (Winchester) (LD): I thank the Home Secretary for being so generous with his time and for giving us advance notice of his statement. I hope that he knows that over the past week the Liberal Democrats have genuinely tried to find a real solution for this complex issue. We acknowledge that the Government have moved some way in terms of strengthening judicial review, but the difference between us remains that the Home Secretary still considers that the judge should review his decisions, while we believe that it should be judges who take the decisions, not politicians. If he is prepared to let a judge overrule his decision, I do not understand why he is not prepared to let a judge take that decision in the first place.

Does the Home Secretary realise that if he were to apply to judges for the control orders he would, in our judgment, still be meeting his responsibilities as Home Secretary in terms of dealing with national security? Again, I ask him to reconsider his position on that issue.

Will the Home Secretary acknowledge that his current proposals are still based on "reasonable grounds"? Should not we be moving towards a higher burden of proof? Proof should be "beyond reasonable doubt" when it comes to removing the liberties of people in this country.

On intercepted communications, we disagree with the Home Secretary, but he previously said that he would leave the door open on the issue. I ask him today to go further than that: will he consider re-establishing the Newton committee to make specific proposals on how intercepted evidence could be used by the end of the year?

The Home Secretary suggested that a derogation will not be needed for control orders that do not involve house arrest, but is he aware of Liberty's legal advice that indicates that, in fact, a derogation would be required for any control order? What legal advice has he sought on that issue?

Finally, will the Home Secretary outline what his plans are if today's proposals are rejected by both Houses? Will he seek a renewal of the part 4 powers? If so, will he confirm what period he would require for that renewal? These judgments are all about the balance between the principles of justice and maintaining security. The proposals that the Government have outlined today get that balance wrong and that is why we cannot support them.

Mr. Clarke: Let me first say that I agree with the hon. Gentleman that the approach that the Liberal Democrats have taken in the various conversations that we have had has been constructive, broadly speaking, in contrast to that of the Conservative party. Secondly, I accept that he and his colleagues have argued throughout that a judge, not a Minister such as the Home Secretary, should take these decisions in various areas. The reason why, ultimately, I do not agree is that the principle of Ministers' accountability to the House and Parliament is important, particularly in cases of national security, where the Government are charged with the responsibility of addressing those questions. However, I accept that there is a genuine difference of opinion about the way to address and deal with those questions, and I hope that he will pursue that as we consider the legislation as it goes through both Houses of Parliament. That is the right place to have exactly that discussion and conversation. We are imposing a higher burden of proof than was previously the case, both at the level below the deprivation of liberty and at the level above it.

I believe that the Intelligence and Security Committee will look at the intercepted evidence issues and I await with interest what it has to say on the matter, but I can tell the House that I have made my decision, although I have also said in my written statement to the House that I will keep the matter under review because, on the balance of judgment, my assessment is that to admit intercepted evidence would not assist in getting convictions. However, I am absolutely ready to keep that position under review, and, as I say, I look forward to what the Intelligence and Security Committee has to say in due course on the matter.

The legal advice that I have received is clear about the deprivation of liberty. There are always legal arguments that will proceed—we will simply see how that goes, as we move forward—but we are absolutely clear that there is a difference between, for example, some form of requirement to stay in a home or, for that matter, in a prison, and the idea of using an electronic tag or whatever. Those are qualitatively different in nature in so far as the deprivation of liberty is concerned.

On renewal, I do not anticipate being in the situation that the hon. Gentleman suggested.

Mr. Andrew Dismore (Hendon) (Lab): May I bring to my right hon. Friend's attention the case of Abu Qatada, who is one of those detained in Belmarsh? I am sure that my right hon. Friend will remember that, the night before the detention powers came into effect, Abu Qatada gave the security services the slip and was on the run for some nine months before he was detained. He is widely believed to be one of the key al-Qaeda operatives in Europe. Can my right hon. Friend assure us that his new powers, if they are introduced, will be sufficient to control Abu Qatada if he is released from Belmarsh and put under the proposed regime?

Mr. Clarke: First, I will not comment on individual cases. Secondly, I can give my hon. Friend the assurance that he seeks. The advice that I have received from the security services and the police in relation to the individuals with whom we are currently concerned is that the control order regime at a level of less than the deprivation of liberty would be sufficient to secure those people, control them and prevent them from engaging in terrorist acts. I would not have made my recommendation on this matter unless there had been such a clear recommendation from the police and security services.

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): The right hon. Gentleman is suggesting serious restrictions on the liberty of the subject by Executive order. In exploring the risk of a miscarriage of justice based on suspicion, will he consult the Leader of the House? He will remember that the Leader of the House was brought to trial on a robbery charge in 1975. He was almost certainly framed and, in any event, he was acquitted, but there must have been reasonable suspicion or he would not have been brought to trial. Does that not emphasise the real dangers of taking away people's liberty based on suspicion? Surely we should accord the ordinary citizen the same protection that was accorded to the Leader of the House?

Mr. Clarke: First, there is absolutely no comparison between the two cases. The fact is that we are talking in the legislation that I am introducing today about people suspected of terrorism—very serious events that require a different level of action from others. Secondly, I am explicitly proposing a level of judicial confirmation of the decisions that the Home Secretary takes that simply did not arise in the case that the right hon. and learned Gentleman identified.

Alan Howarth (Newport, East) (Lab): My right hon. Friend will accept that Parliament has a duty to be vigilant on behalf of civil liberties, but surely we need to be hard-headed and not just romantic as we acquit ourselves of that duty. Does he accept that some of his critics ignore the fact that it is far from unprecedented for the Executive to curtail freedoms in a national emergency, that his present proposals are a great deal more limited, focused and subject to scrutiny than those of many previous Administrations, and that he cannot ignore the real threats that the nation faces, whether by allowing those who would perpetrate atrocities to go about their business or by dumping the proper responsibility as an elected Government on to the judges, when he has the primary responsibility?

Mr. Clarke: I very much agree with my right hon. Friend. The historical examples are legion. I was reading the other day of the decisions taken by Abraham Lincoln when he was President of the United States of America in precisely this area. He was a great fighter for liberty and he justified exactly what we are doing on the basis of the need to defend liberty. I remind all Members that the price of liberty is eternal vigilance. It is that vigilance against a real and substantial terrorist threat that it is my responsibility to carry through, and I will.

Mr. Kenneth Clarke (Rushcliffe) (Con): First, does the Home Secretary accept that we face no greater risk today from British citizens committing terrorist acts than we did before the House of Lords judgment? Does he therefore accept that he has made no case at all to explain why he comes here seeking greater powers than any Home Secretary in modern times has had over British citizens and greater powers than were ever sought by his predecessor, his Government or any other Government in modern times? Secondly, does he not accept that there is a huge gulf in principle between the Home Secretary having the authority to deprive the citizen of his liberty and then someone seeking judicial review and going before a judge to try to satisfy the judge that a mistake has been made, and the judge having the first responsibility? Surely it is practicable to devise safe, secure procedures of a confined, enclosed kind whereby the Home Secretary can go before a judge and satisfy someone who is independent, which is more important than answerability to the majority in the House, that it is right to deprive a citizen of his liberty.

Mr. Clarke: I do not accept that accountability to the House is not an important constitutional principle. It is very important.

On the question of the judge, I will give the right hon. and learned Gentleman a word of clarification. I quote from the Bill that I shall introduce later today: the powers of the court on an appeal under this section include power to confirm the Secretary of State's decision,

"power to quash the order . . . power to quash one or more obligations imposed by the order . . . power to give directions to the Secretary of State for the revocation of the order or for the modification of the obligations it imposes".

Those are powerful powers for a judge to deal with and they are not simply a reserve for dealing with the situation.

My final point is that there is a gulf. It was marked on 11 September 2001 by the attack that al-Qaeda launched on the United States. The nature of international terrorism was transformed by that act and it led to a state of affairs that leads to a real and substantial threat to this country today. That real and substantial threat includes British citizens and not only citizens abroad. It is incumbent on me certainly, and I would argue on the whole House, to address that threat as robustly and effectively as we can, with the provisions for safeguards that are very much within the legislation carried through. The Law Lords' judgment is an important consideration in relation to the changes, but the fact is that the threat is evolving and constant, and it involves UK as well as non-UK citizens.

Mr. Robin Cook (Livingston) (Lab): Does my right hon. Friend accept that many of us understand the great difficulty of the decisions with which he wrestles? Will he in turn recognise that those of us with first-hand experience of dealing with secret intelligence have great difficulty in accepting that something suspected should be the basis for on which liberty is deprived? I therefore warmly welcome his saying that he does not currently require the powers of detention. That being the case, is not the obvious way forward for him to confine tomorrow's Bill to those measures that the police and security services have told him are sufficient for the

present task and give us rather longer to find an agreed basis on which we can retain the principle that any decision to remove the liberty of the citizen should be taken in the first instance by the courts, not the Executive?

Mr. Clarke: I do think that the intelligence issues to which my right hon. Friend referred initially, particularly on weapons of mass destruction and the Iraq situation, have led to concerns about the security services and the quality of their intelligence on various issues. There can be no hiding that obvious point and I have said so previously to the House and to Select Committees. That does not, however, lead me to conclude that there are no security issues or that we can pretend that there is no threat whatsoever. That is why I will publish later today the issues papers to which I referred earlier. I think that he will agree that there is a real and substantial threat to this country from international terrorism and that it is necessary to address and deal with it. The correct thing to do is to put in place a legislative framework that recognises that and gives us the means to address it. That is what my proposals today are designed to do.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): In considering how to deal with this difficult problem, does the Home Secretary recognise that it has never been the basis of the rule of law in this country that the Executive decide and are accountable to Parliament for which individuals are locked up on the ground of criminality? That power has been imported from immigration legislation, which was the original basis of the decisions on the Belmarsh detainees. We would look very carefully at whether the Home Secretary had fulfilled his responsibility entirely if he put before a judge a recommendation on which the judge made the decision.

Mr. Clarke: I recognise the role played by the right hon. Gentleman through his membership of the Intelligence and Security Committee. He has paid great attention to these issues, so I hope that he would agree that there is an issue of threat that needs to be addressed through legislation of this type. I accept, too, that accountability to Parliament is important, which is why a set of measures has been introduced indicating how that accountability will work.

Finally, I accept that there is a legitimate difference of opinion, which we have discussed before, about the relative roles of the judge and the Government Minister or the Home Secretary. That is not an unreasonable, wrong or ignoble difference, and we can debate it in Parliament just as it has been debated outside Parliament. The reason for my decision and my proposal is that the Home Secretary's Executive responsibility for the security of the country is a paramount issue and should be dealt with in that way. The right hon. Gentleman disagrees, and he is entitled to do so. Let us discuss that but, in doing so, we should not move away from the critical need for legislation of this type to address and provide controls over individuals who threaten our fundamental liberties.

Clare Short (Birmingham, Ladywood) (Lab): Does my right hon. Friend agree that the Butler report showed it was not the intelligence about Iraq that was unreliable so much as its political interpretation, which distorted it and led to misinformed decisions? Understandably, he has stressed more than once today his view that his duty is to protect people in this country, but does he accept that that makes him unfit to interpret the intelligence? That job must be given to someone with independence, such as a judge, so that they can interpret intelligence and will not be attacked for doing so, as the Home Secretary would be, if there were an event.

Mr. Clarke: I do not accept that interpretation of Lord Butler's report. I do not think that my right hon. Friend gave an accurate description of the report, so the premise on which she based her question is wrong.

Mr. William Cash (Stone) (Con): Does the Home Secretary accept that this is yet another chapter, after the Civil Contingencies Bill, the identity cards saga and so on, that shows how authoritarian the Government have become? Does he also accept that, with respect to the problem of the Strasbourg Court, whatever legislation emerges—and I strongly support the views of my right hon. Friend the Member for Haltemprice and Howden (David Davis) that it could be introduced on a temporary basis—he could get round the difficulty that he described in relation to the European convention on human rights by prefacing it with the words "notwithstanding the Human Rights Act 1998". That would guarantee that our judges would have to give effect to that legislation as agreed by the political will of the House.

Mr. Clarke: I am glad that at least the hon. Gentleman recognises the importance of the House, just as I have sought to do in the legislation. The judgment last December was made by UK Law Lords and the British legal system and not by an overseas court in a different area. It stated that the legislation under which people are held is flawed in the two important respects that I outlined earlier. I hope that he agrees that we need to repair that flaw or problem and create a robust system of legislation rather than, as his Front-Bench team seeks to do, simply ignore it and hope that it will go away.

David Winnick (Walsall, North) (Lab): As someone who strongly opposed the Government policy on identity cards, I for one recognise that there is an acute terrorist danger facing this country after 9/11, Madrid and Istanbul, so it is necessary for the Home Secretary to act decisively to protect our country and people. Although I will support the measure that will be laid before the House for reasons that I have just given, I hope nevertheless that the judicial aspect will be reconsidered in Committee, because it is important. I do not go along with everyone who has made criticisms today, but the court plays an essential role, and I hope that my right hon. Friend will bear that in mind.

Mr. Clarke: I will very much bear that point in mind. I hope that, when my hon. Friend looks at the legislation in detail and sees the role proposed for the judiciary, he will acknowledge that I have done a great deal to meet the concern that he has raised both in the House and in private. I pay tribute to his hard-headedness. Speaking from his long experience in the House, he acknowledged the existence of terrorist organisations and the way in which they operate, which we need to address. He has

[Mr. Clarke]

always acknowledged, whatever the political divide, the state's obligation to defend itself against such organisations. That is what the Bill is about.

Lady Hermon (North Down) (UUP): I welcome the Home Secretary's hard-hitting statement and I hope to goodness that he has a quiet word with his parliamentary colleague, the Secretary of State for Northern Ireland before the next statement this afternoon. The Home Secretary's statement made it clear that control orders will be applicable to all suspected terrorists, irrespective of nationality and the type of terrorism. This week, the Irish Justice Minister, no less, confirmed that Mr. Martin McGuinness and Mr. Gerry Adams are members of the IRA army council, so can the Home Secretary confirm that control orders are applicable to those gentlemen?

Mr. Clarke: First, I am not going to deal with individual cases. Secondly, I hope that I will not be criticised as craven for deferring to my right hon. Friend the Secretary of State for Northern Ireland on these matters. I can confirm, however, that the legislation creates a framework to deal with all forms of terrorism.

Tony Lloyd (Manchester, Central) (Lab): My right hon. Friend is right to emphasise that the nation faces a threat from terrorists and that these decisions are not easy, but the question of the balance between the roles of the judiciary and of the Executive is not trivial. The traditional checks and balances on the Executive have stemmed from the independence of the judiciary to make the primary decision. I hope that my right hon. Friend will look closely in the few hours that remain before Second Reading at whether he has got the balance right, as it is certainly a matter of concern for many Members on both sides of the House.

Mr. Clarke: My hon. Friend is entirely correct to identify the balance between the judiciary and the Executive and between security and liberty. I have sought to address that and, in my statement of 26 January, I alluded to it directly. Particularly at the higher level of deprivation of liberty and derogation in that area, I believe that I am providing a process for judicial confirmation that allows judicial and court judgment at the very highest level when deciding the appropriate action to take.

Sir Patrick Cormack (South Staffordshire) (Con): As the Home Secretary's purpose seems to be to underline the proposition that the supreme law is the safety of the state, how can he reconcile the introduction of such severe measures with the continuation of privileges to Members of the House who are associated with terrorist organisations?

Mr. Clarke: Again, I shall leave that to my right hon. Friend the Secretary of State for Northern Ireland.

Claire Ward (Watford) (Lab): The nature of terrorism has changed and, within limits, our response must change too. Can my right hon. Friend explain the circumstances in which he would authorise an order for the detention of a suspect at home, subsequently endorsed by a judge? That would affect other members of the household. What opportunities would they have to challenge the restrictions that would ultimately be placed upon them?

Mr. Clarke: First, I am grateful for my hon. Friend's acknowledgment of the fact, which needs to be given a greater hearing, that the nature of terrorism changes and that we need to change to deal with it. We cannot simply say that the situation that existed in the past is fixed. Secondly, everybody who is affected in those circumstances has the ability to take legal action to protect themselves, including other members of the family. That would be the right way to deal with any particular issue that arose.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): The implication of the debate so far is that there has been no change in the security situation over the past month or so. The right hon. Gentleman said in his statement that he does not intend to seek a derogation at this stage. Bearing it in mind that these are the most draconian, far-reaching and potentially dangerous provisions put before the House in the past half-century, why do we need to rush the Bill through between now and Monday?

Mr. Clarke: The short answer is the answer that I gave to the right hon. Member for Haltemprice and Howden (David Davis). In the view of the Law Lords, the existing powers are discriminatory and not proportionate. That means, in my opinion, that if we were to continue with renewal, we would be vulnerable both as regards the individuals concerned in that case and, more profoundly, in relation to the Law Lords generally and the European Court in Strasbourg.

Mr. Robert Marshall-Andrews (Medway) (Lab): Prior to the opinions of the Law Lords on 18 December, no one in Government had suggested that it was in the interests of the state or necessary to enact legislation enabling Executive detention of British subjects without trial. When did it become necessary to introduce such legislation? Was it amazingly coincidental with their lordships' opinions, or had it arisen before that? If so, why were we not told about it?

Mr. Clarke: No, the situation is as follows. On 11 September 2001, the threat that arose was from overseas nationals—the people who were involved in the attacks on that day. That is why the legislation was passed in 2001 to deal with it. Since that period, there has been a continuing involvement of UK nationals as well in that approach, and increasingly so. Before my time in my present office, the view was taken that, before considering how to deal with that situation, we should wait and see what the Law Lords judgment would be—rightly, I think—because it would be ridiculous to put legislation before the House while a Law Lords judgment was outstanding. As that case was going through the courts and finally to the Law Lords, the view was taken—in my opinion rightly, as I say—to await the Law Lords judgment. The Law Lords then gave their judgment, as my hon. and learned Friend knows. Their judgment was that the existing situation

was discriminatory as between UK and non-UK citizens. That provoked the need to rectify the situation, as I seek to do today.

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): I absolutely accept that most of us who are in the Chamber today or who are Members of Parliament have no experience of intelligence matters or the assesaments that inform them, but we can question the very fear that the Home Secretary exhibits, when no other common law country such as the United States has found it necessary to take the action that he is taking today. I ask him to reflect and tell us why he rejects the views of a former shadow Home Secretary, now the Prime Minister, who said that the liberty of the subject should be taken away not by the act of a politician, but by a court of law. That, he said, was a fundamental point about liberty, and it is what we are trying to weigh here today. It is the duty of the Home Secretary to demonstrate more openly why all this is necessary.

Mr. Clarke: I accept the duty. Both in my statement to the House on 26 January and today, I acknowledged that there is an issue—an issue that the hon. Gentleman raises—of the right balance in these matters. I have not said that it is an open-and-shut situation. I have argued that there is a threat from international terrorism, with which we must deal. As I indicated in my statement, I shall publish later today a further set of documentation relating to the nature of that threat, how it operates and how we seek to prevent it. I say again, and it is a very important point, that the fact that we have not had a major terrorist outrage in this country since 9/11 is not a consequence of terrorist organisations not wishing to bring it about. In fact, they have sought to bring it about. However, our agencies have been able to prevent it, and for that we should pay tribute to their work. That guides our judgment as to what should be the legal regime to strengthen us in that regard.

Mr. Michael Meacher (Oldham, West and Royton) (Lab): First, we all understand the difficult situation the Home Secretary is in, but why is he so adamant that house arrest must be retained as an option when it is not used by any other Council of Europe country facing exactly the same terrorist threat as we do and when no other country has seen fit to derogate from the European convention on human rights for that reason or any other? Secondly, how can independent judicial scrutiny protect basic legal and fundamental human rights when the judge cannot reveal the secret intelligence to the suspect and therefore, crucially, cannot test the evidence that is alleged against the suspect?

Mr. Clarke: On the latter point, my right hon. Friend's comments miss a key point: there are cases—I assure him there are—where there is not sufficient evidence to bring about a conviction in court, for a variety of reasons that I have listed to the House, but where the individuals concerned remain a threat to this country. It is possible to argue, as do those on the Opposition Front Bench, that we should do nothing in those cases, but it is not possible, in my view, to seek to defend the national security of the country without taking account of that. Finally, in terms of other comparisons, obviously there are entirely different judicial systems in the rest of the European Union. By the way, under those judicial systems, people are locked up in detention—not house arrest or anything of that kind, but in detention—for years and years. That is what those countries are doing.

Mr. Peter Lilley (Hitchin and Harpenden) (Con): Does the Home Secretary realise that this country is reluctant to entrust a Government who went to war on the basis of unfounded suspicion with a power to lock people up on the basis of mere suspicion? Can he confirm that he is under no legal obligation to change the law, since the Law Lords found his measures not unlawful, but simply incompatible with the European convention on human rights because they were disproportionate and discriminatory? Is it not barking mad to say that the remedy for disproportionate discrimination against a minority is to extend the same measures of harsh and disproportionate loss of freedom to the whole country? Does he realise that he is creating a precedent when there is no reason or justification for it?

Mr. Clarke: First, I do not accept that it would have been appropriate to ignore the Law Lords judgment, as the right hon. Gentleman implied. It is not a good state of affairs when the Law Lords take one position and the Executive take another. We should try to bring matters on to a proper basis. I should have thought that that commanded general support across the House. On the second point that it is necessary to make in response to the right hon. Gentleman, I do not think—he will correct me if I am wrong—that he would argue that the issues around weapons of mass destruction in Iraq lead to the conclusion that there is no security issue here that needs to be addressed. There are security issues. If he is saying that no security assessment can be trusted, so no action should ever be taken, I cannot imagine a less responsible position for any politician to take.

Mr. Clive Soley (Ealing, Acton and Shepherd's Bush) (Lab): It would be churlish not to recognise the very real steps that the Home Secretary has taken to bring in a judicial process at all levels and surround the power of derogation with strict controls. However, he seems to be arguing the importance of the Executive role as justification for not letting a judge take the decision. May I remind him that, under the old prevention of terrorism Acts, the exclusion orders, which in many respects were not dissimilar to what we are doing here, were profoundly unsatisfactory? If he can find a way of putting the matter before a judge, that would be helpful. Does he plan that the legislation will fall after a certain period, such as one Parliament, after which it will be renewed in another Parliament or envisage that it will be reviewed at some unspecified future date?

Mr. Clarke: We propose a series of reviews over time. On derogation, I said that there is an annual review and not simply a review at the end of a Parliament. Perhaps I am not being clear enough. The judicial powers that I suggest for the Home Secretary's decisions in relation to deprivation of liberty are very substantial indeed. They are for a full court, and it is for a High Court judge to go through the whole case and assess on the balance of

[Mr. Clarke]

probabilities whether the Home Secretary's judgment was right. They will then have the power set out in the Bill to quash or modify the order if necessary, and even to direct the Secretary of State if necessary. I think that that is a very powerful situation that does not bear comparison with the historically correct point that my hon. Friend makes about the way in which prevention of terrorism legislation worked in the past.

Several hon. Members *rose—*

Mr. Speaker: Order.

Northern Ireland

1.31 pm

The Secretary of State for Northern Ireland (Mr. Paul Murphy): With permission, Mr. Speaker, I should like to make a statement on Northern Ireland.

I came to this House on 11 January to make a statement relating to the Northern bank robbery on 20 December. To recall the background, a highly organised and brutal gang kidnapped the families of two staff from the bank's headquarters in Belfast, threatening them with death unless the individuals co-operated in the execution of the largest robbery ever seen in these islands.

Since then, a major police investigation has been under way. As the House is aware, the Chief Constable of Northern Ireland made his conclusion clear that the Provisional IRA was responsible for the robbery. The Prime Minister and I have indicated that we accept the Chief Constable's judgment, which is also shared by the Irish Government and their security advisers. The Chief Constable's statement, seen in the context of other subsequent events, serves to reinforce the extent of the challenge that all of us face in working towards peace and stability in Northern Ireland.

Earlier this month, on 10 February, I laid before the House a copy of a report presented to the British and Irish Governments by the Independent Monitoring Commission. That report, which the commission had elected to produce in addition to its normal twice-yearly reports to the two Governments, concluded that the Northern bank robbery was planned and undertaken by the Provisional IRA and that this organisation was also responsible for three other major robberies during the course of 2004. I am very grateful to the members of the commission for their quick response to the very grave situation created by the robbery and its attribution.

The IMC concluded on the basis of its own careful scrutiny that Sinn Fein must bear its share of the responsibility for these incidents. It indicated that, had the Northern Ireland Assembly been sitting, it would have recommended that the full range of measures referred to in the relevant legislation be applied to Sinn Fein, including the exclusion of its members from holding ministerial office. In the context of suspension, it recommended that I should consider exercising the powers that I have to apply financial penalties to Sinn Fein.

The House will recall that following the IMC's first report in April last year, I issued a direction removing for a period of 12 months the block financial assistance paid to Assembly parties in respect of both Sinn Fein and the Progressive Unionist party. Having reflected on the IMC's latest report, I have concluded that it would be appropriate for me to issue a further direction removing Sinn Fein's entitlement to this block financial assistance for a further 12-month period, the maximum permitted under the legislation. I am therefore minded to make a further direction to come into effect on 29 April—the day after the existing direction expires. Before reaching a final decision, however, I will take into account any representations made to me by Sinn Fein by next Tuesday. I will make a decision on whether to extend the financial penalties imposed on the PUP last April when I receive the next IMC report covering all paramilitary groups, which is expected in April.

The commission's report also refers to other public money that Sinn Fein receives, although recommendations on this are outside its remit. In this context, I am conscious that hon. Members on both sides of the House have raised concerns in the past about the payment of financial allowances to the four Sinn Fein members who decline to take up their seats here. I hope that the House will welcome the opportunity to debate in the very near future a Government motion proposing that these allowances be suspended on a time scale in parallel with the arrangements at Stormont, in recognition of recent events. The debate on that motion is for another day, but I should emphasise to the House, lest anyone accuse us of denying the extent of Sinn Fein's electoral support, that the measures that we are proposing are designed to express the disapproval of all those who are committed to purely democratic politics of the actions of the Provisional IRA. All in this House recognise the degree of support for Sinn Fein, but we also believe that the actions of the republican movement are letting down everyone in Northern Ireland, including those who vote for Sinn Fein.

There are those who will argue that these financial sanctions are insufficient as a signal of the Government's and Parliament's condemnation of recent events. They may well argue that I should take steps to exclude Sinn Fein from the political process or from the Assembly now. I want to deal with those arguments directly, because they are sincerely made and with a strength of feeling that I understand.

The Government's ultimate goal remains the achievement of an inclusive power-sharing executive in Northern Ireland. I need not remind the House that the robbery has set back the time scale for achieving that, but the reality remains that long-term stability in Northern Ireland will not come about if we focus on exclusion. That objective requires inclusion; dialogue with Sinn Fein must continue in order to see how that long-term goal can be achieved. But I am clear that this must be inclusion on the basis of a complete and demonstrable commitment to non-violence and exclusively peaceful and democratic means, that fundamental principle of the Good Friday agreement, enshrined in the pledge of office.

Had the robbery occurred while the Assembly was in operation, however, the decision about exclusion would have been very different. It is inconceivable, in my view, that members of Sinn Fein could again hold ministerial office while the issue of paramilitary activity and criminality on the part of the Provisional IRA remained unresolved.

The suggestion is made in some quarters that I should restore the Assembly, and then, if the Assembly itself failed to take action to exclude Sinn Fein, that I should take action myself using the powers available to me to exclude it. This would be very difficult in the absence of a clear plan that would see the parties in the Assembly come together on a cross-community basis to form a Government in Northern Ireland, but as I told the House on 11 January, I have not ruled anything in or out as we continue to assess possible ways forward for achieving greater local political accountability. As my right hon. Friend the Prime Minister has said, if we cannot achieve a comprehensive settlement in the short term, we need to consider other ways forward.

In the meantime, our focus will remain strongly on dealing with the underlying issue of ongoing criminal activity in all its forms. The police investigation of the Northern bank robbery is the largest undertaken by the Police Service of Northern Ireland, which is continuing to follow up every lead. This is inevitably an intensive and time-consuming process, and in parallel with this, I am taking the opportunity to ensure that our arrangements for tackling organised crime remain fit for purpose, and I have asked the Parliamentary Under-Secretary of State for Northern Ireland, my hon. Friend the Member for Dudley, South (Mr. Pearson), the Security Minister in Northern Ireland, to review the Organised Crime Task Force to see whether and how it might be strengthened.

We continue to have excellent co-operation at both a political and operational level with colleagues from the Republic of Ireland. Yesterday, I met Michael McDowell, the Republic of Ireland Justice Minister, for a regular bilateral meeting, along with the police chiefs from both jurisdictions. At that meeting, I was pleased to see the further strengthening of co-operation, when the Chief Constable and the Garda commissioner signed protocols to facilitate the movement of officers between both forces through personnel exchanges and secondments with policing powers. That development can only serve to strengthen the existing co-operation between the two police services in tackling terrorism and other crime.

Whatever our success in tackling criminality and paramilitary activity, the fact of the matter is that the commitment to peaceful and democratic means is not one that this Government need to make. As we said in the joint declaration of April 2003:

"ongoing paramilitary activity, sectarian violence and criminality masquerading as a political cause are all corrosive of the trust and confidence that are necessary to sustain a durable political process."

In the present context, it is, as the Prime Minister and the Taoiseach have both indicated, for Sinn Fein and the Provisional IRA to do that. They need to step forward and tell us how they will demonstrate their full commitment to all the principles of the Good Friday agreement and how they intend to demonstrate to all the other parties in the political process, and to the people of Northern Ireland, that the kind of behaviour identified in the IMC report is in the past.

Financial penalties of the kind that I have described today may signify our strong disapproval of what has happened, but they will not of themselves rebuild the trust that is necessary if confidence is to be restored. That is a matter for the republican movement in general, and for Sinn Fein in particular.

Mr. David Lidington (Aylesbury) (Con): As always, I am grateful to the Secretary of State for his customary courtesy in giving us advance knowledge of the contents of his statement.

The IMC report of 10 December could not have been clearer. It backed the opinion of both the British and Irish Governments, the Police Service of Northern Ireland and the Garda Siochana in attributing

[Mr. David Lidington]

responsibility for the biggest bank robbery in British history and for other serious crimes to the Provisional IRA. The IMC went further:

"Sinn Fein must bear its share of responsibility for all the incidents . . . some of its"—

Sinn Fein's—

"senior members, who are also senior members of PIRA, were involved in sanctioning the series of robberies".

Does the Secretary of State share that grim assessment? Does he endorse the IMC's judgment that Sinn Fein leaders were personally responsible for those crimes? Does he agree with the Republic of Ireland's Defence Minister, who said at the weekend:

"We are no longer prepared to accept the farce that Sinn Fein and the IRA are separate. They are 'indivisible'"?

The Secretary of State will have noted Mr. Adams's remarks at the weekend, when he denied once again that republicans are involved in criminality. We know from the recent comments of Mr. Mitchel McLaughlin that the republican movement still decides for itself what constitutes a crime, in the bizarre belief that it constitutes the legitimate Government of the whole island of Ireland. Does the Secretary of State recall how republicans initially denied responsibility for the murder of Garda officer McCabe, for the abduction and murder of Mrs. Jean McConville, for the Enniskillen bombing and for a catalogue of murders and other violent crimes? In the light of that record, does he agree that we should treat Mr. Adams's weekend comments with utter disbelief?

We shall support the sanctions announced by the Secretary of State today. Those of us who have advocated the suspension of parliamentary allowances for some time are glad that the Government have come round to our point of view, but it should not have taken Ministers so long to acknowledge that their decision to grant those allowances was badly misjudged. There is no statutory limit on the period for which parliamentary allowances, rather than Assembly allowances, can be suspended, so why does the Secretary of State propose to restrict that period to 12 months only? Many hon. Members, particularly, but not only, on this side of the House, have consistently taken the view that Members who refuse to take their seats and accept responsibility for representing all their constituents should not be entitled to claim the allowances that go with the discharge of those responsibilities.

Will the Secretary of State say whether the Government's proposals mean that Sinn Fein MPs will still be entitled to offices at the Palace of Westminster and whether Sinn Fein MPs will still be able to give House of Commons passes to their staff, even if those staff salaries have to be met from Sinn Fein's alternative sources of funding?

The reality is that the inclusive, power-sharing devolution envisaged in the Belfast agreement is sadly no longer practical politics until the republican movement has clearly and permanently put an end to its involvement in crime and its paramilitary structure. Does the Secretary of State agree that direct rule is now set to last for years rather than months? Given that time scale, is it not time for the Government to end the effective veto that they appear to have given Sinn Fein over any political progress and to try to move forward with those parties that are committed to exclusively democratic and peaceful politics, so the people of Northern Ireland can get a greater say over the major public services on which they rely? Last autumn at Leeds castle, the Prime Minister said that if that attempt at a comprehensive settlement failed, the Government would look for a different way forward. He made a promise, and it is time for the Government to deliver on it.

Finally, the Secretary of State will be aware of the Irish Justice Minister's description of Sinn Fein-IRA as a "criminal conspiracy". In recent days, we have probably seen only the tip of a criminal underworld of mafia-type dimensions that threatens the rule of law in both the United Kingdom and the Republic of Ireland. I warmly welcome yesterday's announcement of enhanced co-operation between the PSNI and the Garda, and I wholeheartedly support the efforts of the Secretary of State and Justice Minister Michael McDowell to strengthen the effort by the two Governments to combat organised crime in both jurisdictions. Will the Secretary of State give the House an absolute guarantee that the police and all other agencies will have his and the entire Government's unreserved support in their efforts to root out paramilitary crime, and that there will be no holding back in that effort wherever or to whomever those investigations might lead?

Mr. Murphy: On the final point, the hon. Gentleman can rest assured that the Government will expend all their attention and effort on making sure that we root out organised crime in Northern Ireland, not only in the republican movement but elsewhere. Yesterday's co-operation at Hillsborough is important, because it is the best example for many years of co-operation in dealing with criminality.

The hon. Gentleman asked a series of questions about the political process in Northern Ireland. I am not in a position to say that direct rule will go on for years, which is not something that I want to happen—far from it. The people of Northern Ireland deserve their own Government and Assembly and to run their own affairs. To that end, different political parties and others in Northern Ireland make suggestions that the Government must examine carefully. However, if there is to be local Administration—whatever form it takes—it cannot happen without cross-community agreement about how it occurs. That depends especially on the SDLP's position and views on the matter.

The hon. Gentleman mentioned the IMC and referred to the link between Sinn Fein and the Provisional IRA. I have no reason to disbelieve the IMC report. We have always maintained that Sinn Fein and the IRA are inextricably linked and part of the same movement. Yesterday, the Taoiseach described them as two sides of the same coin. The Government believe that that is exactly the case.

The hon. Gentleman is right to raise what constitutes crime and criminality. In answer to a question that he posed at Northern Ireland questions, I believe that the idea that individual parties can define what they believe crime and criminality to be is preposterous. The Government share his view on the definition of crime

and criminality. We will root out paramilitary activity and criminality, wherever it might be, in Northern Ireland.

The Organised Crime Task Force, to which I referred earlier, takes into account all the agencies in Northern Ireland, such as the Assets Recovery Agency, the Inland Revenue, Customs and Excise, the police and Departments, all working together to ensure that, at whatever level and wherever it may happen, criminality is rooted out and tackled.

Mr. Seamus Mallon (Newry and Armagh) (SDLP): I do not intend to waste much time on financial penalties. We opposed them in the negotiations before the joint declaration. We spoke against them in the House of Commons when the legislation that set up the Independent Monitoring Commission was considered and we will do so again today. The IRA and Sinn Fein thrive on victimhood and grievances. The House should not facilitate that by handing them any more.

On a matter of substance, the Secretary of State may recall that in the IMC debate on 17 September 2003, I repeatedly asked why "organised crime" was omitted from the list of activities that article 4 of the draft agreement and paragraph 17 of the joint declaration specified. I did not get an answer. I shall try again. Why have not the two Governments specifically included "organised crime" as one of the issues to be monitored in the legislation that set up the IMC, in the joint declaration of 2003 or in the so-called comprehensive agreement of 2004? When the Secretary of State answers that question—I hope I will get an answer this time—will he speculate on the effect it might have had on recent events if the two Governments had made it clear on those three occasions that organised crime was to be targeted in the same way as other matters?

Mr. Murphy: I understand my hon. Friend's position on sanctions, but the time has come for the House of Commons and the Government to show their disapproval, especially of the events of past weeks. However, I agree that the onus and emphasis in any debate on such matters should be on the criminality and the criminal activity of the IRA. He rightly says that he has pressed that on more than one occasion, in Hillsborough and in the Chamber.

Earlier, I quoted from paragraph 12 of the joint declaration of April 2003. It states that

"ongoing paramilitary activity, sectarian violence and criminality masquerading as a political cause are all corrosive of the trust and the confidence that are necessary to sustain a durable political process."

Paragraph 13 referred to, for example, so-called punishment beatings, which are criminal activities. All add up to a collapse of trust and confidence among parties in Northern Ireland. Paragraph 17 also refers to such activities.

However, I stress to my hon. Friend that today is an opportunity for the House of Commons to express its disapproval of what has occurred and also for us to reflect on the fact that only way in which we can make progress is through the end of criminality in all its forms.

Lembit Öpik (Montgomeryshire) (LD): I thank the Secretary of State for early sight of his statement and our constructive meeting this morning. As he knows, I have become increasingly frustrated because, despite eight years of Liberal Democrat support for the peace initiative, the Government have regularly not involved us and other Opposition parties on many issues at key stages of the process. I acknowledge that he and his fellow Ministers have gone some way towards rectifying that.

Given the gravity of today's statement, will the Secretary of State share evidence that shows that the IRA carried out the Northern bank robbery, at least with my party leader, the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy), on Privy Council terms? I do not understand why that would not be possible.

Will the right hon. Gentleman confirm that the Irish Government, Lord Alderdice, the IMC, the Chief Constable of the Police Service of Northern Ireland and the Government share the view that the IRA was responsible for the Northern bank robbery? Does he have evidence to suggest that paramilitaries, specifically the IRA, have been involved in other serious breaches of law and order in the Province, for example, by protecting the killers of Mr. Robert McCartney from justice, and that they are responsible for a catalogue of other criminal activities in previous months? If he can prove and connect those breaches with the IRA, we will consider the sanctions sympathetically. However, I personally feel sad that it has come to that, given the unquestionable contribution that Sinn Fein has made to the peace process on many occasions.

Will the sanctions affect only allowances? The hon. Member for Aylesbury (Mr. Lidington) also asked that question. Will Sinn Fein Members of Parliament still be entitled to use their offices? Will their staff be entitled to retain their passes?

Paragraph 13 of the joint declaration was mentioned. Does the Secretary of State regard it as the true touchstone for what is expected from the IRA and, indeed, Sinn Fein, if the sanctions are to be lifted? I emphasise that paragraph 13 covers criminality in all its forms and is therefore a clear statement of what is expected.

Should not we distinguish between the lawless behaviour of republican paramilitaries and the rights and interests of the Catholic community in the north of Ireland? Does the Secretary of State agree that we must recognise that nationalism and republicanism are legitimate political viewpoints, whether one agrees with them or not? In that context, does he accept that, even with the sanctions, Liberal Democrats will try to continue to work with representatives of those communities, including Sinn Fein representatives? Will he give an assurance that, notwithstanding the sanctions, he and the Government remain committed to working with Sinn Fein and other parties in the interests of peace?

Mr. Murphy: On the last point, I said in the statement that we intend to continue to talk to all parties in Northern Ireland. The hon. Gentleman is right to point out that nationalists and republicans have every right to express their political point of view democratically. However, it is not legitimate for paramilitary activities or criminality to be linked to such parties. That is the difference.

[Mr. Murphy]

The hon. Gentleman referred to paramilitary activity in all its forms. He will recall that, when discussions were held between parties before Christmas, criminality formed an important part of any agreement that was to have been finalised. I failed to mention that in an earlier answer.

I share the hon. Gentleman's sadness on this occasion. I feel no joy or pleasure in coming to the House to make today's statement—far from it. Everybody who has been involved in the past few years in trying to bring political stability and peace to Northern Ireland will experience no joy at today's statement. However, we must accept the reality of the current position.

On sanctions, the resolution that the Government will present to the Chamber deals with Sinn Fein Members' allowances. Hon. Members will have an opportunity to discuss the detail when the debate takes place on the Floor of the House soon.

I take the hon. Gentleman's point about briefing his party leader. I shall discuss that with the Chief Constable.

Mr. Harry Barnes (North-East Derbyshire) (Lab): Will my right hon. Friend look at the total finances of Sinn Fein and the Provisional IRA with a view to extending mainland provisions on the monitoring and control of the funding of political parties to Northern Ireland? Will he also ensure that the Assets Recovery Agency directs its attention to Sinn Fein, the Provisional IRA and various individuals? That can be done on an all-Ireland basis because the legislation on which the Assets Recovery Agency is based was taken from legislation in the Republic of Ireland.

Mr. Murphy: I understand my hon. Friend's point about the funding of political parties. My right hon. Friend the Minister of State is dealing with the Irish Government on that matter. Dealing with party funding generally on the whole island of Ireland, and ascertaining where their income comes from, is obviously an important issue. I take great account of the point about the Assets Recovery Agency. Part of the discussion that I had yesterday with the Justice Minister and the Garda commissioner related to how the agency in Northern Ireland could work with its counterpart in the Republic of Ireland, the Criminal Assets Bureau.

Rev. Ian Paisley (North Antrim) (DUP): May I put it on record that the law-abiding citizens of Northern Ireland are greatly insulted by the attitude taken by IRA-Sinn Fein over these recent events? The Secretary of State said at the end of his statement today that IRA-Sinn Fein

"need to step forward and tell us how they will demonstrate their full commitment to all the principles of the Good Friday agreement and how they intend to demonstrate to all the other parties in the political process, and to the people of Northern Ireland, that the kind of behaviour identified in the IMC report is in the past."

We have listened to nothing else but apologies from IRA-Sinn Fein, and every person who has raised their voice for equity, decency and law-abiding principles has been maligned and lied about by the IRA-Sinn Fein leaders. The law-abiding people of Northern Ireland are sick of these insults. The leaders of IRA-Sinn Fein have stepped forward, and they have lied about the things that were brought to their attention. All that they could do was to malign the people who brought the charges. The time has surely come for this Government and this House to set their own affairs in order, and to say that there is no place in a democracy for armed terrorists and their campaign of crime against the decent citizens of Northern Ireland.

The Minister of Defence in the south of Ireland has said plainly that two of the people in question are in the army council. If that is so—and I believe that it is; these charges were made long ago by those of us who come from Northern Ireland—this House should rid itself completely of those who are in the IRA or any other terrorist organisation. They should not have membership of this House. I trust that, when the Bill comes before the House, we shall have the opportunity to deal fully with these matters. Those people should not receive any money from the House, and they should be stripped of their privileges here. The time has come for stern, straight action to deal with this matter, and until it is dealt with, there cannot be proper, democratic rule in Northern Ireland. I am disgusted with the attitude of the Liberal Democrats here—

Madam Deputy Speaker (Sylvia Heal): Order. I must ask the hon. Gentleman to pose a question to the Secretary of State.

Rev. Ian Paisley: My question is: why should I not, as an Ulsterman, denounce the Liberal Democrats for apologising for IRA murderers—bloody murderers?

Mr. Murphy: I shall keep out of that one, I think. I have to tell the hon. Gentleman that I could not agree more with his first point about the ordinary people of Northern Ireland who are decent, law-abiding citizens, whether they be nationalist or Unionist. Today must be a huge disappointment to those people in Northern Ireland who have taken great strides in the development of cross-community reconciliation, both in economic and social terms. I think that the hon. Gentleman would be the first to agree that every city, town and village in Northern Ireland has great examples of development and progress that many of us would have believed impossible many years ago. What we are having to discuss today is in many ways a slap in the face for the people who are making that progress. I also agree with the hon. Gentleman that we need demonstrable evidence of change. That is where the IMC comes in. Of course, I also agree that there is no place for armed terrorists in a democracy.

Mr. Eddie McGrady (South Down) (SDLP): The Minister said in his statement that the Government's objective was to have an "inclusive power-sharing Executive" in Northern Ireland, and that the test for such inclusion was a "demonstrable commitment to non-violence" and non-criminality. Does this mean that the Provisional IRA, which the Government state is indistinguishable from Sinn Fein, must decommission, de-structure and decriminalise before such an Executive can be set up? That appears to have been the intention of the joint declaration of April 2003, to which the

Secretary of State has referred. Yet the Government were willing to ignore criminality as recently as up to 8 December, in spite of the knowledge of three major robberies attributed to the IRA and of other criminal activity. Will the Secretary of State tell us whether this is a permanent change of Government policy?

Mr. Murphy: My hon. Friend will understand, because he was deeply involved in the negotiations in the run-up to the signing of the Good Friday agreement, that the idea of an inclusive Executive—based, as it must be, on non-violent, peaceful and democratic means—was the objective of everyone in Ireland, north and south. That is what people voted for. The problem that we now face is that decommissioning has not happened in the way in which we all thought that it should, over a period of just two years, as we agreed.

My hon. Friend is also right about criminality. In 1998, everyone thought that there would be a transitional period in which there would be a withering away, as it were, of criminality and all the other activities that paramilitaries get up to. However, the reality is that the robbery of the Northern bank and other activities show that it has not gone away. Unless we address that issue, the trust necessary to restore the Executive will never be there. We must therefore emphasise to the Provisional IRA—and, indeed, to loyalist groups—that, unless criminality is abandoned, we shall not make any progress towards the political stability that we want in Northern Ireland.

Mr. David Trimble (Upper Bann) (UUP): We will, of course, support the sanctions that the Secretary of State has mentioned, but I have to say to him that he could have, and should have, gone much further. Perhaps he recalls the then Minister of State, the right hon. Member for Liverpool, Wavertree (Jane Kennedy), saying at the Dispatch Box on behalf of the Government in September 2003 that

"we envisage no circumstances in which we would not exercise the power"—

that is, the power to exclude from an Executive—

"in a manner consistent with the IMC recommendations."—[*Official Report*, 17 September 2003; Vol. 410, c. 982.]

Yet all that is saving Sinn Fein from exclusion from office in an Assembly now is the Government's decision to continue suspension. I regard that as a failure to comply with that undertaking, and I urge the Secretary of State to look again at the matter.

Does the Secretary of State also realise that his failure to act on this matter reinforces the suspicion that all that the Government want to do is to let a little time pass by before they reheat the DUP-Sinn Fein deal of last December? He must realise that that will not work. It probably would not have worked then, and it certainly will not work now. It is possible to establish a cross-community Executive, but not one including the republican movement. Consequently, if he will not recall the Assembly, we are left with the only realistic course, which is to try to democratise direct rule as soon as possible.

Mr. Murphy: On that last point, I am sure that there is a lot of opportunity for debate on what democratising direct rule would mean. The earlier point represents the right hon. Gentleman's view, which he has held very sincerely over the last couple of weeks in particular, that there should an end to the suspension, that the Assembly should be recalled and that an attempt should be made, having excluded Sinn Fein, to set up a cross-community Executive. If I thought that was workable, I would think there was some merit in the point, but, as he knows, there must be cross-community support on that particular issue. Obviously, work has to be done with regard to that matter.

As I said in my statement, we are not going to rule anything out or anything in. We must not have closed minds to any particular suggestions, because, whatever happens, it seems to me, direct rule is the worst of all options. There should be an attempt to plug that democratic deficit in whatever the best way possible. We will continue to consider different options in that respect.

Helen Jackson (Sheffield, Hillsborough) (Lab): May I welcome in particular the part of my right hon. Friend's statement that sets out further strengthening of the Garda in the Republic and of the Northern Ireland police, especially as this phase can be brought to an end only when the perpetrators of the Northern bank robbery, and indeed of the recent murder in west Belfast, are identified, brought to trial and put behind bars? As the evidence for who those people are almost certainly rests with the Sinn Fein political party and the republican communities, is it not time for the Taoiseach and the Prime Minister to make it absolutely clear that now, any elected representative in either state will be expected to co-operate with the police in either country to bring those criminals to justice and put them behind bars? Is it not time to insist that elected political representatives take their full responsibility within their communities and do not pick and choose, saying, "We can manage to avoid co-operating with the police against criminality"?

Mr. Murphy: On co-operation, my hon. Friend is right on two counts. The first is the question of co-operation between the two police services. It has never been better, and there was evidence for that yesterday in the signing of the protocols at Hillsborough castle. The success of the different police investigations over the last few weeks is also evidence of that close co-operation. Secondly, she is of course right that everybody in Northern Ireland, whatever their political or religious background, should be co-operating with the police to find the perpetrators of murder and of robbery.

Mr. Robert Walter (North Dorset) (Con): The Secretary of State might have read the line in this morning's *Irish Independent*:

"Perhaps the only thing the Provos do better than knee-capping, drug-dealing and gutting people from navel to sternum is wounded indignation".

He mentioned his meeting yesterday with Michael McDowell, the Irish Justice Minister, who has been unequivocal in saying that Sinn Fein and the IRA are the same organisation, and has named their leadership as Adams, McGuinness and the Irish-Sinn Fein TD Martin Ferris.

In the context of the fact that five men were jailed in Dublin yesterday simply for membership of the IRA, can the Secretary of State tell us what the Home

[Mr. Robert Walter]

Secretary meant when, during the earlier statement, he answered several questions about the application of his prevention of terrorism measures to Northern Ireland by saying that he would defer to the Secretary of State for Northern Ireland, who was about to make his statement?

Mr. Murphy: I have to tell the hon. Gentleman that I was not here and that I did not hear that statement, but I will discuss those matters with my right hon. Friend. The hon. Gentleman is also right to point out again the linkage between Sinn Fein and the Provisional IRA. That is why we are in the Chamber today, dealing with the issues that we have to deal with.

Mr. Frank Field (Birkenhead) (Lab): Is membership of this House compatible with membership of the army council? If not, what action does the Secretary of State propose to take against those individuals who have a dual mandate?

Mr. Murphy: Any action against individuals on membership of illegal organisations is obviously a matter for the police. The Chief Constable will deal with any illegality.

Mr. Field: And the House?

Mr. Murphy: As far as the House is concerned, that is a matter for the House itself. It will have an opportunity to debate those issues in a couple of weeks when the Government table their motion.

Mr. Peter Robinson (Belfast, East) (DUP): Will the Secretary of State confirm that the comprehensive agreement, unlike the previous dispensation under the right hon. Member for Upper Bann (Mr. Trimble), which allowed Sinn Fein to be in government while it continued its criminal enterprises and terrorist activities, required of Sinn Fein-IRA that they decommission all their weapons verifiably and transparently, that they end all criminal and paramilitary activity before ever being in government, and that there would be a testing period so that the assessment could be made as to whether that was indeed so?

Does the Secretary of State stand by the man whom he said in his statement he has some admiration for—the Justice Minister of the Irish Republic—who clearly, with the same information at his disposal as the Secretary of State, named Gerry Adams, Martin McGuinness and Martin Ferris as members of the IRA army council? Does not the Secretary of State fear naming those people in those positions because of the impact that that would have on the Government's policy of inclusivity? Does he not accept that many people in Northern Ireland are somewhat embarrassed that there is more robust action from the Government of the Irish Republic than from our own Government?

In terms of the financial penalties that the Government are considering, will they consider also the fact that this Government regulate payments to the European Parliament and whether Sinn Fein's MEP should be punished in like manner? Will they also look at those who are in local government and the benefits they accrue?

Mr. Murphy: I probably have enough on my plate at the moment so far as our own Parliament is concerned, and it is obviously a matter for the European Parliament how it deals with some of those issues. That is also the case for local government. Today, we are dealing with what the House itself can deal with. If the hon. Gentleman feels that there is a possibility of raising the issues involving the European Parliament, he may have the option to do so, if the rules permit, when we debate those matters in several weeks' time.

I agree entirely with the Justice Minister about the linkage between Sinn Fein and the IRA. I also agree with the hon. Gentleman that the agreement we were negotiating before Christmas laid great emphasis on ensuring that we dealt with the issue of criminality and that we dealt also with the testing period between the time of the agreement and when it would come into force. However, I also have to say that no Member from any party in the House would disagree with my saying that we must emphasise the fact that criminality is at the root of our problems at the moment.

Mr. Tony Clarke (Northampton, South) (Lab): All of us in the House wish the PSNI and the Garda Siochana every success in bringing those responsible for these terrible crimes to justice. We look forward to the evidence being presented to the House. Does my right hon. Friend share the legitimate concerns of those of us who worry that invoking financial penalties and making links with individuals in the House at the same time as we are talking about those crimes only adds to the press and media speculation that there was a personal involvement linking Members of the House to those crimes? Will he take this opportunity to say whether he agrees or disagrees with the statement from the Justice Minister, Michael McDowell, that Members of this House are members of an illegal organisation?

Mr. Murphy: In terms of the penalties, because the Assembly is not up and running at the moment, effectively the only thing that we can do is deal with the allowances and the position of Sinn Fein Members of the House. That is a matter for the House to decide. I have already made my point about the linkage between Sinn Fein and the IRA, but although we have had to discuss the question of sanctions, as that is the nature of today's statement, it is important that we never lose sight of the issue that has brought about those sanctions, which is criminal activity, whether robbing banks of £26.5 million or shooting young men in our cities in Northern Ireland through their hands, ankles or knees. Any form of such activity must stop. Unless it does, as I said earlier, any sort of inclusive Executive is simply impossible. It is important to bear that point in mind.

Sir Patrick Cormack (South Staffordshire) (Con): Does the Secretary of State realise how absurd it is that tomorrow, when this House debates the Prevention of Terrorism Bill, Mr. Adams and Mr. McGuinness could be entertaining friends within the precincts, spending

the profits of their recent ill-gotten gains and discussing the bloody murders that they have committed in the past? Cannot he express an opinion on that?

Mr. Murphy: Yes, I have already expressed the opinion that, as far as we are concerned, the criminality that surrounds paramilitary activity, which culminated in the robbery of the bank—I have referred to other criminal activities, too—has resulted in today's statement. That statement has reported that the Government will give the House the opportunity to end all the allowances for Sinn Fein, as far as that affects the House, and that we will support that decision.

Sir Patrick Cormack: And access?

Mr. Murphy: That is a matter for the House to consider in some weeks' time. The fact that the Government have given the House that opportunity speaks for itself.

Kate Hoey (Vauxhall) (Lab): But why will the Government not include in the motion to stop the allowances paid to Sinn Fein Members the further provision that they should not be here at all? Is not it absolute nonsense that we are discussing anti-terrorism activity and security in the House, and yet democratically elected Members are expected to walk around and bump into people whom Michael McDowell from the Republic of Ireland has said are members of the army council? Does the Secretary of State agree with Michael McDowell that Gerry Adams and the other member of Sinn Fein-IRA who was mentioned are members of the army council?

Mr. Murphy: I have indicated more than once in the House that I believe that there are absolute linkages between the IRA and Sinn Fein at all levels. My hon. Friend might also have heard me say in the media today that I do not intend to talk about individuals or individual cases in the House. [HON. MEMBERS: "Why?"] For all sorts of reasons, including the fact that the Chief Constable must deal with certain issues and that it is an intelligence matter. I also hope that Members will understand that I believe strongly that this is a matter of great public interest in Northern Ireland. That also means that members of the republican movement in Northern Ireland have a duty to be able to convince people that they are not. We and the Irish Government, however, are absolutely at one in seeing no distinction within the republican movement between the IRA and Sinn Fein.

David Burnside (South Antrim) (UUP): I welcome the debate in the House to discuss privileges. Although many of us feel, emotionally, that we want to punish those involved in criminality, I hope that right hon. and hon. Members will vote to restore equality in relation to membership of the House, so that if one does not come here and swear or affirm allegiance, one does not become a special grade of MP. It is time that we restored equality for all Members of the House.

I am confused: IRA-Sinn Fein are responsible for the biggest bank robbery in history. The Secretary of State is advised that Martin McGuinness, the chief negotiator, and the president are members of the army council. He knows that the rest of the army council of the IRA includes Slab Murphy, the finance director, Ferris and the rest. Can he explain to the House why there has been not one arrest or interview by detectives within the PSNI or the Garda Siochana of any member of the army council of the Provisional IRA, or not one serious investigation by the Assets Recovery Agency into the illegal financing of a political party that will give it an unfair electoral advantage, in a few months' time, in the Westminster and local government elections, against the rest of us who must obey the law and adhere to the rulings of the Electoral Commission in this country?

Mr. Murphy: First, in terms of the opportunity that will exist in the House in some weeks' time, the hon. Gentleman, and any Member of the House, will be in a position to express the point of view that he just did in the context of a debate. I am sure that he will do so. In terms of people being arrested or interviewed, obviously, that is not a matter for me as the Secretary of State for Northern Ireland but a matter for the police. On the Assets Recovery Agency, I said earlier in relation to the Organised Crime Task Force that the Assets Recovery Agency plays a vital part in dealing with organised crime, and I take the point that he makes.

Several Hon. Members *rose—*

Madam Deputy Speaker: Order. We must move on.

Points of Order

2.25 pm

Mr. Dominic Grieve (Beaconsfield) (Con): On a point of order, Madam Deputy Speaker. It was explained in the statement by the Home Secretary that the anti-terrorism Bill that we are to consider tomorrow will be made available to the House, but under the House's ordinary rules it will not be made available until the close of both statements at 2.30. Notwithstanding that, I understand that the Government have held a briefing for journalists, which started at 1.45 pm, in which the entire contents of that legislation, which have not been imparted to the House—the House has had no opportunity to look at the document—were made available to them. Is it in order that the Government should behave in this way, in complete contempt of the courtesy that they owe to this House?

Madam Deputy Speaker (Sylvia Heal): The Home Secretary has already made a statement to the House this afternoon. I will take note of what the hon. Gentleman has said, and I have no doubt that Mr. Speaker will make some investigations into his complaint.

Tom Levitt (High Peak) (Lab): On a point of order, Madam Deputy Speaker. At 7.45 pm on Tuesday 8 February, the House agreed to suspend the hon. Member for Mid-Bedfordshire (Mr. Sayeed) for two weeks. Could you ask the hon. Member in question to come to the House and explain why he thought that he was in order to sit in this Chamber during the Home Secretary's statement and seek to participate in that debate, even though the two weeks has clearly not elapsed?

Madam Deputy Speaker: As I understand it, the two-week period ended last night.

BILLS PRESENTED

Prevention of Terrorism

Mr. Secretary Clarke, supported by The Prime Minister, Mr. Secretary Prescott, Mr. Chancellor of the Exchequer, Mr. Secretary Straw, Mr. Secretary Darling, Mr. Secretary Murphy, Mr. Peter Hain and Ms Hazel Blears, presented a Bill to provide for the making against individuals involved in terrorism-related activity of orders imposing obligations on them for purposes connected with preventing or restricting their further involvement in such activity; to make provision about appeals and other proceedings relating to such orders; and for connected purposes: And the same was read the First time; and ordered to be read a Second time tomorrow, and to be printed. Explanatory notes to be printed [Bill 61].

Crossrail

Mr. Secretary Darling, supported by The Prime Minister, Mr. Secretary Prescott, Mr. Chancellor of the Exchequer, Secretary Margaret Beckett, Ms Secretary Hewitt, Secretary Tessa Jowell, Mr. Peter Hain and Mr. Tony McNulty, presented a Bill to make provision for a railway transport system running from Maidenhead, in the County of Berkshire, and Heathrow Airport, in the London Borough of Hillingdon, through central London to Shenfield, in the County of Essex, and Abbey Wood, in the London Borough of Greenwich; and for connected purposes: And the same was read the First time; and ordered to be read a Second time tomorrow, and to be printed. Explanatory notes to be printed [Bill 62].

Regulation of Laser Eye Surgery

2.27 pm

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): I beg to move,

That leave be given to bring in a Bill to regulate laser eye surgery.

Last year, in the United Kingdom, more than 100,000 laser eye procedures were carried out. It is important to understand that laser eye surgery, in the hands of those who are properly trained and who have proper after-care and pre-care services, is a safe procedure; indeed, it is an entirely safe procedure. It is also important to realise that the United Kingdom is ahead in such procedures and is rapidly building a reputation for high-quality surgery of this kind.

Some time ago, however, the House of Commons Tea Room, which has been the venue for many important meetings, was the establishment in which my hon. Friends the Members for Stockton, North (Mr. Cook) and for Norwich, North (Dr. Gibson) decided at a breakfast meeting that there were some real worries in this type of surgery. They decided, sensibly, first, to call a public meeting within the precincts of the House, but secondly, to set up a series of meetings, which turned into an ad hoc committee procedure to examine closely the question of making the United Kingdom the safest place in the world to have laser eye surgery.

I was lucky enough to take part in that procedure a little way down the line, but I want to pay tribute to my hon. Friends the Members for Stockton, North and for Norwich, North, both of whom initiated a campaign that was undoubtedly needed. They did so because once they had called the meetings in the House of Commons, it became clear that not only members of the profession but members of the industry and the general public were very concerned. They had particular worries about advertising practices relating to laser eye surgery, standards of safety and regulation, and training of ophthalmologists and optometrists.

My hon. Friend the Member for Stockton, North will forgive me if I say that because he was not terribly well at one point, he was not able to sit through all the sessions that we arranged. I am enormously grateful to the hon. Member for Wyre Forest (Dr. Taylor) and to Professor John Marshall, who did a great deal of work on the report. Without them it would not have been completed, and would certainly not have achieved the quality and depth that I think we were able to produce. I think I represented the vox pop: anyone who examines the qualifications of each Committee member will see that I was the only one with neither a scientific nor a medical qualification.

We took a huge amount of very interesting evidence, some of which I found a bit disturbing. It became clear that we as a Parliament, and certainly the Government, should be looking closely at an industry that is growing exponentially, not just because of improvements in laser eye surgery generally but owing to the extension and development of new machinery. The report was given a great deal of secretarial support by Carl Zeiss UK, to which I pay tribute. At no point did it seek to influence either the choice of witnesses or the content of the report, but it underwrote our activities and gave us enormous help.

Our report made a number of recommendations. We said that in patient counselling, advertising, patient consent forms and training there were gaps that worried us. We said that in the context of surgeon suitability and qualifications, we feared that members of the public were not automatically receiving the protections to which they were entitled, and highlighted areas in which such problems had arisen. We also pointed out that the matter could be dealt with in a number of ways, one or two of which I will identify now.

There is no doubt that we need stricter guidelines regulating clinical practice. Guidelines must be monitored and policed by the Healthcare Commission. The National Institute for Clinical Excellence published a report recently, and its guidelines could set a useful standard; but sanctions must be available when clinics flout the guidelines. It is essential for each clinic to have a senior consultant with specialist knowledge, training and experience in cornea and refractive techniques. He or she must take ultimate responsibility for patients in a system similar to that currently operating in the national health service, whereby NHS doctors receiving training report to a consultant.

We considered it important for all surgeons in this specialty to be suitably trained to an agreed standard. We decided that the Royal College of Ophthalmologists should approve and certify a training board procedure enabling us to maintain standards of care. It is essential to have a United Kingdom-wide training programme for ophthalmologists, and the RCO should approve individual clinic and manufacturer system-based training. It was clear that not all general practitioners were sufficiently well-informed, and that GPs should be offered a chance to expand their training and information. That would help them to know which referral and other procedures should be recommended.

Laser surgery, although enormously successful, is obviously not suitable for all patients. It is therefore vital for procedures for accepting suitable patients to be standardised and clarified. Only patients who meet defined criteria should be routinely treated. Safe operating parameters should be set, and the position should be made clear to patients in whose case adverse conditions and syndromes could lead to complications and increase the risks associated with laser eye surgery.

Clinics must be regulated. We laid down a series of parameters within which we thought that that could be done. We felt that the Healthcare Commission should have the power and authority to enforce regulations, and that clinics or surgeons failing to comply with those standards should be removed from the RCO's refractive surgery list. Those responsibilities would stretch the existing level of training and resources, but that, we concluded, was a demand that should be met by the state. The Healthcare Commission should be responsible for annual follow-up checks for laser safety, approved by the Medicines and Healthcare products Regulatory Agency.

It became clear to us that laser eye surgery was a useful and sensible procedure when properly carried out and organised, and when in the hands of correctly trained people. It has a lot to offer the House of Commons, but it is essential, before we experience serious problems, for the House as a matter of urgency to produce a useful and protracted scheme that will defend the interests of patients and the profession.

[Mrs. Gwyneth Dunwoody]

I hope that Her Majesty's Government will support us in ensuring that such surgery is regulated. It is important, indeed fairly urgent, and the House of Commons should take that responsibility now.

Question put and agreed to.

Bill ordered to be brought in by Mrs. Gwyneth Dunwoody, Mr. Frank Cook, Dr. Ian Gibson, Dr. Richard Taylor, Dr. Jenny Tonge, Dr. Andrew Murrison and Peter Bottomley.

Regulation of Laser Eye Surgery

Mrs. Gwyneth Dunwoody accordingly presented a Bill to regulate laser eye surgery: And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 63].

Social Security

2.38 pm

The Secretary of State for Work and Pensions (Alan Johnson): I beg to move,

That the draft Social Security Benefits Up-rating Order 2005, which was laid before this House on 1st February, be approved.

Madam Deputy Speaker (Sylvia Heal): With this we may consider the draft Guaranteed Minimum Pensions Increase Order 2005.

Alan Johnson: I am satisfied that both orders are compatible with the European convention on human rights.

The uprating order will, as usual, increase most national insurance benefits by the retail prices index amount of 3.1 per cent. and most income-related benefits according to the Rossi index, by 1 per cent. The guaranteed minimum pensions increase order sets out the amount by which contracted-out occupational pension schemes must increase members' guaranteed minimum pensions which accrued between 1988 and 1997. Where the annual increase in the RPI exceeds 3 per cent., the guaranteed minimum pensions indexation requirement is capped at that level under the primary legislation. This year's order therefore provides for an increase of 3 per cent.

This year's uprating adds nearly £3 billion of extra Government spending, tackling poverty by helping those most in need. Of the £2.1 billion extra for pensioners, over half a billion pounds—£580 million—is above-inflation spending.

Since 1997, our total annual spending on financial support for children has increased by over £10 billion in real terms. That is in stark contrast to the 1980s and 1990s, when child benefit was frozen for three years and pensioners received only inflation-level increases, even as social security spending spiralled out of control.

When the Conservative party was in power, unemployment twice hit 3 million and the numbers on incapacity benefit trebled to 2.6 million. By 1997, one in five families had no one in work and one in three children were growing up in poverty. There are now more people in jobs than ever before. Unemployment is at its lowest for 30 years, with long-term youth unemployment 90 per cent. lower than in 1997. We now spend £5 billion less on unemployment benefits than we did in 1997. With almost three-quarters of the working-age population in work, our employment rate is the highest of any of the G8 countries.

Already our new deal for lone parents has helped nearly 300,000 lone parents into work and helped to increase their employment rate to 55.8 per cent.—a 10 percentage point increase since 1997—with 200,000 fewer lone parents claiming income support and nearly 1 million lone parents now in work. However, we need to do more. We know that work is the best way to lift families out of poverty and nine out of 10 lone parents tell us that they want to work, but to enable them to do that they need to have affordable and accessible child care.

We are committed to providing over 2 million sustainable child care places by 2010 and a Sure Start centre in every community across England—an increase from 600 to 3,500 over the same period.

Mr. Steve Webb (Northavon) (LD): As the Secretary of State will know, this afternoon is an opportunity for thinking big picture about the approach to the welfare state. He mentions child care. Governments usually say that parents should decide what is best for their children. However, he has set a 70 per cent. target for lone parents getting back into work. What if 70 per cent. of lone parents do not come to the answer that he wants them to come to?

Alan Johnson: I would not say that we have set a target of 70 per cent. What we have pointed out is that the European Union average is 70 per cent. We have said that one part of our objective of raising the employment rate from 74.9 per cent. to 80 per cent. would be moving another 300,000 lone parents into work. I really believe that lone parents, if they get the right help and support, are pleased to do that. I will have more to say later about how we intend to tackle that, without interfering with the issue of choice for lone parents.

Andrew Selous (South-West Bedfordshire) (Con): I was under the impression, the last time the Select Committee on Work and Pensions visited Brussels, that there was a European target of 70 per cent. of lone parents to be in the work force, to which the Government had signed up. Can the Secretary of State elucidate on that point?

Alan Johnson: There are so many targets in so many places, sometimes we all get a bit confused. The Lisbon process looked to get 70 per cent of working-age people in the European Union back to work. We achieved that some time ago. I am not aware of a specific 70 per cent. target in the European Union. If there is such a target, it has been met, because that is the average throughout the rest of the European Union. For various reasons, we have more lone parents in this country than most other European Union countries, but I see no reason why we cannot achieve that level.

Mr. David Willetts (Havant) (Con): As the Secretary of State said, there are many targets but, to confirm the point that was made by the hon. Member for Northavon (Mr. Webb), I think that what we are talking about is the target in the Secretary of State's own departmental five-year plan. That is a target and that is where the 70 per cent. appears.

Alan Johnson: Good, I always welcome clarification from people who read our documents very carefully—

Mr. Willetts: Has the Secretary of State read the document?

Alan Johnson: I wrote it.

Child care is not enough on its own. Lone parents need support in looking for work and they need to know that they will get a clear financial gain from work. Building on the success of the new deal for lone parents and work-focused interviews, the work search premium, which we are currently piloting, means that lone parents who have been on benefits for a year or more are offered an extra £20 per week for up to six months in return for agreeing actively and consistently to look for work.

Our in-work credit, which we are also piloting, means £40 per week for a year for those who move into work of more than 16 hours a week. That is paid on top of any out-of- work benefits that the lone parent may be entitled to and so represents a clear financial gain from work.

From this April, we are pulling together all the existing support for lone parents into an integrated package. The pathways to work for lone parents pilots will run in five districts: Bradford, Dudley and Sandwell, Leicestershire, north London and south-east London. Those pilots encapsulate our approach of rights and responsibilities, guaranteeing child care support, a clear financial gain from work and the ongoing help of trained professional advisers, all in return for a responsibility to engage more intensively with our employment advisers.

The ongoing professional support from trained personal advisers has been key to our success in increasing the lone parent employment rate. That new single package of initiatives gives our advisers the tools that they need to offer lone parents clearer, stronger and more comprehensive support than ever before. Additionally, for those with older children who are at secondary school, we will pilot automatic payment of an activity premium, on top of all existing benefits, conditional on taking up agreed activity to help them to move into work.

David Taylor (North-West Leicestershire) (Lab/Co-op): The Secretary of State referred to the pilot in my county. Can he tell the House at what stage he would envisage it being rolled out to other parts of the country because I fully expect and hope that it will prove to be a success in the terms that he has described?

Alan Johnson: We do not have any plans yet on the pathways to work for lone parents beyond the introduction of the pilots. We will see how the pilots go. In terms of pathways to work for people on incapacity benefit, we already have plans to roll that out to a third of the country.

From April, child tax credit will be increased in line with the growth in earnings while the maximum eligible child care costs covered by the working tax credit will increase from £135 to £175 per week for one child, and from £200 to £300 per week for two or more children.

We are extending paid maternity leave, so that instead of the 14 weeks of 1997, it will rise from six months to nine months in April 2007.

Mr. Willetts: Before the Secretary of State leaves the subject of tax credit and working tax credit, are he and his Department making any representations to the Treasury and to the Inland Revenue about the continuing problems that families face, especially as supposed overpayments of working tax credit and child tax credit are being reclaimed by the Inland Revenue? Is

[Mr. Willetts]

he aware of the distress that that is causing families? Is it causing them to approach the social fund? What is his Department doing to tackle the problem?

Alan Johnson: We are in close liaison with the Treasury over the issue for obvious reasons—it links with our joint objectives on tackling child poverty. The Treasury's view is clear. As in all tax matters, adjustments are made in the following tax year without putting a burden on individuals. Indeed, there is the opportunity to discount the overpayment if that would bring unnecessary concern to individuals. That approach is no different from how every previous Government approached such issues.

The maximum maternity pay and child benefits for mothers at home with their first baby will have risen by £5,000 in real terms since 1997. Therefore, we are committed to supporting parents both in fulfilling their parenting role and in fulfilling their aspirations in the workplace. With our record investment in the new deal and Jobcentre Plus, we have transformed the UK labour market. There are now 2 million more people in jobs than in 1997 and we have seen increased employment rates for lone parents, ethnic minorities, the low skilled and people aged 50 and over.

Mr. Webb: The Secretary of State is being characteristically generous in giving way. He mentioned fulfilling family responsibilities and career aspirations, and a classic case would be that of a woman who wants to go back to work and thinks that a family member—perhaps her sister—might be the best person to look after her young child. She can pay a complete stranger to do so and get thousands of pounds from the taxpayer, but if her sister puts in substantial hours each week caring for that child, there is no state support whatever. Does he think that the right balance to strike?

Alan Johnson: Such matters always have to be kept under review, and some—including many Labour Members—hold the view that family members should be included in the scheme and given such support. That said, Members have to accept that although we have made huge progress, certain issues still need to be looked at, so that we have a fairer system and meet the goal of providing proper child care, to allow parents to return to work.

For the fifth successive year, we are freezing non-dependant deductions to relieve the pressure on low-income parents who are housing their adult children. As a result of our roll-out of pathways to work for incapacity benefit claimants, together with the proposed reforms that I laid before the House when we published the five-year strategy, sickness and disability need no longer mean permanent withdrawal from work. In the pathways areas, six times as many people are getting back-to-work help, and twice as many are recorded as entering jobs as in the rest of the country.

Overall, new claims for incapacity benefit are down by one third since 1997, and the employment rate for disabled people seriously challenges the old stereotypes. For the first time, a disabled person is more likely to be in work than out of work. Combined with our disability discrimination legislation, such changes are transforming disabled people's rights and opportunities—a far cry from 1997, when, after 18 years of Conservative Government, they effectively had only two civil rights. Both those rights were granted reluctantly, after at least 14 attempts by Back Benchers from all parts of the House to introduce relevant legislation.

Most Conservative Members may wish to abolish the new deal, and talk incessantly about cuts, but the hon. Member for Daventry (Mr. Boswell)—unfortunately, he is not in his place—recently demonstrated his enthusiastic support for our policies while performing the only known constructive cut implemented by a Conservative politician in living memory. He formally cut the ribbon on a new Jobcentre Plus in his own constituency, and we were very pleased to see him there.

We are determined to ensure that everyone has the opportunity and incentive to work. We know that work helps to lift people out of poverty and to prepare for their retirement, but it is also the best pensions policy. Through the Pensions Act 2004, we have taken steps to bolster confidence in pension saving, helping people to make informed choices about saving more and working longer. The ground-breaking Pension Protection Fund, which will operate from this April, will revolutionise the security of occupational pension saving for some 10 million members of defined benefit schemes, and the financial assistance scheme will offer some help to those who have lost the most in the past. We are the first Government to take action to deal with the problems of thousands of pensioners who were deprived of their savings and lost their occupational pensions along with their jobs.

Although in many cases, the trustees of such schemes are not yet able to provide detailed information on the scale of individual losses, we have always wanted to make clear as early as possible the position of older workers, who have the least chance to make up the shortfall. Even though we are still collecting information, we now know enough to reassure those who will be within three years of their scheme pension age on 14 May 2004 that they will get no less than 80 per cent. of their core promised pension.

We have already committed ourselves to reviewing the financial assistance scheme after three years, and Government funding is already fixed for the current spending review period, up to and including 2007–08. But as with all our spending plans, we will review FAS funding in the next spending review, alongside other spending priorities.

Mr. Frank Field (Birkenhead) (Lab): I very much welcome my right hon. Friend's statement and thank him for it, but my welcome will be as nothing compared with that offered by many of our constituents. However, can he give us a little more information on the review that, I am thankful to say, he now seems to have taken on? We were originally promised a review of the scheme's structure, but is he now saying, in the light of the commitment offered to those about to reach retirement age, that there will be a funding review after three years? That would open the way to using the unclaimed assets of banks and building societies—and

with that in mind, will he make available in the Library a document outlining how far the Government have got in negotiating with those important bodies?

Alan Johnson: I thank my right hon. Friend for his comments. He is absolutely right: this news has been well received throughout the country by those closest to retirement, who were extremely worried. On his latter point, I suggest that he attend the next Treasury Question Time and ask about unclaimed assets. We will begin our review during the next spending review—it will commence in 2006, ready for the next three-year period—and as part of that process we will look at FAS finances.

Richard Burden (Birmingham, Northfield) (Lab): I, too, welcome today's announcement, which is certainly good news for workers and retired workers at Kalamazoo, for the Cheney pensioners, for UEF employees and for members of the Birmingham Mint scheme. However, will my right hon. Friend give a little more detail on the financial review, which is indeed very good news? If it is to meet the needs of people who are a little more than three years away from retirement, it will have to start sooner than in three years' time. Otherwise, there will be a time lag between their reaching retirement age and their receiving the kind of support that those affected by today's announcement will receive. Will the review at least start within that time, even if it cannot conclude within it?

Alan Johnson: I can assure my hon. Friend that the review will start in 2006.

Perhaps I should say a little more about the FAS scheme before moving on to other issues. It will apply to pension schemes that started wind-up from 1 January 1997 until April this year. That was made clear in a previous statement, but it is as well to record it here. Depending on the pension age for their particular scheme and the date that wind-up started, members getting the 80 per cent. that we are announcing today will currently be aged anywhere between 57 and 73, so today's announcement gives real extra security to the significant number of people who are already in, or close to, retirement, and who face the most serious situation and, often, the biggest losses. Even after applying the minimum payment rule of £10 a week, we would expect some 15,000 scheme members to be included.

Sandra Osborne (Ayr) (Lab): I add my voice to those who acknowledged the review's importance. On 22 January 2002, I initiated a Westminster Hall debate on behalf of the UEF employees who lost their pensions when the company went into receivership, and I very much welcome the substantial help that the Government are delivering—as promised—for pensioners whose need is most pressing. However, will the monthly payments made to them through the financial assistance scheme be index-linked, as their pensions would have been?

Alan Johnson: No, they will not. I appreciate that the scheme to which my hon. Friend refers would have been index-linked, but many FAS schemes are not. We cannot make such a commitment, but we are making it clear that the money will be paid as a pension rather than as an annuity; indeed, it was clear on talking to my hon. Friend's constituents that that was a very important issue. Their feeling was that the Government should bear the risk, and that we should not allow any of that money to be diluted by diverting it elsewhere; rather, all of it should be directed towards assistance payments to them. However, I am afraid that I cannot give a helpful answer on the index-linking issue.

For today's pensioners, we have taken radical action to tackle pensioner poverty, which was the real pensions crisis that we faced when we came into office in 1997. From April, the retirement pension will go up by £2.45 a week for single pensioners and £3.95 a week for couples.

Kevin Brennan (Cardiff, West) (Lab): Before my right hon. Friend entirely leaves the issue of the financial assistance scheme, may I ask him a question? He said in reply to my hon. Friend the Member for Ayr (Sandra Osborne) that it would benefit 15,000 pensioners who are three years away from receiving their pensions. Does he agree that 15,000 people will benefit, who would have received nothing without the financial assistance scheme? Does he acknowledge that many of us would like that sort of substantial assistance to be made available after the three-yearly review to people who are coming through to retirement at that time?

Alan Johnson: I agree that this is good news for people who thought that they would receive no assistance whatever from 1 January 1997. What we are doing is in tune with many other achievements in government that had seemed to drift past, such as trawlermen's compensation. That was sought for 25 years; the men received nothing from the Conservative Government, but we provided it. Coal miners who had vibration white finger provide another example of a case in which we awarded compensation for the first time. Still another example is the Aberfan fund. The Coal Board took money from Aberfan families to clear the tips that killed their children, and nothing was done in 18 years, but we restored it after just three months in government. We have a good track record in dealing with these claims. *[Interruption.]* Conservative Members should know which Government provided financial assistance and compensation. Those groups received nothing but a closed door and a shake of the head from the Conservative Government.

I pay tribute to my hon. Friend the Member for Cardiff, West (Kevin Brennan) for his work, particularly in respect of Allied Steel and Wire. He played an important role in ensuring that this scheme was established and that a certain level of assistance was made available. As soon as we know the full position, and once the regulations have been laid, we will allow six months for this group of people to make their claims. We can then move on to extending the scheme to people beyond the current group. At that stage, when the full information is before us, we can have a useful further exchange.

Since 2000, pensioners have seen a 7 per cent. real terms increase in their retirement pension as a result of our above inflation increases. Overall, between 1996–97 and 2002–03, average net pensioner incomes grew by 19 per cent., while average net earnings grew by 12 per cent. The poorest pensioners have seen their incomes grow at similar rates to those of the richest

[Alan Johnson]

pensioners. For example, incomes of the poorest fifth of pensioner couples have grown by 14 per cent. compared with the incomes of the richest fifth, which have grown by 11 per cent.

David Taylor: The Government's achievements in tackling pensioner poverty have been remarkable and laudable, but is not most pensioner poverty focused on older women? Is it not the case that more than nine out of 10 men eventually become entitled to the full basic state pension in their own right, based on their own contributions, while fewer than one in eight women are so entitled? Would it not be a good idea to extend the full basic pension to everyone of pensionable age by extending the contribution credit system to allow for those who have had part-time or low-paid jobs, or caring and other domestic responsibilities?

Alan Johnson: My hon. Friend is probably aware that of the 2.7 million pensioners living in abject poverty when we came into government, two thirds were women. That is reflected in the figures on pension credit. Of 3.2 million individuals receiving pension credit, 2.1 million are women. He is right that this issue must be resolved. Various ways have been proposed to achieve that, including the patching up system that he suggests. We are determined to tackle the problem, which cannot be allowed to continue. It is a scandalous situation, and we need to look further into which proposals to adopt in order best to tackle the problem.

Both next year and in the spending round to 2008, the pension credit will rise by average earnings. By 2008, there will be 600,000 fewer pensioners in poverty than there would have been if we had followed the policy of the Conservative party and only uprated the guarantee in line with prices. The guarantee credit will rise so that no single pensioner need live on less than £109.45 a week and no couple on less than £167.05 a week. More than 3.2 million pensioners are now in receipt of pension credit, with take-up strongest among the very poorest.

Mr. Michael Weir (Angus) (SNP): In view of the Minister's figures on pension credit, what is his estimate of the take-up among those entitled to it in the coming financial year? One of the main problems with it is that a significant number of people do not take up their entitlement.

Alan Johnson: I was about to make the point that the guarantee take-up rates are running at 80 per cent., and for single women in this group, the take-up could be as high as 90 per cent. What we have done until now is publish the take-up figures for all the different elements—guarantee credit, savings credit and the combination of the two—in one figure. We are all keen to ensure that the poorest pensioners receive this money to lift them out of poverty, so we are concentrating on that particular element. There is every indication that we are being extremely successful, and are ahead of our own aspirations for attracting the poorest pensioners to pension credit.

As a result of all the tax and benefit measures introduced since 1997, the average pensioner household will be £1,350 per year better off in 2005–06 than it would have been under the 1997 system, while the poorest third will be £1,900 per year better off. In total, an extra £10 billion will be spent on pensioners in 2005–06 compared with the 1997 system—£7 billion more than an earnings link would have given them, with almost half of the £10 billion extra spending going to the poorest third of pensioners.

As well as targeting our help at the poorest, we have also done more for all pensioners than an earnings link would allow. We have made remarkable strides in tacking the pernicious pensioner poverty that we inherited in 1997, and we will continue to make it our priority until we have eradicated it. We reject proposals that would see the poorest pensioners fall back into penury.

By supporting people in work and providing financial security for those who cannot work, we have lifted 2.1 million children and 1.8 million pensioners out of absolute poverty since 1997. Our uprating measures continue our commitment and progress towards a fair and inclusive society of opportunity and independence for all. I commend the orders to the House.

3.7 pm

Mr. David Willetts (Havant) (Con): I welcome the debate and I am grateful to the Secretary of State for setting out the Government's proposals on the uprating of benefits, which we will not oppose. We always wait to see whether the Liberal Democrats decide to oppose the increase in the value of the pension, but perhaps they are not going to repeat that mistake this year—*[Interruption.]* I am being urged not to provoke the Liberal Democrats to carrying out such a perverse act.

We welcome the extra benefits and there is added drama to today's debate. The Secretary of State has chosen to debate the pension uprating on the day that the Conservatives launch the pensioners chapter of our manifesto. Of course I realise, Madam Deputy Speaker, that it would be out of order to take the House through all the imaginative proposals in that document—[HON. MEMBERS: "Go on."]. I am being tempted, but must resist. I would, however, like to question the Secretary of State on some of the points that he raised. As the hon. Member for Northavon (Mr. Webb) rightly said, we have an opportunity to find out the strategy behind the various specific announcements.

It is frustrating when the Secretary of State makes grand and sometimes refreshing statements outside the House about how everything needs to be changed because matters cannot carry on as they are, yet comes before the House with a wholly conventional uprating statement in which it is difficult to detect any movement towards the necessary reform.

Of the pension credit, the Secretary of State said that "we should not talk in euphemisms. It is a means test."—[*Official Report*, 13 October 2004; Vol. 425, c. 302.]

He also said that it would be "crazy" to say that it did not act as a disincentive to some people. He has also said:

"The Government still has a take-up problem on pension credit."

Those reflections show that the Secretary of State realised that there was a problem with mass means-testing. The Government are taking the benefit system in that direction, so it is sad that none of those reservations could be detected in his statement today.

New estimates for benefit take-up rates were issued recently. Does the Secretary of State agree that it is unacceptable for the rates to remain so low? The figures go only as far as 2002–03, but they show a take-up range among pensioner couples for the minimum income guarantee, as it then was, of between 55 and 70 per cent. Does he accept that that is very low indeed? He often tells us not to worry because the poorest pensioners are claiming, but does he also accept that the figures for the eligible non-recipients are very worrying too? In 2002–03, 62 per cent. of ENRs—that is, pensioners entitled to means-tested benefits but not claiming them—were below the poverty line of 60 per cent. of medium income, as set by the Government. The problem is that poor pensioners do not claim the benefits to which they are entitled.

In light of recent remarks by the Deputy Prime Minister, will the Secretary of State—or the Minister for Pensions, when he winds up the debate—comment on the extraordinarily low figures for the take-up of council tax benefit? Does he realise that one reason why pensioners in particular feel the burden of council tax so badly is that many do not claim the council tax benefit to which they are entitled? The take-up range of that benefit among pensioners is, according to the Government's latest estimates, between 56 and 62 per cent. That is shockingly low.

For owner-occupiers, many of whom are pensioners, the council tax benefit take-up is in the range of 37 to 42 per cent. I should be happy to be corrected, but I believe that that is the lowest take-up rate for any known benefit. It is very poor indeed, so what are the Government going to do to improve people's access to that benefit? One reason behind our proposal for a council tax rebate is that it is clear that means-tested benefits are not getting through to many of the pensioners and others who need them. There was no fresh thinking this afternoon in respect of the problem of take-up.

Outside the House, the Secretary of State has also said:

"We have to bite the bullet and look at the state pension system, certainly for the longer term, so that if you do a lifetime's work it will deliver a pension above the basic level of means-tested support."

Again, today's announcement on the uprating of benefits does nothing to achieve that strategic objective. There is a general consensus in many parts of the pensions debate that people should have a pension above the basic level of means-tested support, but nothing that the Secretary of State said today takes us any way towards that.

Mr. Webb: The hon. Gentleman's strategy for getting pensioners off means-testing is intellectually coherent, as it is to raise pensions in line with earnings, and to raise the means test in line with prices. This afternoon, the Secretary of State confirmed that the pension credit will rise with earnings until 2008. Will the hon. Gentleman confirm that his party would increase the pension credit by less than that?

Mr. Willetts: I am grateful to have the opportunity to make it clear that we accept that the pension credit should rise with earnings according to the time scale and on the basis that the Government have set out. When I costed our original proposal on increasing the basic state pension in accordance with earnings, I was careful not to make any assumptions that involved taking money from the pension credit uprating. We would also increase the pension credit in the way that the Secretary of State set out in his speech today.

Alan Johnson: Consensus!

Mr. Willetts: It is certain that the Opposition would not reduce pensioner incomes below the pension credit uprating that the Secretary of State set out. I am grateful for the opportunity to make that clear.

I want to ask the Secretary of State about his thinking on the future of the pension system. He has made bold and radical statements outside the House, but hon. Members would be pleased to hear him say something in the House about the future, and about the possibility, for example, that a citizen's pension will be introduced. It was reported in *The Sunday Times* that he was considering ideas for a citizen's pension payable to each individual pensioner, male and female alike, on the same basis. Is that true? If so, would it be an entirely individualised system? It would also be interesting to hear what the Liberal Democrats have to say about that.

Moreover, it would be very interesting to hear from the Secretary of State, or the Minister for Pensions, what are the Government's thoughts about a citizen's pension. A system under which every pensioner received an individualised state pension would be very expensive indeed. In a written question on 7 September last year, the hon. Member for Romsey (Sandra Gidley) asked for an estimate of the cost of extending the full basic state pension to all people of pensionable age, regardless of their national insurance contributions. The Minister for Pensions replied that the gross cost in 2005–06 would be £7.3 billion, and the net cost £5 billion. He said that that would rise over five years to a gross cost of £11.9 billion and a net cost of £8.1 billion. Is that what the Secretary of State is contemplating?

If the right hon. Gentleman is thinking of something slightly less expensive—and we have read about a figure of £3 billion in this context—does he envisage that some money could be saved by paying to couples a pension that is worth less than two individual pensions? That would mean cutting pensions for some couples. Married women who chose to pay the full rate of national insurance contributions in return for a full pension in their own right would get less money than at present. Is that what the Secretary of State proposes?

I believe that a lower rate for couples has been proposed by the Pensions Policy Institute and by the Liberal Democrats.

Mr. Webb *indicated assent.*

Mr. Willetts: The hon. Member for Northavon nods, but that proposal would mean that we would have to be very careful about the definition of a couple. In other parts of the benefits system, we are familiar with all sorts of very difficult questions that arise in connection with cohabitation and the penalties incurred when people are in a relationship. Similar questions will arise in respect of pensioners.

[Mr. Willetts]

The great solution presented by the citizen's pension therefore raises many practical questions. The Secretary of State has floated the idea often enough outside the House, so I was disappointed that we heard nothing more about it today. I hope that at some point the House will be able to debate the matter, and I would be grateful if the Minister for Pensions will share his thoughts with us in the wind-up. I am sure that we would all enjoy that.

When it comes to the contributory principle, I am a Blairite. I believe that rights and responsibilities go together. People pay money into the national insurance fund and in return receive a benefit as a reward for their contributions. That seems to me an admirable principle. At the next election, the Conservative party will be the only defender of the contributory principle for pensioners, which the other two parties propose to abolish. I think that those other parties will find their position distinctly uncomfortable as a result.

Mr. Webb: It is very good to debate the wider issues, but I want to return to my previous question. The hon. Gentleman replied that both the means test and the pension would be linked to earnings, but his grand vision is to reduce dependence on means-testing. Because the pension is smaller than the means-testing, increasing both by the same percentage would mean that the absolute gap would grow. How does he reconcile that?

Mr. Willetts: We do not want any pensioners to worry that the uprating of their benefits under a future Conservative Government would be any lower than what the Government propose today. We want the basic state pension to increase in line with earnings, which is why I have focused on take-up. Improving take-up would help those 1.6 million pensioners entitled to the pension credit who do not claim it. They are the people who need to be helped above all. Our policy reaches the pensioners that the other parties' policies do not reach, by extending the benefit, on a universal basis, to all pensioners who have made their contributions.

Alan Johnson: The debate is thoroughly enjoyable and linking the pension credit and the basic state pension with earnings will avoid the arguments about floating loads of people off means-testing. However, does the hon. Gentleman accept that his commitment to raising the basic state pension in line with earnings is for only four years? It would take 14 years to get the basic state pension to the level of the pension credit, so does that not mean that he will have to retain a version of the pension credit—for which he has professed his enthusiasm this afternoon—far beyond 2008?

Mr. Willetts: We have set out our plans for increasing the basic state pension at the same rate as the increase in earnings during the lifetime of the next Parliament. Provided that we can continue to identify the necessary savings—I am confident that we can—we would continue to increase the basic state pension at the same rate as earnings with the aim of reducing gradually the spread of means-tested benefits. Under the Secretary of State's approach, the problem will get worse and worse. We would, initially, at least stop it from becoming worse, and we would then want to improve the situation. We envisage continuing to identify savings to enable us to continue to increase the basic state pension at the same rate as earnings. In the manifesto produced at the end of the first Conservative Parliament—a marvellous prospect—we would set out proposals to show how we would continue to fund the increase in the basic state pension at the same rate as earnings rather than prices. If the House wants to discuss that today, I would very much enjoy that debate.

David Taylor: The hon. Gentleman was in confessional mode a few moments ago and confession is good for the soul, if not for opinion poll ratings and electoral prospects. Will he confess to the House that his party would abandon the state second pension and, with it, the opportunity for millions of low-paid workers, disabled people and women to build up a decent pension? Does that show a commitment to the contributory principle?

Mr. Willetts: There is a problem with the state second pension—or S2P—which is not unlike the problem with the basic state pension that we are trying to tackle. If means-tested benefits are linked to earnings in the long term, it is not clear that S2P would help many people, because many would be on pension credit.

We do not require any savings on S2P to deliver our earnings link for the basic state pension in our first term. I have made it clear that, during our first term, we would look at the future of S2P and whether it should be at a flat rate. I should be interested to hear from Ministers what their thinking is. At one point, they said that it would become a flat rate, but they seem to have lost their nerve. We would also consider whether we can incorporate S2P into a higher basic state pension. We would like to do that, but these are technical matters and we would not need to do that to finance our increase in the basic state pension during our first term.

Kevin Brennan: Given that all parts of the United Kingdom are expected to contribute to the savings that the hon. Gentleman says he can use to create the new benefit for pensioners and, as a believer in the contributory principle, why is he limiting the new council tax benefit to England?

Mr. Willetts: Council tax is a devolved matter for Scotland and Wales. We have set out carefully costed proposals for the earnings link of the basic state pension to show how that can be delivered. It does not involve savings on S2P, taking money from an earnings-linked pension credit to put into a price-linked pension credit, or any savings affecting Wales or Scotland particularly. We announced our costings 18 months ago and they still stand.

Miss Anne Begg (Aberdeen, South) (Lab): I want to be clear about what savings the hon. Gentleman is talking about. Is he talking about the £35 billion of savings that the Conservatives hope to make throughout all Departments and that when they have found those savings, pensioners may receive extra, but only after all those savings have been made?

Mr. Willetts: We announced our policy of increasing the basic state pension at the same rate as earnings, not

prices, in autumn 2003—before the David James exercise—with carefully identified savings. We said that the new deal is not working and that remains my view. Abolition of the new deal and replacing it with something more effective is one saving. Others were also identified. The figures in our original proposal stand and are independent of the David James exercise. They do not depend on that exercise and were set out clearly when we announced our policy. I am grateful for this opportunity to make it clear that the savings never required money to be taken from an earnings-linked pension credit and putting it into some other form of benefit. I was careful not to assume that.

Kevin Brennan: Is the hon. Gentleman saying, therefore, that part of the savings that he says his party will collect and use to pay for the new council tax benefit that they are proposing only for England will generate a Barnett consequence for Scotland and Wales, which the Scottish Parliament and the Welsh Assembly can use in any way they please?

Mr. Willetts: Council tax is a devolved matter. We strongly support the proposals that have been put forward by our Scottish and Welsh friends. We know what they want to do. The council tax is an English matter and the basic state pension is a UK matter. I am happy to make that clear.

I hope that we might hear from the Minister and the hon. Member for Northavon their thoughts on the citizen's pension. It is so easily endorsed as a marvellous solution to all our problems in the pensions system and I would very much like to have some practical answers to questions about how it would work, whether it would be a completely individualised payment, and whether it would be at a lower rate for couples. If the rate for couples is to be lower, on what basis will that be because it is not obvious how that could be done?

I want to ask the Secretary of State for more information about what he said about the financial assistance scheme. We warned all along that £400 million would not be enough. The Government were lucky to get away with their announcement of £400 million when it was perfectly clear that that was completely inadequate given the scale of the crisis. That is why we supported the suggestion of the right hon. Member for Birkenhead (Mr. Field)—he is no longer in his place—of using the unclaimed assets of banks properly to replenish these funds.

It is useful to have the Secretary of State's belated announcement of how the scheme would work, but it will be an ad hoc arrangement. In his written statement this morning, he merely set out the basis for people aged more than 62—he gave a slightly wider age range in his speech. People who are not yet in the final three years before retirement now have several more years of uncertainty before they know where they stand. Does that not tell him that there is something wrong with the fundamental design of the FAS and that it would have been better to have considered properly replenishing the funds of the pension schemes involved? Why was he unable to give any indication today of his thinking about how he would help the majority of people who have already seen their pensions wound up and who are already concerned about their financial future? It is not acceptable to leave people who are more than three years from retirement in a state of complete uncertainty about how the FAS may or may not assist them. I hope that we shall hear some more information about that from the Minister of State.

It would also be helpful to have an update on the latest estimate of the number of people affected by pension wind-ups. If the Minister can provide a list of a large number of company pension schemes that are covered, it should presumably also be possible to offer an update of the figure of 65,000, which has been around for some time. It would be useful and interesting to hear his latest assessment of the total number of people who are likely to be eligible. As the 65,000 estimate has had to be revised, are the Government hinting at having to increase the scale of the £400 million total, too?

What about the interaction between the financial assistance scheme and the Pension Protection Fund? Can the Minister tell us more about that? What would happen, for example, if a scheme wound up before April 2005? It is possible that there could still be large schemes in those circumstances. At what point does the FAS stop and the PPF take over? The Minister has caused considerable confusion on that point over the past six months, so it would be helpful to hear his comments about that.

I hope that it will not be too outrageous if I speak briefly about the other motion—on guaranteed minimum pensions, often regarded as a technical subject for nerds and anoraks—*[Interruption.]* We will not name names. In practice, the subject affects large numbers of people who contracted out of the state earnings-related pension scheme—now the S2P—into a funded company pension scheme and who may find that there is not even enough money in the company pension scheme to pay the guaranteed minimum pension to which they believed they were entitled as their minimum insurance, so to speak, when they contracted out. Ministers sometimes talk as though there was no pension insurance before the PPF, but the guaranteed minimum pension is in fact a type of insurance for people who contracted out of the state system.

People who contracted out and whose company pension schemes are winding up are experiencing many problems in securing the basic GMP. I hope that the Minister will comment briefly on that when he winds up. He will recall that in one of our least exciting parliamentary question and answer sessions, I put a question to the Secretary of State on 9 June 2004—*[Interruption.]* It was indeed a classic.

My question was about deemed buy-backs, which occur when schemes have insufficient assets to secure the guaranteed minimum pension and the Department is asked for full reinstatement of the state pension. There is a strong feeling in the industry that the process of securing the deemed buy-back is slow and cumbersome. When the Under-Secretary of State for Work and Pensions answered me in June, he said that the Inland Revenue had received expressions of interest in deemed buy-back from 59 schemes, 33 schemes had formally requested calculations and eight of those had been issued with the necessary calculations. The crucial sentence in his answer was the final one. He stated:

"As yet no-one is receiving reinstated benefits."—*[Official Report,* 9 June 2004; Vol. 422, c. 478W.]

[Mr. Willetts]

May we have an update on that?

There are rumours that one or two real human beings have actually received a payment under the deemed buy-back arrangements. If that were happening, it would be marvellous, but the Minister owes the House a fuller explanation of how deemed buy-backs are working, as well as an explanation of the workings of the GMP. The guaranteed minimum pension is not delivering the security that it was supposed to deliver. Does the Minister agree that it is outrageous that the Inland Revenue issued guidance that schemes could discharge their GMP liabilities by purchasing annuities that would provide an income well below the level of the GMP? In other words, the guaranteed minimum pension has turned out to be neither a guarantee nor a minimum for people who are having to manage on much lower incomes. How can the Minister defend those arrangements?

What about the idea that has appeared in the pension press that people who have contracted out will be asked whether they have taken out additional voluntary contributions and that, if they have an AVC, it will be included in the calculation of their pension income and they will only be able to buy back into the state system if, even with their AVC, they are still below the level of the GMP? Those are important questions that are at least as relevant for the victims of pension wind-ups as the scale of the FAS. They can appear technical and are easy to gloss over but, between consenting adults, we should all welcome a bit more information from the Minister today.

I have a few brief questions on some other aspects of the benefits system that are relevant to the uprating statement. We did not hear about the Child Support Agency. We were all fascinated to learn that the chief executive of the CSA was no longer in place. The Secretary of State gave the Select Committee on Work and Pensions the distinct impression that that was so. But the chief executive is still in place, so perhaps the Minister can tell us how the search for his successor is going? When might we see the outgoing chief executive leave the CSA and a replacement arrive? We shall be interested to hear about that.

I hope, too, that we might hear more about the Government's views on the problem of the 1 million-plus young people who are not studying, working or training. Although the Secretary of State always praises the new deal, if there are now more than 1.1 million young people who are not working, studying or training—a higher figure than in May 1997—surely that suggests, even to those on the Government Benches, who always go out of their way to speak so complacently about the new deal, that there is a problem. Will the Minister for Pensions reflect on why even more young people are part of the lost generation—neither working, nor studying, nor training—than in May 1997? Is it perhaps the case that the arrival of employment zones is a recognition by the Government that the new deal is not working, and that employment zones are intended as an alternative to the new deal and pilot a rather different approach? We would greatly welcome hearing from him on that.

I will not trouble the Minister by inviting him to comment on the announcement last week on the new basis on which the retail prices index would be calculated, although that is also relevant to uprating. I have given him enough technical questions and I hope that, when he responds to the debate, he can find the time to answer them.

3.35 pm

Mr. Steve Webb (Northavon) (LD): Normally, when I see this annual event coming up on the parliamentary calendar, my heart sinks somewhat. We used to have an entire day of parliamentary debate on the two orders each year, but we started to notice that the debate ran out of steam about halfway through the day. I notice today that there does not appear to be a single Back-Bench Labour MP trying to speak in the entire debate, even though we are talking about £100 billion or so of public expenditure.

None the less, the debate provides an opportunity, as we observed earlier, to reflect on strategy for reform of the welfare state somewhat more broadly. It has already been a rather revealing afternoon in that respect. In a sense, we are contrasting the three approaches to the issue. The one thing that has emerged this afternoon from the comments made by the hon. Member for Havant (Mr. Willetts) is the issue of linking the pension credit to earnings and the basic state pension to earnings. That seems to me inconsistent with the assertion that 1 million people will be lifted off means-tested benefits. I wonder whether we can get some clarification on that at some point.

The motions are about the rate of benefits next year and therefore we must start with some discussion of adequacy in benefits. The infamous person coming from Mars to look at our deliberations would see that we were talking about a very thick volume full of different rates for different sorts of people and would assume that those rates were based on something. In fact, they appear to be based on what they used to be, plus a bit. There is no objective, external basis on which we pay certain amounts to different groups. I have heard the Minister for Pensions on the radio saying that this is something that he did not go in for in a big way. However, I wonder whether, in the quiet watches of the night, the Secretary of State might reflect on the fact that, year after year, we have been paying people on, for example, incapacity benefit increases of 70p, 80p and 50p, and their position has been falling further and further behind that of pensioners on pension credit and families with children. There must surely come a point in that process when we say not that enough is enough, but that enough is not enough. In other words, the process of just adding, in this case, a very small percentage increase to incapacity benefit leaves those benefits too small.

The Secretary of State got a bit cross with me when I accused him, at the time of the uprating statement, of saying that life on incapacity benefit was comfortable. He denied saying it. I went back to *Hansard* and I found him saying precisely that. He used precisely the analogy in the newspaper report that he used in *Hansard* when responding for the first time to oral questions. It is quite clear that it is something that someone said to him: being

on incapacity benefit is like falling in a ditch and then one starts to get comfortable. That is precisely what he said.

Alan Johnson: At last we get to the origin of the quotation. A representative of the Leonard Cheshire association, who is a paraplegic, said to me and several other people, "The problem with incapacity benefit is that it's like fool's gold. They send you away to lie in a ditch, without offering any helping hand, and after a while, lying in the ditch, you start to feel comfortable in it and so you get used to being on benefits." If people think that that is something that I have said—if they think that I said that £74.15 a week is what people can live on comfortably—I am grateful for what the hon. Gentleman said just now, because I was puzzled about when I had said that. It was not me who said that; it was a paraplegic who was describing his feeling about being on incapacity benefit.

Mr. Webb: I am grateful to the Secretary of State, but he will accept that that obviously struck a chord with him, because he has repeated it twice—once in the House, and once to a newspaper. I am trying to make the point that the word "comfortable", even in that context, could not possibly be applied to that standard of living. The question is therefore: how long do we continue to increase incapacity benefit? It is a poor benefit, because every year we increase it by 50p or 70p, while pensioners' benefits, family tax credits and benefits for workers increase in line with earning. Childless people on national insurance benefits are therefore left further behind the majority of the population, including pensioners, working families with children and other working people. That is unsustainable in the long term. The Secretary of State has properly admitted that the pension credit is not a long-term answer, and neither is a retail prices-linked incapacity benefit when everything else is earnings-linked. That cannot continue indefinitely.

Kevin Brennan: Should the hon. Gentleman not concentrate on the fact that 80 per cent. of people on incapacity benefit would like to work if they could? Schemes such as the want-to-work scheme in my constituency pays people £60 a week for the first four months that they take a job, £40 for the next four months and £20 for the next four months. If they cannot hold the job down, they can go back on to incapacity benefit. If we could get those people into work we could uprate incapacity benefit for the people left on it in line with earnings or perhaps even above that.

Mr. Webb: No one disputes the fact that large numbers of people on incapacity benefit and other disability benefits would like to work. However, every time that the issue is raised in the House, I am struck by the fact that the same number is always cited. Seven years ago, we were told that 1 million disabled people wanted to work, and that number is still cited today. Either the Government are using old research or they have not made any progress on the agenda for seven or eight years, which is a crime. We do not want people to have to claim the benefits in the order if there is a better alternative, but too many people get stuck on them.

There are anomalies arising from the benefit rates, and I shall deal with two of them. First, the under-25s are in an anomalous position, as people in that age group receive lower rates of means-tested benefits. That derives from an essentially Thatcherite reform which, the hon. Member for Havant will recall—I do not know whether his fingerprints are all over it—said that young people should live with their mums and dads. It used to be the case that householders received more money and non-householders received less, but that was changed so that people aged 25 and over received more money and under-25s received less. Those means-tested benefits carry through into the housing benefit system, so that a 24-year-old who tries to live independently—they may have been thrown out of the family home or their parents may be unable to cope with them any more—receives less help with their housing than a 25-year-old. I cannot see any justification for that entirely arbitrary cut-off, which has been in existence since 1988. I accept that the Government are not going to say that they will do something about that, but that Tory creation is an anomaly. At the time, the Minister for Pensions was probably working for the Family Policy Studies Centre, and I very much doubt that he thought introducing penalties for the under-25s was a good thing. Does he think that it is a good thing now?

Another problem affects single, childless people under 25. Many lone parents are single and under 25 when they conceive. For the duration of their pregnancy they are living on the lowest benefit rate in the entire system, of just over £40. That is the environment in which their child grows before it is born, and I do not accept that that is good for the health or welfare of young women who are about to become mothers. There is another anomaly in the linkage of benefits for childless people to the retail prices index and the linkage of pension benefits and so on to earnings. On her 60th birthday, the income of a woman on income support nearly doubles because means-tested benefits have been linked to prices for so long that they have become devalued. Money has been put into pension credit, so there is a huge jump in the benefits available to someone at the age of 60. It is hard to find a rational basis for determining that the 59-year-old woman needs only £50 or so, whereas the 60-year-old woman needs £105. There needs to be some external look at what different sorts of people with different family compositions, different disabilities and so on need to live on, as a benchmark—not so that we can immediately put everyone's money up to the enhanced level, but to identify the groups who are particularly badly done by under the present structure.

Mr. Willetts: The hon. Gentleman is waxing eloquent about the cliff-edge effects on benefit changes at 25 or 65. Will he confirm that under his party's approach to pensions, the gap between the income at age 74 and the income at 75 will gradually get greater and greater?

Mr. Webb: Yes, that is correct, on a transitional basis. With pensions, as the hon. Gentleman well knows, one must set a destination—that is, one decent universal state pension payable to all those over state pension age, linked to earnings, sufficient to lift people clear of the means test and based on citizenship rather than on contributions. Clearly, it is implausible to get there in one go, so on a transitional basis we start with those over 75. As he says, that creates as beneficial cliff edge at 75. The difference is that I do not want that to be a permanent feature of the system, whereas the cliff edge

[Mr. Webb]

at 25 and the current gap between 59 and 60-year-olds are both permanent features of the system. If the Secretary of State can tell me that those are transitional features that the Government will deal with and get rid of, I shall be delighted to hear it.

Mr. Willetts: I am grateful to the hon. Gentleman for giving way a second time. I understand what he is saying, but moving from 75 to a lower age will get more and more difficult and expensive to do as the gap gets wider. Although he wants to get rid of the cliff edge, it is getting higher as every year passes because the gap between the pension between the ages of 65 and 74 and the pension at age 75 upwards will surely get wider under his approach.

Mr. Webb: At the same time, however, there will be growing accruals of second-tier state pension rights as well. As the hon. Gentleman suggested, the goal must be not two grotty state pensions and a failing means test on top, but one decent state pension. That must be where we head.

I return to the adequacy of benefit, especially for childless people. Because the Government rightly accept that children were very important, they have a child poverty target. Although they consider pensioners important, they do not have a goal of abolishing pensioner poverty, as far as I am aware, or perhaps that is another target in the statement that none of us can remember ever reading. There is no target to abolish poverty among childless people, but surely that matters as well. What are we doing about benefit rates for childless people who are left on benefit? Clearly, if they can get into work, that is great and we will support it, but not all of them will. It would be odd to have a big debate about the rates of benefit for next year without any of us raising the question of their adequacy.

I shall use two words that are seldom heard in the House: social fund. People on the social fund are, in many ways, the forgotten masses. I strongly suspect that many of them do not vote and are not floating voters. I do not suppose that any of the polling that any of the parties do flags the social fund as a big issue for target voters in marginal seats. In principle, access to cheap credit ought to be a good thing, yet people have accumulated so much debt that hundreds of thousands of them are not living at the benefit rates in the orders, but below those rates, pretty much indefinitely, because they have previously paid for so-called luxuries such as a cooker or a fridge.

The new Secretary of State has been commendable in the extreme for his willingness to look afresh at issues, but the social fund is one of the longstanding bits of the system that nobody dares poke around at, for fear of what they might find. Should the right hon. Gentleman have the opportunity to implement his agenda in future years, I hope he will have the social fund on his "to do" list.

The hon. Member for Havant mentioned take-up. I think I have asked the Department—I can never remember whether I actually tabled these questions or whether I just meant to—to place in the Library the analysis that underlies the take-up numbers for pension credit that Ministers keep quoting. The Government quote the bits that sound rather good, but do not publish the whole thing. The flip side of an 80 per cent. take-up rate for the guarantee credit and a 65 to 70 per cent. rate for the whole thing must be a take-up rate for the savings credit of 50-something percent., I imagine. I fear that I cannot remember what the Minister may have said about this issue, but will he confirm that the Department will place the whole analysis in the Library, and not just give us bits that suit the Government's argument? In the spirit of openness—he has been good in dealing with my freedom of information requests—I hope that the Government will place those details in the Library.

Tax credits were mentioned. The Secretary of State will be well aware that the only families in this country who do not get tax credits are poor families. The intention is to move children on income support over to the tax credits system. That system has now been running for two years, however, and we still do not know—we did not hear it today—why children on income support are getting the current rates of benefits and not moving over to the tax credits system, so that when the parents move into work, there is no disruption or change to the structure of their financial support. Is the tax credits system still such a shambles that we dare not risk including poor families? Is that really the state of play that we have reached? Why are children in poor families not yet on tax credits and when will they be?

The financial assistance scheme has also been mentioned. The Minister for Pensions responded to a debate only this morning about the APW pensions scheme, and he confirmed that people who work for solvent employers will be excluded from the financial assistance scheme. He said that the door was still open, but gave no indication of an intention to include the workers with solvent employers. I asked him a question in that debate: where there is a parent company, can the regulator go back to the employer and chase them for the underpaid money? Although he finished his speech four minutes before he had to do so, because he had run out of things to say, he did not answer that question. It is not very often that we get two goes in one day at trying to get a question answered. Can the regulator go back to the parent company of a firm such as APW and say, "You've got to fill the gap to make up these pensions"? If the regulator cannot do that, the workers will have no redress bar deemed buy-back. Clearly, that is not fair in relative terms with regard to other people covered by the financial assistance scheme.

On the citizens pension, I welcome the fact that I keep reading in the Sunday papers about the Government's intention to follow the Liberal Democrats' lead. We have been speaking about the position of women pensioners—I have certainly been doing so, and I know that my colleagues have been—over a long period. I am delighted by the Secretary of State's view that plugging the gaps in the contribution system is not the answer, because there are so many gaps and such an approach would make things even more complicated. The end result of plugging all the gaps is the number that one first thought of, or in other words, paying the full pension in the first place.

The hon. Member for Havant rightly pointed out that there are both cheap and expensive ways of dealing with the matter. As a transitional arrangement, we have

proposed that the full rate would apply to a single person and that a 160 per cent. rate would effectively apply to a couple. We have also proposed that where two members of a couple would already have more than 160 per cent. between them, there would need to be a transitional protection to ensure that there are no cash losers. We have costed that into our policy costings.

On the earnings link, it was interesting to hear the Secretary of State confirm that the pension credit will be linked to earnings to 2008. I presume that that is the public expenditure planning horizon, but it is not the end of the Parliament. Will the Minister confirm whether he intends to link the pension credit to earnings throughout the next Parliament or whether the guarantee applies only for the first couple of years of that Parliament, after which there might be a change in policy?

One of the things that strikes me most about the position of pensioners is that, while the Government boast that 80 per cent. of those entitled to the guarantee credit are taking it up—that was the figure that was used—that means that 20 per cent. are not doing so. Who are those people? They are the poorest pensioners in the land, by definition. When the Government managed to get 80 per cent. of the poorest pensioners in the land to claim their means-tested benefits, they issued a triumphant press release. I think that that is a cause for shame.

If 20 per cent. of the poorest pensioners in the land, who are all drawing state pensions and could be lifted out of poverty in a guaranteed way by decent payments, are simply not claiming the complex means-tested benefits, those people are living in poverty. I strongly suspect—I wonder whether the Department has commissioned any research on this matter—that they may be a strong link between those people and the excess winter deaths that we shamefully see every winter in this country. The numbers fluctuate, but the very fact that excess winter deaths occur at all is a source of shame at the start of this new century. I strongly suspect that a link exists between the very poor, very elderly and very vulnerable pensioners who fail to claim those means-tested benefits and those who die from the cold in the winter.

The Minister for Pensions (Malcolm Wicks): Earlier in my career, I researched hypothermia, and there is nothing about which I feel more strongly. Will the hon. Gentleman accept that many over-80s get a £300 winter fuel payment under this Labour Government?

Mr. Webb: Indeed. The winter fuel payment is £6 a week, so elderly people who have a full basic pension and who fail to take up the pension credit are missing out on £25 a week, which means that the gap is £19. The Minister looks puzzled: the basic state pension is about £80 a week this year; the means-tested benefit is £105; and the gap is £25. If elderly people do not take up the pension credit, they miss out on £25, but the Minister has just told me that that is okay because they get £6.

Malcolm Wicks: I did not say that.

Mr. Webb: The Minister did not say that that is "okay", but he asked me to confirm that those elderly people get £6. That is true, but they miss out on £25, so there is no cause for self-congratulation. That money would have been better spent in the first instance on the basic state pension, particularly for those people.

Mr. Weir: Will the hon. Gentleman accept that the problem is growing, because fuel prices are now increasing in many areas? A recent parliamentary answer to my question about fuel poverty stated that the number of households in fuel poverty is now rising because of increased energy prices. Many people in fuel poverty are pensioners who do not claim their pension credit.

Mr. Webb: The hon. Gentleman has made an important point, because fuel bills matter to older people. Many hon. Members will have seen their gas and electricity bills rising substantially.

Alan Johnson: Is it Liberal Democrat policy to get rid of the £300 winter fuel allowance?

Mr. Webb: No. We would have preferred to introduce a better state pension, but because the Government have decided to make those payments, we have no plans to get rid of them. A simpler system would be a better system, not least because of the scope for misrepresentation. As the hon. Member for Havant knows, we have no plans to touch winter fuel payments.

The hon. Member for Angus (Mr. Weir) raised the substantive issue of fuel poverty, so it is shame that we have moved on to, "Can we get a good quote for our next leaflet?" Fuel poverty is not the primary responsibility of the Department for Work and Pensions, which is a source of concern. Given the issues about the adequacy of benefits for older people, it would be better if the Department were strongly involved.

This is the eighth annual debate to which I have responded, and those who study my contributions may spot the odd common theme—I shall certainly keep gnawing away until I get answers. I did not expect to get the chance to press the Minister for Pensions today, but I hope that he will respond to my particular point about workers whose firms are still solvent. The Government always say, "That is tough. The firm should find the money." If the regulator cannot force the firm to find the money, however, is it fair to say to the workers, "That is tough. We cannot do anything"?

3.58 pm

Sir Archy Kirkwood (Roxburgh and Berwickshire) (LD): It is a great pleasure to follow my hon. Friend the Member for Northavon (Mr. Webb), because this is my first chance to do so. He has pinched a lot of what I want to say, but that is not a great surprise.

These debates are important. Like my hon. Friend the Member for Northavon, I remember the good old days, when the Chamber used to be packed and when hon. Members vigorously engaged with the arguments. The process of social security is so ineffably complicated that it drives hon. Members out of the debate. They may attend to make constituency points because they have leaflets to write, which we all understand, but that leaves the debate at a level that does not do justice to the

[Sir Archy Kirkwood]

complexity, importance and development of the subject. This is my 23rd uprating debate—I may have missed one, so it might be my 22nd.

I know that the Secretary of State has got simplification in his sights because he said so at his last helpful appearance before the Select Committee on Work and Pensions. He gave us some comfort by saying that the Department is considering the matter, which is an easy but fundamental point to make.

I have considered some of the information and communications technology processes that the Government and the Department have in prospect as part of the Gershon review, which I support in principle. The Gershon report is not all about job cuts; it also considers the more efficient use of technology to deliver public services. If we do not fundamentally simplify the current panoply of benefits and start from first principles, we cannot harness the power of computer technology to develop more efficient public services. The pensions transformation programme is a good example of that because it has the potential to improve services, and I hope that it will. However, a system that was more easily computerised could generate savings, which could be put into improving benefits. That would be beneficial to everyone.

Simplification is therefore necessary not simply for its own sake but to make anything of the potential of future IT provision. I hope that the Secretary of State will keep that in mind in his five-year plan and start considering annually the simplifications he can make in the uprating statement.

I acknowledge that a huge amount has been done. My hon. Friend the Member for Northavon rightly said that the campaigns against child poverty and pensioner poverty clearly show results. I accept that they have not all appeared in the statistics yet because there is a time lag, but much has been done, which is welcome. However, parts of the system cause concern. My hon. Friend mentioned working age adults without dependant children. They have been left behind and are in danger of being stigmatised in the provision of benefits.

According to my arithmetic, jobseeker's allowance has increased by only £7.75 a week since 1997. The increase for adults on income support and JSA is only 55p a week. I have participated in such debates for 22 years and that is the smallest rise that I have ever known for claimants in that category. If I am right, we need to tackle the matter urgently.

Broad inequality must also be addressed. The work of John Hills and his unit at the London School of Economics shows that, although poverty has been effectively and rightly targeted, we need to deal with the inequality that is beginning to emerge. It happens because people in the upper deciles of income storm ahead. People may say, "That's fine. So they should. Good luck to them." However, it creates tensions in the system because people see others getting access to life chances that they do not have. I believe that frustration about that can drive them to all sorts of untoward activity, including criminality and the informal economy. In some cases, it can lead to mental illness. Some figures suggest that the inequalities for some categories of claimants are getting worse. When the Secretary of State examines the uprating figures, year on year, he should consider the big picture of worsening inequality. He needs to think carefully about the way in which he can deal with that in future statements.

My hon. Friend the Member for Northavon asked for the basis on which the figures were presented. I have discussed the matter with Pensions Ministers over many years and in various circumstances. Many of our sister European nations effectively use modest but adequate budget standards to consider what is needed to provide a sensible income.

The London School of Hygiene and Tropical Medicine recently produced a report that found that adults needed a minimum of £91 a week on which to live. That is almost twice the level of income support available to the family cited. That is the measure of the adequacy, or inadequacy, of the current level of benefits—welcome though the increases may be. I am not saying that we should immediately move to using modest but adequate budget standards automatically. It would be difficult, and impossibly expensive, to do that all at once, but we should make more use of minimum income standard methods of determining what is necessary for a family budget. We have looked carefully at the benefits that the Government are using to measure child poverty in regard to the targets for the period from 2010 to 2020, and they are better than they might have been. However, a proper assessed budgetary standard for child income would have been a more useful tool for measuring the Government's progress.

The Government have a story to tell on incapacity benefit and on pathways to work, and I support all that, but it is disappointing that it will take until 2008 to get that system rolled out across the whole of the United Kingdom. The work done by the New Policy Institute in December 2004, which was funded by the Joseph Rowntree Foundation, clearly showed that economically active people who want paid work but who are not officially unemployed are a big client group, and present a big problem. It is a matter of concern that we are not going to have a UK-wide system to deal with that until 2008.

Although the policy of having an active labour market is right, and has been successfully operated over the past few years, it ignores the fact that the quality of jobs at the lower end of the employment market cannot provide the necessary long-term stability and adequate life chances for families on lower incomes. The Government should look carefully at the statistics that show that people who go into low-paid jobs often rotate through them in a relatively short time in a way that does not help them much. They still suffer poverty, and they are still in difficulties. It is therefore not safe to assume that the problem is fixed simply by getting people into work. Given the statistics on this large section of the community, it is demonstrably not.

I concur entirely with the point made by the hon. Member for Havant (Mr. Willetts) about the lost generation of 1 million young adults. The number of people with poor or no educational qualifications is an issue. I accept that it is not technically a benefit matter, but it plays into the new deal and some of the other issues that we are looking at this afternoon.

I am worried that some of the wider indicators show that, although the benefit system has improved, it is still not adequate for the purpose. The problem of low birth weights, which the right hon. Member for Birkenhead (Mr. Field) used to bang on about in earlier times, is getting worse. It is a matter of real concern that the problem is being exacerbated in families on low incomes, and we are storing up problems for the future in that regard.

The number of households in temporary homelessness is a huge issue. We really need to look at the structure of the benefits involved, including some of those dealt with in the uprating statement. In fact, it is time that we started looking at the Rossi index again. People's housing benefit is being restricted for a variety of reasons, including rent restrictions, which we all know about. The costs of housing have increased substantially, and increasing means-tested benefits by 1 per cent. using the Rossi formula might have been a safe thing to do five or 10 years ago, but we need to reconsider whether anything better can be done to protect people who have real problems struggling to meet their housing costs. That need is reinforced by the fact that there is only a 50 per cent. take-up of council tax benefit.

There is evidence to show that low income, bad diet, low birth weight, homelessness and temporary housing all lead to an exacerbation of mental illness. That is not a direct social security responsibility, but there is evidence that things are getting worse, which we cannot ignore.

Some capital limits in the order have been in place since time immemorial—indeed, some of them came in with the 1986 legislation, which I remember—but it makes no sense to leave capital limits to languish to such an extent. They need to be re-evaluated and uprated in some way, even if only occasionally and not annually.

A couple of Members raised the issue of tax credits and I have three questions to ask because I am very worried. The hon. Member for Havant alluded to the problems relating to the recovery of overpaid tax credits. This is a serious matter that impacts on the benefits uprating order, because some people on low incomes are not getting their full entitlement as overpayments are being clawed back at an unconscionable rate. I wonder whether the Department knows how many income support claimants are on a reduced income due to recovery of overpaid tax credits. That would be an important and interesting figure to know.

I also do not believe that ordinary people on the high streets of the towns of Great Britain know that the Inland Revenue has the discretion to write off overpayments. I do not think anybody tells them that.

Mr. Webb: It is not used very often.

Sir Archy Kirkwood: Indeed, the Inland Revenue does not use that discretion very often, even when it is pointed out. I draw the Secretary of State's attention to the fact that, in evidence to the Select Committee, his predecessor gave us an undertaking to examine the situation relating to data on tax credit overpayments as soon as they became available—they will be soon—to ensure that people are not being landed in severe hardship as a result of that clawback.

Mr. Willetts: I am grateful to the hon. Gentleman for giving way because I agree with him about tax credits. There are clear examples of people who know that they have been overpaid tax credits, but who, as a result of receiving cash through overpayment, find themselves taken out of housing benefit. They then find it very difficult to get back on to the benefit. There are people who try to set money aside because they fear money has been overpaid, but that takes them over the capital limits. So, there are several interactions between tax credits and the benefits system. Ministers tend to wash their hands of this and say, "That's a disaster of the Inland Revenue's making," but it affects people's entitlement to welfare benefits and it is causing genuine distress.

Sir Archy Kirkwood: Not for the first time, the hon. Gentleman makes the point more eloquently than me. I concur with all that. It is becoming an increasing problem—it is not going away and it is not a glitch related to the introduction of a given proposal. Indeed, the evidence available to me suggests that the problem is not getting better at all. If anything, it is getting worse.

I have two other quick questions. As my hon. Friend the Member for Northavon said, the migration of income support and income-based jobseeker's allowance cases on to child tax credit is also a considerable concern. There are 900,000 families to transfer. A few moments ago, we said that from our experience the tax credit system is shambolic, so there is a genuine worry about when those people will be transferred. The Government's position, I understand, is that the date still remains uncertain, but it certainly will not be in 2004–05 and we have yet to receive an exact timetable showing when in 2005–06 the transfer will begin. When that transfer begins, the one thing that must be absolutely guaranteed is that there will be no delays or any other administrative problems, because those families are among those with the lowest income in the land. The House would welcome assurances on that.

Finally on tax credits, the Public Accounts Committee got an undertaking from the Inland Revenue that once some of the data started to become clearer, there would be a case for reviewing the tax credits scheme. I hope that the Department is alive to that inquiry and that it will encourage and support it, because I detect in all parts of the House evidence of concern about tax credits and how they have been delivered recently.

I recognise that a huge amount has been done to improve the incomes of many households across the United Kingdom over the last few years, but a lot more work remains to be done. If we do not make sure that we can provide adequate life chances for a whole section of society, we will end up driving people into criminality, as I said earlier, and driving people into the grey economy and not paying taxes. Worse than that, we will disrupt families, producing mental illness and marriage break-up, the consequences of which the taxpayer ends up paying for. It is money well spent to have proper, adequate benefits that are fit for the purpose and set at appropriate levels on which people can live. The Government still have some work to do before they achieve that.

4.15 pm

Andrew Selous (South-West Bedfordshire) (Con): It is a great pleasure to take part in this thoughtful debate. I must confess a little surprise to see that no Labour Back

[Andrew Selous]

Benchers are making speeches in the debate this afternoon. I am in a charitable mood, however, and I will pick up on the Select Committee Chairman's comments that this is becoming such a complex area that it is one in which many Members fear to tread, as they feel that they will not be as knowledgeable as they should be or have all the facts at their fingertips that they feel they should have.

A more important point lies behind that, as the people who take up these benefits—our poorest and most vulnerable constituents—are not well able to navigate the minefield of regulation and rules that surrounds many of these benefits. On a cross-party basis, we should try to simplify much of the social security system so that it is more easily understood. If we do so, we will see higher take-up. Along with simplicity, we need computer systems that are reliable, that work and that get benefit through to recipients in a timely and correct manner. Whether in relation to the Child Support Agency or the tax credit computers, there have been too many instances in which the technology has let down some of our most vulnerable constituents.

I was also interested that the issue of income adequacy was touched on briefly, and I commend the two Members who raised the subject. We need to examine that for people who will be out of the labour force through no fault of their own for long periods. We need to be honest and transparent with our constituents about how we will pay for that, and perhaps identify some parts of current Government expenditure that we want to slim down to make moves in that direction. Collectively, we need to turn our attention to that.

We are covering a wide variety of social security and pension issues this afternoon, and I will inevitably repeat some of the points already made. First, on the pensions side, we understand the Government's arguments about why they felt compelled to introduce the pension credit. A wide consensus now exists among people from many different parts of the political spectrum, however, that that has not been the most sensible way to go. We know that 1.63 million pensioners are not taking up pension credit, which results in many constituents being £25 a week less well-off than they would be otherwise.

We are also aware of the disincentive effect of pension credit. Even the Prime Minister said on 8 February to the Liaison Committee:

> "You obviously don't want a situation where the majority of people are on means-tested pensions".

I wonder whether he is aware of the fact that nearly half of all pensioners are on means-tested pensions. My hon. Friend the Member for Havant (Mr. Willetts) said that he was a Blairite on some matters relating to pensions. In this case, the Prime Minister is clearly a Conservative. He has recognised what we have been saying for quite some time, so I think we can trade a bit of party-political allegiance in today's debate.

The new deal is still the subject of heated debate between the parties. We have said that we will get rid of both the new deal for young people and the new deal 25-plus. I assume that as rational Members of Parliament we proceed on the basis of evidence when framing policy and deciding what to do. Are Ministers really satisfied with the new deal for young people, given that only 38 per cent. of young people secure unsubsidised employment at the end of it? The statistic for the new deal 25-plus is even worse: only 12 per cent. of those who embark on it secure unsubsidised employment.

As guardians of the public purse, responsible for helping some of the most vulnerable members of society, we should be looking for value for money and ensuring that we have the most efficient policies and systems possible. The statistics I have given are very poor, and we should be able to do better.

Mr. Kevan Jones (North Durham) (Lab): I agree that those people are the most vulnerable in society, but in my constituency, youth unemployment is down by more than 85 per cent. What will the hon. Gentleman—or the Conservative candidate who will stand against me at the next election—suggest to those young people as an alternative to that dramatic drop in youth unemployment?

Andrew Selous: I will say something about unemployment shortly, and I will deal with the hon. Gentleman's point then; but he has not responded to my point. The question is not, "Do we or do we not help these people?" Of course we need to help them find work. The question is, "Is the new deal the most efficient and effective way of doing that?" On the evidence that I have given, which has not been disputed either by the hon. Gentleman or by Ministers, I do not think it is. I think we should be grown up enough to admit that although parts of the system work well, those two parts are clearly not working well. Organisations in the sector will tell those who consult them that there are more efficient ways of dealing with these matters.

I entirely agree with what was said by my hon. Friend the Member for Havant and the hon. Member for Roxburgh and Berwickshire (Sir Archy Kirkwood). Two Fridays ago, a young lady who came to my constituency surgery told me that having applied for various tax credits and returned to work, she faced such a large repayment of money paid to her that she was close to throwing in the towel and leaving the labour force altogether. She is so cross that she has asked me to refer her case to the parliamentary ombudsman. She is not alone: there are many like her. The Government ought to consider an amnesty for those who, through no fault of their own—I do not think there was any fraudulent intention—have been asked to repay large sums. If the Government are honest, they will say that the computer systems were not fully geared up at the start of the process. There is real anguish and worry among our constituents who are caught up in this.

I also agree with what the hon. Member for Northavon (Mr. Webb) said about the provision of child care by family members. We should not force our constituents to fit in with some predetermined system that we have come up with here. If we really want to provide a natural solution and help people to sort out their child care problems in the way that they prefer—which involves intimate, personal decisions—it must be right and sensible to allow family members to provide care. Surely we cannot be against that, and we should ensure that it happens.

I commend the Government for making changes for future entrants to incapacity benefit. The Government are absolutely right to change the name to the

rehabilitation support allowance. Clearly, the name "incapacity benefit" has the wrong connotations. What the Government are planning to do to get people into work is excellent. However, the numbers keep rising. We must comment on the fact that in August 2004 there were 140,000 more people on incapacity benefit. The latest figure is 2,403,000—that is 140,000 higher than when the Government came to power.

Malcolm Wicks: I am interested in the hon. Gentleman's analysis of incapacity benefit and welcome his support for our proposals. Given the figure that he has just mentioned, what would be his explanation of why, under the previous Government, the number of people on incapacity benefit rose threefold?

Andrew Selous: The hon. Gentleman will realise that the United Kingdom economy has been through a period of great transition over the past 15 to 20 years. Certain restructuring needed to take place. It would have taken place under a Labour Government had one been in power at the time. I do not know whether he is suggesting that some of the industries of that time should be carrying on with large state subsidies. Necessary transformations took place. They would have taken place whichever party was in power. If he is fair in his assessment of recent economic history, he will probably agree.

I come back to economic activity and to the intervention from the hon. Member for North Durham (Mr. Jones). We know from labour market statistics released only last week, on 16 February, by the Office for National Statistics that 1,126,000 of our young people aged between 16 and 24 were not in work, not studying and not training in December 2004. That figure is 44,000 higher than when the Government took office. In the trade, they are known as NEETs—not in employment, education or training.

I wonder what all those people do. I wonder where they are. I have to think quite hard of the type of families that those 1,126,000 young people are in. What is their situation? That is a fantastic waste of potential for the UK labour force. We need to make a much greater effort to get those young people into employment.

The Government say that we need migration. It is clear that we do in certain parts of the economy but we need to look to our own resource within this country and to get those young people into the public service jobs that we need and into areas where there are skills shortages. We should make a far greater effort to do that.

The hon. Member for North Durham talked about unemployment. I come on to that willingly. We need to remember that we are in the 13th year of growth, which was set on a good curve in 1992. If he looks at the record, he will find that, between 1993 and 1997, when we were in power, unemployment fell by 908,000. There was a 31 per cent. fall. Between 1997 and 2004, it fell by 607,000. That is a 30 per cent. fall. Therefore, there was a 31 per cent. fall under us and a 30 per cent. fall in slightly more than seven years under this Government. He will see that the curve has carried on and that our record stands up well. We are obviously delighted that all those people have jobs but, as I said, those statistics speak for themselves and they are based on the back of 13 years of growth, established originally under a Conservative Government.

Mr. Kevan Jones: I am glad that the hon. Gentleman has recognised the good job that the Labour Government are doing in getting people back into work, but the fact is that the last Conservative Government wrecked my constituency by throwing people on to the dole, and used incapacity benefit to massage the figures and to write off a generation of people who were still economically active. Will he now admit that the last Tory Government used incapacity benefit in the cruellest way in constituencies such as mine, which led to many people thinking that they had no future in employment at all?

Andrew Selous: The hon. Gentleman is keen to trawl through recent economic history, but as I said in response to an earlier intervention, I suspect that, whichever party had been in power, it would have been necessary to take difficult decisions about restructuring across the economy. Those were indeed difficult decisions, and I am aware that they hugely and painfully affected many people's lives.

Mr. Jones *rose—*

Andrew Selous: I have given way to the hon. Gentleman twice, and if he will allow me I will wind up my remarks. For the record, I repeat that there was a fall in unemployment of 908,000—some 31 per cent.—between 1993 and 1997. I am of course delighted that it has continued to fall, but it has done so from the firm base established under a Conservative Government, with growth starting in 1992.

4.30 pm

Mr. Nigel Waterson (Eastbourne) (Con): I am delighted to be able to take part in this debate, although I am saddened that it has not attracted the depth and width of interest that it might have done among Members. It is of particular concern that not a single Government Back Bencher has thought it necessary to make a proper speech on uprating; their constituents will wonder where they were this afternoon.

The social security bill is growing. The Prime Minister said at his party's 1996 conference that that would not happen under a Labour Government, but the opposite has proved the case. There is growing means-testing throughout the entire social security world, and the related expenditure is often self-defeating. As my hon. Friend the Member for Havant (Mr. Willetts) made clear, we will not vote against the uprating, although it remains to be seen whether the Liberal Democrats will, as it has been their habit to do so. However, it is a concern that so few Labour Members have felt it necessary to take part in this debate.

I want to touch on several matters that have been raised. This has, rightly, been a wide-ranging debate, and those of us who have taken the trouble to be present throughout have covered a galaxy of different issues. I am looking forward to the Minister for Pensions' winding-up speech. He has much more time than he

[Mr. Nigel Waterson]

might otherwise have had, and he will doubtless be able to dot every "i" and cross every "t", having had a chance to warm up in Westminster Hall this morning.

As is often the case, the Government have produced a high-flown ambition: they want to abolish child poverty. However, they are setting about achieving that, in part, by changing the target. They want to exclude housing costs, which appears to lift about 1 million children out of poverty simply at the stroke of a pen. As Conservatives, we believe that the conventional way—focusing on those below 60 per cent. of median income—should be maintained, and that the Government are wrong to move the goalposts in the middle of trying to implement their high-flown policy.

There has already been some discussion about the myriad failings of the Child Support Agency. In my other role as a member of the Work and Pensions Committee, I have had the pleasure—if that is the right word—of hearing evidence about IT and managerial failings from a series of people, including the Secretary of State, his predecessor and, of course, the much-discussed Mr. Doug Smith, who I believe is still the CSA chief executive. We know that of the 478,000 applications to the new scheme since April 2003, only 61,000 non-resident parents had made a first payment. We also know that there has been a 30 per cent. increase in the number of complaints to the independent case examiner since 2003.

Behind that figure, there must also be many people who have simply given up altogether. There must be many who have given up trying to contact the CSA by telephone, who have given up trying to get any sense out of the person to whom they are talking—if they do manage to get someone on the other end of the telephone—and who have certainly not gone as far as contacting the independent case examiner. When Mr. Smith gave evidence to my Committee, he said that the Child Support Agency had an aspiration to deal with these matters in an average time—between first contact with the parent with care through to having payment arrangements in place—of six weeks. At the time he gave that evidence, it turned out that in the real world, the average was somewhere between 15 and 22 weeks. I am not aware how long it takes at the moment.

The annual report and accounts for the CSA showed an outstanding debt of £720 million in March 2004, with a further £947 million classified as uncollectable. My Committee had a lot to say about that, but I shall not go into all the details on this occasion. We had much to say about the failings of enforcement and—*[Interruption.]* I am talking about the Select Committee on which I have the honour of serving under the distinguished chairmanship of the hon. Member for Roxburgh and Berwickshire (Sir Archy Kirkwood). Peebles used to be somewhere in that constituency name, but it seems to have got lost in the wash.

I am not just talking about figures, or beating up high-flown officials within the CSA for their apparent ineptitude, as the fact remains that the CSA has failed to collect £750 million owed to some of the poorest families in Britain.

When the Secretary of State came before the Select Committee side by side with Mr. Doug Smith, the body language was fascinating to watch. As the magnitude of the awfulness of the CSA's performance emerged, there was a perceptible growth in the gap between the Secretary of State and the chief executive.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): I would like to acquaint my hon. Friend with my constituency case of Mrs. Little, who tried for months to get the Child Support Agency to take some notice of her claim for her four children. When eventually the CSA took notice of it, it wrote back to apologise for the fact that the computer had broken down. She was told that her claim would have to be dealt with manually and it would be another 20 weeks before she would receive any money at all. Does my hon. Friend regard that as acceptable?

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. We are now getting into special pleading, and I urge the hon. Member for Eastbourne (Mr. Waterson) not to pursue that path.

Mr. Waterson: I feel for Mrs. Little, but I will resist the temptation to follow that path in too much detail, Mr. Deputy Speaker.

Let us return to the chief executive and the Secretary of State giving evidence to my Committee about the overall performance of the CSA. In his usual skilful fashion, the Secretary of State tried to draw the fire away from the chief executive and himself by announcing at the beginning of the evidence that Mr. Doug Smith would be leaving the CSA—to spend more time with his family or some such reason. That was on 17 November 2004. The transcript was read to me by several BBC journalists, and I accept that no one said expressly that Mr. Smith would be leaving quite soon, but I must admit to being pretty surprised to find that he is still in post, apparently barricaded in his office at the CSA and saying, "I'm not coming out."

Alan Johnson: I distinctly remember the hon. Gentleman being present at the meeting, so perhaps he will recall my saying that the current chief executive would be handing over the reins to the new chief executive, which suggests that the new chief executive has to be appointed before the old chief executive moves on.

Mr. Waterson: I am certainly not suggesting that the Secretary of State was trying to mislead anyone, but I was left with the distinct impression that it would not be a lengthy process and that Mr. Smith had had enough, that the CSA had had enough, that its clients had had enough, and that the Secretary of State had certainly had enough. I leave aside any speculation as to what useful tips Mr. Smith might be able to pass on to his successor in handing over the reins. As I understand it, there has not exactly been a queue of qualified applicants for this particular job, but I express my surprise that Mr. Smith is still there, rather than facing new challenges in another job.

Andrew Selous: Does my hon. Friend share my surprise, given the CSA's recent history, that Mr. Smith was awarded a CBE in the new year honours list?

Mr. Waterson: It is not for me to second-guess Her Majesty in these matters. In any event, there is no greater honour than being the chief executive of the CSA, and Mr. Smith seems intent on clinging to that for the time being.

I turn to the debacle of the overpayment of tax credits. As my hon. Friend the Member for Havant noted, many hon. Members encounter this matter at their constituency surgeries, and in correspondence. People with delicate family budgets face real hardship as a result of this problem. What is being said to people about their overpayments? That question was asked earlier by the hon. Member for Roxburgh and Berwickshire. How many claimants of income support or income-based jobseeker's allowance are on reduced incomes as a result of the recovery of overpayments? If the Minister does not have the figures to hand, I should be grateful if he would write to us.

What steps are being taken to ensure that income support claimants know that the Inland Revenue has the discretion not to recover overpayment in cases of hardship? I remind the House that it is my party's policy to introduce an amnesty in respect of most cases of overpayment. After all, the overpayments are not remotely the fault of the claimants themselves.

I do not want to repeat the arguments that have already been made about incapacity benefit, but as my hon. Friend the Member for South-West Bedfordshire (Andrew Selous) said, some elements in the Government's proposals—such as those to take away some of the stigma associated with the title of the benefit—are to be welcomed. However, the number of people on incapacity benefit has risen significantly under this Government. The present proposals apply only to new claimants, and contain nothing that affects the 2.7 million existing claimants.

Will the Minister confirm that in 1997, 47 per cent. of people claiming incapacity benefit were unemployed, and that that figure has risen to 60 per cent.? Will he also confirm that the number of people leaving incapacity benefit has fallen, and that as a result, the number of claimants has risen by 140,000 since May 1997?

I now turn to questions arising from the new incapacity benefit system. It was stated earlier that under the new system, severely sick or disabled people would receive more money. However, the rates for the new benefit have not been set yet. What evidence will be used in deciding the rates paid under the new regime that will replace incapacity benefit? What assurances can the Minister for Pensions give that sick and disabled people will not lose income under the new scheme? Will the Department set expenditure targets for the new rehabilitation support allowance and the disability and sickness allowance? How long does he envisage that it would take claimants on rehabilitation support allowance to move beyond the basic rate, which is paid at JSA levels, and reach the higher levels equivalent to long-term incapacity benefit?

The separate issue of economic inactivity is one of those dialogues of the deaf, which we seem to have regularly in the Chamber, between Ministers who are happy to crow and issue press releases about the headline level of unemployment, but are reticent in talking about the large number of people in this country who do not find their way into those statistics because they are economically inactive. The crying shame, as my hon. Friends have said, is that more than 1.1 million young people are neither working, studying nor training. When will the Government have a proper thought-out strategy to deal with that lost generation, which is apparently doing nothing and is not included in the unemployment figures?

While I am on the subject of employment and unemployment, it is worth quoting what *Labour Market Trends* concluded this month:

"while unemployment levels have generally been increasing over the past four years, the rate of increase has been no more than in line with population growth, leaving the trend in the employment rate largely flat since 2000, following stronger growth through much of the 1990s".

That is the context in which all employment and unemployment issues should be considered. The Government do not have some great success story; they are simply talking the credit for a trend that has been flat since 2000, and is based on the successes of the 1990s.

On pensions, the quote given by my hon. Friend the Member for South-West Bedfordshire bears repetition. The Prime Minister told the Liaison Committee recently:

"You obviously don't want a situation where the majority of people are on means-tested pensions".

Presumably on planet Blair, they are not. However, we know that at least half of pensioners are on means-tested benefits and that the proportion is destined to rise inexorably under this Government's policies, subject to one issue to which I shall return.

We know that the latest figures show that one in five of the poorest pensioners are not claiming the means-tested assistance to which they are entitled. During the past three months, only about 30,000 new people have signed up for the pension credit. Despite all the ballyhoo, all the advertising—which I see regularly in my local paper in Eastbourne—and all the efforts of the Pension Service, which is doing an excellent job in my area, the application rate is tailing off. As Gordon Lishman of Age Concern said recently:

"Around a third of pensioners who are eligible for pension credit are still not receiving it."

That is 1.63 million people.

We are all hanging on the final report of the Pensions Commission—the Turner commission—which, sadly, will not be available until after the election. It has spotted the effect of means-testing on pension provision in this country.

Alan Johnson: The hon. Gentleman is behind the game, because the splendid new Blairite shadow Secretary of State sitting next to him has announced that the pension credit will rise at the same rate as earnings until 2008, so the argument about people being sucked into means-testing is meaningless, given that that system would continue under both Conservatives and Labour.

Will the hon. Gentleman confirm that when the Select Committee of which he is a member went to Glasgow to talk to the splendid Pension Service about the main reason why people say that they do not want pension credit, it was told that the reason was not stigma, but because people say that they have enough money and do

[Alan Johnson]

not need any more? Will he confirm that that was the biggest single reason for people not taking up pension credit?

Mr. Waterson: I did not have the pleasure of joining the Select Committee in Glasgow, but that is not the evidence that I receive from my constituency. If the Secretary of State is suggesting that that explains why 1.6 million people are not claiming, he is in cloud cuckoo land.

My hon. Friend the Member for Havant has made it clear that our policy is to match the Government in raising pension credit in line with earnings. That is not to say that pensioners will not be floated off means-testing. The rate may be slower than we had anticipated under our original policy, but that is not to say that we are not trying to get them off means-testing. What is the Secretary of State saying? He seems to be Jekyll and Hyde when it comes to the pros and cons of means-testing.

Mr. Webb: Can the hon. Gentleman confirm whether he stands by 1 million as the number of people that his party would lift off means-testing in the next Parliament?

Mr. Waterson: Obviously, in view of my party's recent announcement and the Government's equally recent announcement, that figure will have to be changed, but that does not mean that it will be zero. A number of pensioners will still be floated off means-testing in the first Parliament, and ever more will be floated off in subsequent Parliaments. That is fairly clear.

It is difficult to contend with the Secretary of State, because there are two Secretaries of State. There is the sober, solemn character who runs the Department for Work and Pensions and then, as soon as he can get away from the Department, there is the character who leaps into a telephone booth, changes his costume and thinks the unthinkable about the universal citizen's pension or whatever it may be. The Secretary of State said:

"the pension credit and means-testing should be there until we have solved the problem of abject pensioner poverty".—[*Official Report*, 13 October 2004; Vol. 425, c. 309.]

He also said that there were no plans to continue the credit indefinitely.

We are all hanging on the publication of a set of principles—as they have been described—defining how the Government will approach pension policy in the future, although on another day they tell us that they can say nothing because they are waiting for Turner to report. After the document setting out the principles on which the Government will base their pension reforms is produced, how long do they expect pension credit to be around, for planning purposes? Will it be one year, five years, 10 years or 20 years? I assume that the Government agree with the Turner commission that unless there is certainty on that issue it will be difficult for people to plan for their retirement.

If pension credit is needed until, as the Secretary of State put it, we have solved the problem of abject pensioner poverty, when will the Department judge that target to have been met? We shall be interested to hear about that, because as I said, there seem to be two Secretaries of State—the one who sticks by the departmental line and the one who goes in for blue-skies thinking on some of the big questions about pensions.

On take-up, it is clear that pensioners are missing out on almost £3 billion-worth of benefits. Some charities have described that as unforgivable. About 2 million pensioners, about half those eligible, fail to claim a total of £870 million in council tax benefit. No one tried to disagree with my hon. Friend the Member for Havant when he said that council tax benefit had the lowest take-up of any means-tested benefit in the system. There is a particular problem because take-up is so low among owner-occupiers. We are all familiar with such people. There are many in my constituency— elderly people who own their homes, but do not have much cash or many savings. That is why our party concluded that the only way to deal with that problem, especially in the light of the 70 per cent. average rise in council tax bills since 1997—it is more like 87 per cent. in my constituency, with a little help from the Liberal Democrats on occasion—is an age discount, to halve bills in households with members aged 65 or over, up to a £500 maximum. That proposal came out only a couple of days ago and has been extremely well received.

Finally, I turn to the FAS, as the Government call it, or "farce" as some of us prefer to pronounce it—the financial assistance scheme and the protection of people's pensions. This is really part 2 of a debate on the APW scheme—an unfortunate state of affairs—that we began in Westminster Hall this morning. Is it not typical that, although at that stage we had not seen today's written statement on the FAS, it emerged in the Minister's winding-up speech that although there are, I think, 380 schemes listed in the statement today, APW is not one of them? Why not? Because that is classed as a solvent wind-up. We are talking about people who, as I understand it, have lost 80 per cent. of their pension rights through absolutely no fault of their own.

As my hon. Friend the Member for Havant was saying, this seems to be an exercise in ad hocery. The original announcement in May last year happened in a rush because the Government were facing defeat in the House over the Pensions Bill. We have had various announcements over the intervening months, which have slowly dragged out of the Government precisely how they think the FAS would work. A lot has changed in that time. The Government have quite properly commissioned research, which came up with a figure of 65,000 people. Other high-profile schemes, such as APW and Turner and Newell, have hit the news, and I am sure there have been many others, less well publicised. Only one thing has remained unchanged and unchangeable: the amount originally set for the FAS itself, which was £20 million over 20 years—a total of £400 million. It was clearly inadequate then and has become ever more obviously inadequate in the intervening months.

Of course, there is still uncertainty. We do not know what is going to happen to people who are more than three years away from retirement. We do not know how many people, as opposed to how many schemes, are to share the £20 million a year. We still do not know the precise relationship between the Pension Protection Fund and the FAS. There is the suggestion, which came out very late in the day, that the PPF itself could be retrospective—something that was always stated not to

be the case from the time when the legislation started its process. Today, for the first time, we have the Government, in effect and belatedly, finally accepting that their original figure is inadequate, by suggesting that in the next public spending review the figure will be considered again.

One thing that we do agree with the Government about is that the taxpayer cannot be regarded as a bottomless pit, to keep contributing money to compensate people for losing their pensions. At the same time we recognise that those people have a clear moral and perhaps even legal case to be compensated. That is why we revert again to our policy on the use of unclaimed assets—the £15 billion of unclaimed assets reliably estimated to exist in this country. Ireland began by simply taking the interest on those unclaimed assets. Of course, we would require various safeguards as part of our policy to ensure fairness. The Treasury is already well advanced on that process, but for different reasons. The Chancellor wants to get his hands on unclaimed assets to use them for charitable purposes.

Yet again, we plead with Ministers not to set their face against the use of unclaimed assets, but finally to agree to consider them as a possible source of compensation for those people. As I said, only this morning we heard about APW and the very sad situation that those people find themselves in. One thing that I can confidently predict is that they will not be the last. The Government have constantly been trying to catch up with events, rather than sitting down at the very beginning and working out a scheme that will be enduring, successful and achieve the objects required of it.

We will not divide the House on the uprating orders. They raise a host of issues, all of which I expect the Minister for Pensions to deal with in his winding-up speech.

4.59 pm

The Minister for Pensions (Malcolm Wicks): Although in some respects this has been a quiet debate that has not taken place in a crowded Chamber, a range of important issues have been aired on all sides. I pay tribute to all those hon. Members who spoke, including those who made some useful interventions. I would like to single out the hon. Member for Roxburgh and Berwickshire (Sir Archy Kirkwood), the Chairman of the Work and Pensions Committee and previously the Social Security Committee. He could not quite remember the number of times that he has taken part in such a debate—it was about 20—but I fear that this may be the last occasion on which he does so because, sadly, he is retiring from the House. Both in my current role and when I had great honour of serving on the Select Committee under his chairmanship, I have found his contributions thoughtful, well informed, intelligent and compassionate.

Andrew Selous: I should like to develop that tribute on behalf of the Opposition. I, too, am a member of the Select Committee and have been very happy to serve under the chairmanship of the hon. Member for Roxburgh and Berwickshire. He chairs the Committee in an exemplary manner and I appreciate the opportunity to thank him for all that he has done.

Malcolm Wicks: That was a gracious tribute.

I do not want the House or the massed ranks of my colleagues to think that I am going soft on the Liberal Democrats, as I may speak slightly differently about the hon. Member for Northavon (Mr. Webb). The Government faced a strategic challenge, as too many British citizens were born poor, had an impoverished and diminished childhood—often, but not always, in fragile families. As a result, they achieved little at school and ended up with poor educational attainments. Some, but not all, of those children were at risk from evils in our society, and when they left school, sometimes before 16, they did not take up education, employment or training. That is a problem—it may not be as sizeable as some have said, but that is not the point. The Connexions service in England and the learning and skills councils were established in part to tackle such issues.

As a result of those diminished childhoods, too many of our citizens end up without work or with poor job opportunities. They often have poor skills and are on low pay. That cycle ends with many people becoming impoverished in old age and receiving poor pension entitlements. The challenge for those of us interested in a modern welfare state is a traditional one—how do we break the cycle of poverty and deprivation and try to move towards a cycle of achievement and opportunity for all our citizens? We have not entirely met that challenge, which still faces us, but we have made progress. I am proud of our record on children and the fact that total spending on financial support for children has gone up by over £10 billion in real terms since 1997. I am proud of the fact that, since 1997, families with children will on average be £1,300 a year better off, while the poorest fifth will on average be £3,000 a year better off. It is notable that, in December 2004, nearly 20 million people, including 10 million children, benefited from the new tax credits. I accept that there have been problems with tax credits, but many people have benefited from them.

I noted carefully, as did the Secretary of State, the issues surrounding the overpayment of tax credits. The Department is not responsible for that, but we share concern about it. I shall investigate the adverse impact and interaction with other benefits that have been mentioned, as well as issues about capital that the hon. Members for Roxburgh and Berwickshire and for South-West Bedfordshire (Andrew Selous) raised. I accept that we need to look at that.

The child trust fund will make a meaningful difference to the savings environment in future generations by promoting positive attitudes towards savings. This is not an occasion to debate the Child Support Agency, but my right hon. Friend the Secretary of State has read carefully the excellent report from the Select Committee, to which we will respond in weeks. We are not happy with the performance of the CSA. Those children need support from both parents, wherever possible. We must make progress and we intend to do so. I have mentioned some of what we are doing for children. I cannot deal with the subject holistically as that would mean speaking more about education.

As regards people of working age, we are again proud of our record. Unemployment is at a 30-year low. The number of people in work is up by 2 million since 1997. There are more than 28.5 million people in work, the highest number ever. Compared with the G8 or the

[Malcolm Wicks]

European Union, our employment rate of nearly 75 per cent. is almost at the top of the international league table. Iceland is top at 80 per cent. I do not know whether the Secretary of State has visited Iceland—I refer to the country, not the superstore—but our ambition now is an employment rate of 80 per cent.

Opportunities for people with disabilities will be greatly increased by the measures in the Disability Discrimination Act 1995. That is very relevant to our employment ambitions. By focusing on what people can do rather than on what they cannot do, we are determined to help the many who are currently on incapacity benefit and want to return to work to do so. We are doing that through our pathways to work and new deal programmes. I was pleased to hear the hon. Member for South-West Bedfordshire comment favourably on aspects of our policy in this regard. It is a challenge for all of us to recognise that, although there is much discussion of the appropriate retirement age, too many of our citizens are effectively retired in their 50s, rather than their 60s.

Mr. Willetts: The Minister referred to the Government's target of 80 per cent. employment in the document which, we discovered today, the Secretary of State wrote. Will he explain to the House how that target was reached? Will he confirm that it is an extrapolation of a long-established trend?

Malcolm Wicks: It is certainly an extrapolation in the sense that we are doing so well in tackling unemployment and raising the employment rate. We want—I am trying to think of a phrase that might sum it up—we want to go forward, not back, and we intend to go forward. *[Interruption.]* I thought that was pretty original. If the hon. Gentleman calls that an extrapolation, fine.

The new deal has been a tremendous success, with more than 1.2 million people helped into work through that programme. Sadly, Opposition Members want to scrap that policy. Since 1997, long-term youth unemployment has fallen by two fifths. The new deal for young people has helped more than half a million young people into jobs. We are engaged in making work possible, making work pay through tax credits and the minimum wage, and making work skilled. That is the challenge for us.

Over the long term, the more successful we are in our policies for children and people in work, the more successful we will be in overcoming pensioner poverty. As the Secretary of State said, the best pension policy of all is a job. For the current group of pensioners, the pension credit is a success. It now reaches 3.2 million people and, as has been noted, two thirds of those people are women, partly because they live longer, partly because they do not have full national insurance contribution records—hence the important debate about the future of state pensions—and because in their careers many men have been nowhere near a decent works or occupational pension. The Opposition parties criticise us for using pension credit because it is means-tested. As we have said before, in the short to medium term, it plays a vital role in tackling pensioner poverty. Since 1997, our policies have lifted 1.8 million pensioners out of absolute poverty. Now, through pension credit, 2.4 million people in almost 2 million households are receiving more money than before.

As a result of the measures that we have introduced since 1997, an extra £10 billion will be spent on pensioners in 2005–06. Almost half that extra spending—about £5 billion—is going to the poorest third of pensioners. As we have said, we think that 80 per cent. of those entitled to the guarantee level are claiming, and 90 per cent. of the poorest women are doing so. Many people are £36 a week or more better off as a result of our policies.

Mr. Webb: If the Minister can quote guarantee credit take-up figures, he must be able to quote savings credit take-up figures. What is that take-up rate?

Malcolm Wicks: I cannot quote those figures off the top of my head. If we have them, I shall write to the hon. Gentleman. We were uncertain whether he had asked the question and whether I had replied, but we will look at the matter to see if we can be helpful.

Lynne Jones (Birmingham, Selly Oak) (Lab): I have just been at a meeting of the all-party group on pensioner incomes. We were given a presentation by the Pensions Policy Institute, which put the figure on take-up of savings credit at 50 per cent.

Malcolm Wicks: I cannot say whether that is accurate. We will look at the figures. Until I noticed who my hon. Friend was, I was hoping that she might be rather pleased that, among her poorer constituents, and women in particular, pension credit was doing well. I am sure that she is pleased about that.

Lynne Jones: I would prefer it if we had a citizen's pension ensuring that all pensioners got at least £105 a week.

Malcolm Wicks: On the state second pension—I often feel that we do not talk enough about this—we believe that designing a policy that helps low earners means that 5.8 million people are now building up a state second pension. Particularly notable is the fact that 1.9 million carers are now building an entitlement to a state second pension.

The shadow Secretary of State, whom we wish a long career in that role, is very interested in deemed buy-back, which was a feature of our warm-up debate in Westminster Hall, which had a slightly larger crowd than we have now at some stages, on the APW case. We have spoken about the issue, and although I am a master of detail, it may be that there are some other things about which I could write to him. We think that 800 individuals have so far been offered deemed buy-back. We think that only eight individuals have so far taken up the offer. The majority of the rest are still considering their position. I am taking a good deal of interest in the matter so that we can facilitate movement in this area.

The shadow Secretary of State also asked me about the total numbers that we had unearthed, to put it rather badly, in our research exercise on the financial assistance scheme. The list that we published today indicates that

there are at least 380 defined benefit pension schemes whose members should potentially be eligible for financial assistance. There are about 70,000 non-pensioner members in the schemes. The figure is therefore more or less consistent with the estimate that we published last June, suggesting that there were about 85,000 non-pensioner members in affected schemes, about 65,000 of whom were facing significant losses. It looks like our early estimates were broadly correct.

I have talked about today's pensioners, but in terms of today's work force and tomorrow's pensioners, the Pensions Act 2004 is of enormous significance. The new regulator will have sharper teeth than the old regulatory framework, which is a significant development. The Pension Protection Fund is a landmark reform offering security and helping to build confidence for some 10 million pension scheme members in defined benefit or what are sometimes known as final salary schemes. That is a major new part of our welfare state architecture, and one day we will look back with some pride on legislating for it.

Meanwhile, as we know, for groups of workers already in very debilitating circumstances who could not be helped by the PPF because it was not yet there, we have the financial assistance scheme, which has excited considerable interest today. The scheme is important. We will provide those people who are around pension age—some of them are coming up to it and some of them have already passed it—with a core pension entitlement of some 80 per cent. I hope that that meets my pledge to this House that the help for those groups would be "significant" or "substantial". I hope that we have kept our word, and I am sure that we have. The possibility of reviewing the finances in the short to medium term is a further step in building confidence.

In his winding-up speech, the hon. Member for Eastbourne (Mr. Waterson) referred to the important APW case and seemed to imply that support from the financial assistance scheme or the Pension Protection Fund should be generally available to solvent employers. I wonder whether that is a serious suggestion—I am not making a party political point—and whether it is a serious spending pledge on the financial assistance scheme.

Mr. Waterson *rose—*

Malcolm Wicks: I do not see how one can say to a solvent company, "We recognise that you have got a pension problem; the taxpayer will write you a cheque." I put it to the hon. Gentleman that hundreds of companies and pension schemes would knock on our door and say, "The company is doing all right. We are solvent, but we have a black hole in our pension scheme, and we understand that the financial assistance scheme can bail us out." That would be nonsense and a slippery slope to the nationalisation of all financial risk. It is simply not credible.

Moving on—*[Interruption.]* It is not for the Liberal Democrats to suggest what the Conservative party is suggesting. Perhaps the Conservative party will suggest what it is suggesting.

Mr. Waterson: I am grateful to the Minister for finally letting me intervene. We have not made a spending pledge, because we want to go down the path of using unclaimed assets, which have nothing to do with the taxpayer. My point is simple: why are the Government automatically excluding all solvent wind-ups? APW, which we heard about this morning, is the perfect example, and it is automatically excluded from any help under the FAS. The workers will be just as badly off regardless of whether the wind-up is solvent or insolvent.

Malcolm Wicks: I am trying to be fair, and that question and the workers' sense of injustice are both perfectly reasonable. However, those of us who frame social policy and who examine the financial implications and perverse consequences of taking the wrong decision must be tough-minded. Where an employer is solvent, they should take responsibility for supporting the pension scheme. *[Interruption.]* Someone is mumbling, but I will not be distracted unless they care to stand up.

I have outlined our record on children, jobs and pensioners and discussed the cycle of opportunity and advantage that we should create. I contrast that record with the Conservative position. We are proud of our record on employment, but many people remember the Conservative party as the party of mass unemployment. We will listen carefully and critically to its proposals on council tax, but many people remember it as the party of the poll tax, for which its current leader took special responsibility. *[Interruption.]* The number of Conservative Front Benchers has expanded, which is good because they need some support.

When the Tories discuss pensioner poverty, we remember that, in 1997, the previous Government expected a single pensioner on income support to survive on £69 a week. From April, we will provide £109 a week, which is an increase of £40. That is the difference between talk and action. When we consider the Conservatives' spending pledges of—is it £35 billion?—and hear about their spending cuts, we will contrast the figures with their desire to tell the electorate that they want to spend more. We shall question time and again the sense of abolishing the new deal, which has given so much hope to our young people and the long-term unemployed and been so successful in enabling lone parents to get back into the labour market.

We shall also question the dogma that the Jobcentre Plus network should be privatised. I shall continue to remind the shadow Secretary of State and the shadow Minister that they declined to give a Second Reading to the Pensions Bill, which introduced the Pension Protection Fund.

Andrew Selous: Will the Minister give way?

Malcolm Wicks: I wanted to say a few kind words about the Liberals, but I am happy to give way.

Andrew Selous: Will the Minister respond to my point about the new deal for young people and the new deal 25-plus? Is he proud of that fact that only 12 per cent. of those who start on the new deal 25-plus get into unsubsidised employment? That is not a good record. There could be a better way in which to spend the money.

Malcolm Wicks: I do not know that statistic. My colleagues will consider the matter. However, I am

[Malcolm Wicks]

pleased that young people, who were thrown into the dustbin of economic change in the past, now have different opportunities. We all know that the first step into training or the labour market often enables people to take more decisive steps.

Like the Tories, the Liberal Democrats have some reasonable ideas about pension reform in the state sector, and we can compare and contrast the different approaches to tackling pensioner poverty. However, I find it difficult to take the way in which the hon. Member for Northavon (Mr. Webb) always talks down pension credit. Even when we say, with some pride but no complacency, that we are pleased that 80 per cent. of the poorest pensioners now get pension credit, the response is, "It's only 80 per cent. What about the 20 per cent.?" Hon. Members who talk down pension credit and suggest that people have to fill in the long form, that it stigmatises and is no different from the means tests of old, are part of the problem. They put people off claiming pension credit and are therefore not part of the solution. I want them to be part of the solution because although more than 3 million elderly people receive pension credit and know the answer to Liberal Democrat cynicism, I want the figure to be far higher.

What about the position of the hon. Member for Northavon on the financial assistance scheme? He has always talked down the possibility of such a scheme and been cynical about it. He has told groups of workers and trade unions not to listen to the Government because we would never do anything about a financial assistance scheme. Let me give chapter and verse. In January 2004, in Work and Pensions questions, he asked:

"In fact, is it not true that the Government will do precisely nothing and take many months to do it? Those workers are hoping for a last-minute announcement that the Government will come up with something for them. Would it not have been more honest and generated less false hope to have told them that at the start?"—[*Official Report*, 12 January 2004; Vol. 416 c. 513.]

He was wrong and we were right in our determination to develop a financial assistance scheme. As soon as possible, it will give 80 per cent. of core pension rights to British workers who have worked hard and, through no fault of theirs, find that their pension hopes have been dashed. We are giving not false hope but real hope to that group. It is time that the Liberal Democrats stopped being cynical and recognised that the scheme is a major advance.

Peter Bottomley (Worthing, West) (Con): Does the Minister propose to end his speech without mentioning the British pensioners overseas, who get upratings in the United States but not in Canada or the other Dominions?

Malcolm Wicks: Welcome. Is it still cold outside? I am a little old-fashioned—I am replying to the debate. If the hon. Gentleman had made a proper contribution, I could have responded. A court case is coming up soon on the matter and we will examine the judgment. I am sorry—I did not mean to be churlish to my old friend, but we would have welcomed his presence in the debate because it was slightly lonely in here for an hour or so.

This Labour Government are proud of our record on tackling child poverty, seeking to abolish fuel poverty and helping to eradicate pensioner hardship. However, we are not complacent and we are eager to do more. We want to give proper status and respect to those with disabilities and those who are carers. We want to increase employment opportunities for all our citizens and further to support our children and our elderly people. Yes, this is a case of "forward, not back"—I use the phrase again, as it seems to go down well. The Labour Government are proving that we can combine economic competence with social justice. What we are about is a Britain that works and a Britain that cares.

Question put and agreed to.

Resolved,

That the draft Social Security Benefits Up-rating Order 2005, which was laid before this House on 1st February, be approved.

PENSIONS

Resolved,

That the draft Guaranteed Minimum Pension Increase Order 2005, which was laid before this House on 1st February, be approved.—*[Jim Fitzpatrick.]*

Drugs Bill (Programme) (No.2)

5.25 pm

The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint): I beg to move,

That the Programme Order of 18th January 2005 relating to the Drugs Bill be varied as follows:

1. Paragraphs 4 and 5 of the Order shall be omitted.

2. Proceedings on consideration shall be taken in the following order: amendments to the clauses of the Bill; amendments to the Schedules of the Bill; New Clauses; New Schedules; remaining proceedings on consideration.

3. Proceedings on consideration shall (so far as not previously concluded) be brought to a conclusion two hours after the commencement of proceedings on the motion for this order.

4. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion three hours after the commencement of proceedings on the motion for this order.

I shall be brief, and I hope that we can achieve consensus on this issue. We want to ensure that we guarantee the three hours of debate on the Drugs Bill. There was extensive discussion in our six sittings in Committee, including a very long discussion on the reclassification of cannabis. That was also voted on in Committee. The programme motion allows us three hours of debate on the Bill. It also allows us to deal with the most important issues in an appropriate order.

A number of the issues raised in Committee gave me pause for thought, and I have tried to capture our response in the Government amendments, to show that we have been listening to the concerns that were raised. I hope that Opposition Members will agree that that is what we have achieved.

I would like to apologise to Opposition Members for the late arrival today of a letter that was based on issues raised in Committee. I want to offer my unreserved apology for that, and I hope that it will not happen again in my ministerial career, however short or long that might be.

5.27 pm

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): The Minister has just said that she wants to dispose of this motion quickly because she wants to guarantee three hours of debate on the Bill. If that is what she wanted, it would have been quite simple not to have tabled this programme motion at all. So I do not agree with her basic premise, and it would be quite remiss of me to pass up this opportunity without making some further comments. I note that she has apologised unreservedly on a particular matter, and I shall refer to that matter in the course of my remarks on the programme motion.

I believe that it was only yesterday evening that the official Opposition discovered the details of the programme motion that is on today's Order Paper. The motion limits the entire Report stage and Third Reading of the Bill to a mere three hours. If I have read it correctly, it provides 45 minutes for this debate on the programme motion. The Report stage can take up to two hours from the time this debate started at 5.25, and there will be an hour thereafter for our Third Reading debate. It is interesting to see that the Government have protected the Third Reading debate, because on another Bill recently, they completely failed to do so. They have obviously learned from their mistakes. I had to weigh up whether to debate this motion, thereby using up part of that precious time, and I decided that the time allotted was so meagre that I ought to make this protest, and to put on record the views of the Opposition.

There is no doubt that the programming device is the subject of a great deal of controversy. It is neither an equal nor a fair process, and it certainly enables the Government to impose a timetable irrespective of the views of the Opposition. That is, of course, if the Opposition have had an opportunity to put their views.

The report on the programming of legislation was published in July 2004. It was the product of the Procedure Committee, of which I was a member many years ago and which does sterling work.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Hear, hear!

Mrs. Gillan: I have support in the Chamber, and I am pleased to see the Chairman of the Procedure Committee, my hon. Friend the Member for Macclesfield (Sir Nicholas Winterton), in his place, because this is a serious matter that reflects the reason for my choosing to debate the programme motion in these 45 minutes. I am also pleased to see other Members who have been members of the Procedure Committee from time to time.

Page 3 of the report carries the summary and a recommendation from the Committee, which says:

"We recommend that programming motions should be decided without debate only when there is cross-party support; on other occasions the Government would, if necessary, have to justify such a motion in a one-hour debate."

That recommendation has been completely flouted, because we have only 45 minutes in which to pursue the matter of this programme motion. The report continues:

"In exchange, we would expect parties to adopt a constructive approach to programming."

It is fair to say that during consideration of the Bill—the Minister can intervene if she disagrees—the Government received good co-operation from the Opposition. We have attempted to improve hastily drafted and inadequate legislation.

Lord Commissioner of Her Majesty's Treasury (Mr. John Heppell): No.

Mrs. Gillan: From a sedentary position, the Government Whip says, "No," but there was absolutely no problem with the programming other than when he got a bit hot under the collar when we appeared to be debating at length matters that needed closer examination.

We have tried at every stage to improve on hastily drafted and inadequate legislation. Indeed, so hastily drafted was it that the Minister herself accepted Opposition amendments—as drafted and in principle, as shown by the Government amendments on the amendment paper today—but at no stage was such extreme timetabling in the closing stages ever discussed. In fact, the opposite impression was given: if more time was required it would be given, although that is clearly not the case, as we see today.

[Mrs. Gillan]

In Committee, we did not complete scrutiny of the Bill and all the proposed amendments, but despite that new clauses went undebated—

Mr. Heppell: We did.

Mrs. Gillan: Again, the Government Whip is interfering by speaking from a sedentary position. He can intervene if he can tell me that we completed scrutiny of all the new clauses at the end of consideration in Committee. We did not complete scrutiny of the new clauses.

Mr. Henry Bellingham (North-West Norfolk) (Con): My hon. Friend may recall that I tabled an extremely important new clause on the General Medical Council and the right to strike off doctors, but there was not time to debate it. That is illustrative of the pressures that we were under.

Mrs. Gillan: My hon. Friend makes a timely intervention to highlight a pattern that is repeated by the Government on so many occasions that they are too numerous to mention. I shall refer to that later. We did not complete the scrutiny of the Bill and today's debate will be truncated by the Government's programme motion.

At the beginning of the debate on the programme motion, the Minister apologised. She did so because she has not been entirely fair and square with the Opposition on the Bill's passage. I need to ask her why I received her office's e-mail at 11.41 this morning. The e-mail says:

"I attach a copy of the letter to Cheryl which was signed in Caroline's absence regarding the Drugs Bill. It has been brought to my attention that due to an administration error it is possible that you did not receive this letter last week. It is vital that this is drawn to Cheryl's attention before Third Reading this afternoon."

Well, that is an extraordinary letter to get from a Minister's office on the day of Report and Third Reading. Attached to it was an undated seven-page letter from the Minister, signed in her absence, which purports to deal with the issues raised in Committee.

First, sending out that letter at the last minute is discourteous at the very least. Secondly, it would appear to be a way to avoid further debate, substantiated not least by the truncated timetable motion today.

I refer once again to the admirable work of the Procedure Committee:

"For report stage and third reading, we recommend that the Government should table its amendments in good time and that the House should be provided with a factual statement of which clauses and schedules were not considered in committee because of the operation of the programme; and we believe that the House will usually want to spend most of the time available on report stage rather than third reading."

Well, the amendments were not tabled in good time. In fact, I am not sure when they were tabled, but I was notified of them yesterday morning. E-mails were sent to my office last Thursday, which were inaccessible by me as Parliament was in recess and the parliamentary data and video network was down until Monday morning. Therefore the first notification that I received of those amendments was first thing on Monday morning. Given that those amendments were tabled so late in the day, and that the letter to which I referred was sent at the last minute, it is not possible to table further amendments on Report. Were I to wish to do so, the timetable motion would now prevent any possibility of their discussion.

Matters arise from both the last-minute letter and the amendments tabled by the Government that need exploring. Let me give as an example those relating to clause 5. I had asked about the implications of the costs of the proposed X-rays and scans, and about whether they are paid for by the police or the national health service, which we know is very pressed at the moment. The Minister's responses in her letter deal with issues in relation to medical emergencies when people are arrested, but still do not deal specifically with situations envisaged in clause 5 in which a police officer decides that there is a reason to X-ray or scan an individual. How were we to know that the answers would be inadequate, as the information only arrived just before midday today?

The timetable motion might also prevent us from reaching one of the most important amendments for which we would wish to argue—the proposed reclassification of cannabis in new clause 1. The Minister referred to that specifically in her opening speech on the programme motion debate. She was pleased that we voted on it in Committee—well, we voted on it, but we did not have an extensive debate. If she would like to refer to the *Official Report* of the Committee, she will see that there was a short, rushed debate, right at the end of the Committee. It was only because I stood up and asked how I could have a vote on the new clause that we managed to get one in right at the tail end of the Committee.

We believe that the Government have made a grave mistake in reclassifying cannabis as a class C drug. Our concern has been that the reclassification will be a green light to young people, which is indeed the case. If young people are more likely to try cannabis, they are more likely to become involved in the drug sub-culture. We will reclassify cannabis back to class B, and would wish to have more time to deploy those arguments and discuss them with the Minister.

This timetable inhibits debate on a subject which should be of great importance to every parent throughout the country. We know of its great importance, because although the Minister did not have time to answer questions posed properly during Committee several weeks ago until nearly midday today, she did, however, have time to send out a press release about the success of Operation Crackdown at 9.54 this morning. We therefore have a situation in which the Minister can do her press and publicity about Operation Crackdown, but she cannot be bothered to get the letter to the Opposition about points raised in Committee.

I am pleased by the results that the police are achieving in tackling class A drugs, although I must admit that, on the basis of the statistics I have, I am not sure that they were worth a press release. I understand from the press release that 17 kg of heroin were captured by the police in the first four weeks of Operation Crackdown, but having looked at the statistics I discovered that in 1999—

Mr. Deputy Speaker (Sir Michael Lord): Order. The hon. Lady must confine her remarks to the matters immediately before the House.

Mrs. Gillan: I agree, Mr. Deputy Speaker. The fact is, however, that the Minister is able to get press releases out and not leave time for them to be discussed, and was not capable of producing from her office—throughout the recess—the information that she had promised in Committee. I know she is sorry, I know she has apologised and I accept that apology, but it is still absolutely appalling.

Let me end by returning to the Procedure Committee's excellent report, which made certain recommendations. For the sake of the Minister and those who support her, I should say that page 21 needs to be read carefully. At paragraph 13—unlucky for some—the Committee said:

"We recommend that the Government should table its amendments for report stage in good time."

At paragraph 15, it said:

"We believe that the House will usually want to spend most of the time available considering amendments on report, rather than debating third reading at length."

We are left with a programme motion that ensures that the Third Reading debate will be longer than the debate on Report, which is directly contrary to the Committee's recommendations. That does not surprise me, however. Only yesterday, the remaining stages of the Clean Neighbourhoods and Environment Bill did not complete their course here. The Prevention of Terrorism Bill is to be rushed through in two days, and because of a programme motion part 2 of the Civil Contingencies Bill was not discussed at all, although it involved serious constitutional issues. What hope have we for the Drugs Bill, which deals with a matter that is so important to families and communities up and down the land?

This is a pattern with the current Government, who wish to stifle debate and, dare I say it, diminish the standing and powers of Parliament. No doubt the Drugs Bill will be added to the wonderful table in the Committee's report, table A on page Ev5. It gives a long catalogue of Bills in the 2002–03 Session parts of which were never reached and never discussed in the House.

I invite my hon. Friends, and anyone else who cares to join me in the Lobby, to vote against the motion as a matter of principle. Once again the Government have been discourteous to the Opposition, have shown that they are not organised or competent, and have sought to stifle debate about something on which I believe Conservative policies are winning hearts and minds throughout the country. I think people believe that the Government have failed to act successfully on drugs.

5.43 pm

Mr. Alistair Carmichael (Orkney and Shetland) (LD): Although it may not be apparent from the debate today, at the end of proceedings in Committee the Under-Secretary of State for Health, the hon. Member for South Thanet (Dr. Ladyman), thanked Members for the courtesy and good humour with which they had conducted those proceedings.

We had ample time to explore the issues in Committee, and the Government deserve credit for that. As the hon. Member for Chesham and Amersham (Mrs. Gillan) has said, as a result of that exploration a number of amendments were accepted, either as they stood or in principle. The Government have returned the issues to the Floor of the House, and I give the Minister credit for that. However, I share many of the concerns of the hon. Member for Chesham and Amersham. For the entire proceedings on Report to be given at most two hours is not adequate. To include in that two hours the debate on the programme motion means that we may have no more than one and a quarter hours for consideration of matters on Report.

Matters on Report are important. If matters have been dealt with in Committee, that has been the preserve of a small number of Members. This is the opportunity for Back Benchers on both sides of the House who have concerns about the Bill to have their say. One hour and 15 minutes will not be sufficient for that.

The hon. Member for Chesham and Amersham referred to the correspondence from the Minister's office. I am quite happy to favour cock-up rather than conspiracy as far as that is concerned, but it highlights the danger of proceeding in the manner in which the Government wish us to proceed today with a highly timetabled debate.

The hon. Member for Chesham and Amersham said that we had protected time for Third Reading. That is not necessarily the case. If she looks at the motion, she will see that proceedings on Third Reading must be concluded three hours after the commencement of debate on the motion. Proceedings on Report must be concluded after two hours. If we were to have a vote after two hours, that would mean that Third Reading would not start until probably about 15 minutes into the one hour. At best, there will be 45 minutes available.

Mrs. Gillan: I accede to what the hon. Gentleman is saying. I was referring to a previous Bill where there was no protection at all for Third Reading and the debate was completely lost.

Mr. Carmichael: We should be fortunate and have three quarters of an hour, if that is fortunate.

A number of issues have come to mind as I have considered the Minister's correspondence this afternoon. On first reading, I thought that it was fairly innocuous. The more I read it, the more I think, "Perhaps there is a point to be asked about here and a point to be asked about elsewhere." I hope that, when the Bill leaves the House, as I think it inevitably will tonight, and goes to the other place, the matters that we are not able to deal with today but that have been raised in correspondence from the Minister will get a fuller hearing and that there may be an opportunity for us to deal with those matters during consideration of Lords amendments.

I was slightly surprised that the hon. Member for Chesham and Amersham was not able to get the Government amendments through PDVN, as I was. I am delighted that, for once, in a technological sense, things seem to be working better in Orkney and Shetland than in Chesham and Amersham.

5.47 pm

Mr. Eric Forth (Bromley and Chislehurst) (Con): The hon. Member for Orkney and Shetland (Mr. Carmichael) was right to pick up the point that the Minister made briefly and rather weakly that, because matters have been considered in Committee, why should

[Mr. Eric Forth]

we delay ourselves much on the Floor of the House—that was okay, was it not? That prompts a number of questions, one of which we need not discuss here: was the amount of time even in Committee adequate? My hon. Friend the Member for North-West Norfolk (Mr. Bellingham) pointed out that his excellent new clause was not considered in Committee because of the Government's vicious timetabling of the Committee itself.

In a sense, however, that is beside the point because the whole purpose of the Report stage, as my hon. Friend pointed out, is to give Members who did not have the privilege of being on the Committee the opportunity to consider what it did and to submit further amendments. Indeed, even the Government themselves now routinely table amendments on Report for consideration. Therefore, we should look at what we are expected to consider on the Floor of the House in the time allotted by the Government. We should notice that under these so-called timetable motions the Government are graciously allowing the House of Commons a certain amount of time to do its job of scrutinising the Government's legislation.

Mrs. Gillan: I am most grateful to my right hon. Friend for giving way. He might want to consider that, first, the Minister was interrupted in mid-flow on a new clause in order for us to vote on the reclassification of cannabis; I have referred to the record in that regard. Secondly, does he agree that, given that part of the Bill refers to provisions in Northern Ireland and that no Northern Ireland Member served on the Committee, it is even more important that consideration on Report be allowed to run for some time, so that Northern Ireland Members can make points on behalf of their territory?

Mr. Forth: My hon. Friend is of course correct. The point is that the Government are now deciding how much time they themselves will allow Members to do the job that they have been elected to do, which is to scrutinise the Government's legislation.

Let us examine the specifics. There are five groups of amendments. They are not trivial and they cover some important and fundamental points. The first group deals with provision for schools and with children, and the second deals with dangerous driving. The third group concerns our old friend—substituting "shall" for "may". That always sounds trivial and innocuous, but it rarely is, because it is almost always of extreme importance. The fourth group deals with the role of the Secretary of State, which is also a matter on which we should dwell. The final group consists of new clause 1, which deals with, as my hon. Friend pointed out, the extremely important issue of the classification of cannabis.

Any one of those groups could easily justify at least an hour's debate in the House—if not several hours—because in theory several hundred Members might want to debate these matters, and they would be entitled to do so. Instead, the Government have said, "You will be allowed a maximum of two hours to consider all these matters." That is 24 minutes per group, and if time is allowed for contributions from the Minister and other Front Benchers, there would probably be no time left for Back Benchers. That is the absurd situation in which we now find ourselves. The Government are saying that they do not think that Members need to bother turning up to debate these matters, because they do not think that time should be given to do that. That is the essence of the motion.

Mr. Crispin Blunt (Reigate) (Con): Would my right hon. Friend care to reflect on the fact that although the hon. Member for Newport, West (Paul Flynn)—he is in his place—has special expertise in this area, he did not serve on the Committee, whereas two Back-Bench Government supporters from Scotland did, even though the Bill does not apply to Scotland? This point surely relates to precisely the argument that my right hon. Friend is making. Today constitutes an opportunity for experts in this House who have not yet had a chance to contribute to do so, yet the time available for debate will be limited to one hour. I am thinking in particular of Members who represent points of view on which Committee members received a great deal of advice. Despite that, no Committee member supported the case put forward by concerned lobby groups and members of the public.

Mr. Forth: My hon. Friend makes an important and interesting point on which I will allow myself to be drawn briefly. He is referring to the mysterious ways in which membership of Committees is decided by this House—or, indeed, by the usual channels. The important point is that, sadly, it is therefore likely that members serving on Committees dealing with Bills such as this might not represent views generally held throughout the House. In particular, as my hon. Friend suggested, distinguished Members such as the hon. Member for Newport, West—he is present now and smiling at me, and I am smiling at him—have a unique contribution to make. Today's debate should be an opportunity for such Members. It should not be time-limited by the Government.

Lady Hermon (North Down) (UUP): The hon. Member for Chesham and Amersham (Mrs. Gillan) touched on a serious issue relating to Northern Ireland. I have a letter from the Northern Ireland Office confirming that permission has been sought and obtained for the extension to Northern Ireland of certain provisions in the Bill. However, the right hon. Member, who always reads legislation very carefully, will have noted that clause 24(6) makes it clear that the Bill

"extends to England and Wales only."

That makes it even more unfortunate that more time has not been set aside this evening to discuss the extension of certain provisions to Northern Ireland.

Mr. Forth: I am grateful to the hon. Lady, who makes an important and different point about the extent to which the Bill covers Northern Ireland. We need to be aware that changes may be made to it even at this late stage. Sadly, as she says, it is doubtful whether we will have a further opportunity properly to explore the issue. The hon. Lady could be lucky if the Minister gives way to her when she winds up the debate; she might even

have a brief and peremptory answer to her question. However, that is not the way in which we should conduct our affairs, Mr. Deputy Speaker. It should not be a matter of a nod and a wink here and a moment there. These matters deserve proper deliberation and consideration by Members of this House. The programme motion will simply not allow that.

Mrs. Gillan: The hon. Member for North Down (Lady Hermon) raised an issue that the Minister certainly must answer, and I believe that it should be answered during the course of her remarks this evening. Clauses 4 and 6 specifically relate to powers in Northern Ireland. Indeed, I raised in Committee a matter that the hon. Lady had mentioned about the nomenclature of police officers in Northern Ireland. If the qualifying clause at the end precludes the Bill's extension to Northern Ireland, it shows once again the poor drafting and haste with which the Bill has been knocked up, thrown together and slipped through the House.

Mr. Forth: I suspect that the best opportunity for the hon. Member for North Down may be on Third Reading, when there may be a chance for the House to press the Minister on matters that are not necessarily covered by the selected groups of amendments on Report. Subject to your discretion and decision, Mr. Deputy Speaker, it may be appropriate to pursue the matter of Northern Ireland with the Minister on Third Reading. In my view, that would be entirely appropriate.

Key issues in the Bill—including the selling of drugs to children, the impact of drugs on driving, the role of the Secretary of State and, not least, the classification of cannabis—are of great substance and importance in their own right. Members who did not sit in Committee—not least, the hon. Member for Newport, West—should now have their opportunity to contribute to the debate in the Chamber, but I suspect that none of that is going to happen. There will be no proper opportunity for debate and Members at large will have little chance to contribute. Sadly, that will once again make an absolute nonsense and a farce of the proper role of the House of Commons in scrutinising legislation.

Sir Nicholas Winterton (Macclesfield) (Con): Is it not appropriate for the Opposition, including Liberal Democrat as well as Conservative and Unionist Members, to make representations through the Minister to the Government to the effect that they should urgently review the programming procedures of the House to meet the perfectly reasonable deliberations and recommendations of the Procedure Committee? I believe that the Minister wants good legislation, but she will not get the best legislation if we proceed in this way.

Mr. Forth: My hon. Friend is characteristically more generous than I am, as I gain no sense that the Minister is anxious for any proper or detailed scrutiny of the Bill. In fact, I gain almost the opposite sense—that what we are being allowed to do today is almost too much for the Minister to bear and that she wants us to nod it all through so that she and her colleagues can get away as early as possible. That was my impression, but we may hear more from the Minister either on Report or on Third Reading about whether she is really enthusiastic, as my hon. Friend suggests, about allocating more time to debate the important issues in the House. I will believe it when I see it: that is all that I can say.

I make no apology for that, as this system of so-called timetabling has confronted us time after time with the absurdity that we are not able to discharge fully and properly our responsibilities as Members of Parliament to scrutinise legislation. The system makes life easier for the Government and makes nonsense of our role. That saddens me.

6 pm

Mr. Henry Bellingham (North-West Norfolk) (Con): I had the pleasure of being a member of the Standing Committee considering this Bill, and I listened with great interest to the contributions that were made. I listened with special interest to what the Minister had to say in respect of a measure that is not particularly controversial. The Bill has received substantial all-party support, with the few exceptions to which my hon. Friend the Member for Chesham and Amersham (Mrs. Gillan) alluded a moment ago.

I do not understand what is going on. Why on earth is it necessary to apply a timetable motion to a Bill that has all-party support and which is not controversial? Furthermore, many hon. Members are extremely interested in the subject of drugs and know a great deal about it, but, as my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) said, only a few of them were fortunate enough to serve on the Committee. As a result, many hon. Members would like to contribute to the debate this evening and they might have hoped against hope for a debate on Report that was not timetabled. They will have been sorely disappointed when they saw the business of the House for this week, as it was clear that an extremely tight timetable would leave little chance for a constructive and positive contribution.

Lady Hermon: Does the hon. Gentleman agree that there is a particular problem in Northern Ireland? The Assembly there was suspended in October 2002, and this House alone has responsibility for the criminal law in Northern Ireland. Does not it therefore ill behove this Government to rush through legislation in an area as important as drugs control? I remind the House that cannabis use is the main drug problem in Northern Ireland, yet there is no time for proper discussion of the extension of the Bill's key provisions to Northern Ireland.

Mr. Bellingham: I thank my hon. Friend for that intervention. I am indeed aware of what is happening in terms of the Northern Ireland Assembly, and I was a member of the Northern Ireland Affairs Committee early on in this Parliament. I am aware of the background, therefore, and the point that she makes is absolutely spot on. Given that the Assembly is suspended, surely the Government should be doubly cautious, sensitive and understanding when it comes to the needs of the Province. They should therefore ensure that proper time is given for a Bill of this nature, which is not controversial.

[Mr. Bellingham]

In her excellent speech a moment ago, my hon. Friend the Member for Chesham and Amersham pointed out that several other Bills—the Civil Contingencies Bill and the Clean Neighbourhoods and Environment Bill, to name but two—have been subjected to the same timetabling tactics. Earlier in this Parliament, I belonged to the Standing Committee considering the Adoption and Children Bill, which was also uncontroversial and given all-party support. Many hon. Members were keen to ensure that this House produced good law that would endure and command respect. Laws like that are effective and can be upheld in the courts, but they cannot be achieved if the Government are always trying to rush them through the House.

There is no good reason for the Government's determination to rush this Bill through—apart from the possibility that the Minister and her team just want to go back to their offices or their homes early. The Bill's Report and Third Reading should be considered over a prolonged period of time, as there are many additional points that need to be discussed.

My hon. Friend the Member for Chesham and Amersham pointed out that we made good progress in Standing Committee and that the Bill enjoyed all-party support. However, some aspects of it were not properly debated. We should have liked more time in Committee, but the Opposition co-operated with the Government as much as we possibly could. We went out of our way to be co-operative and responsible and, to the extent that it is possible for an Opposition to do so, to help the Government get the Bill through Committee. That is why I am appalled by the letter that my hon. Friend received from the Minister and the notification of the amendments. What is going on? We have just had 10 days off for half-term. Did the Home Office simply close down during that period? What were the Minister's civil servants doing? Why on earth could they not have contacted members of the Committee in good time, given us plenty of warning and behaved more imaginatively and proactively, which might have led to better legislation? What the Government are doing this afternoon is likely to lead to bad legislation and that is why I shall support my hon. Friend in the forthcoming Division.

6.5 pm

Mr. Crispin Blunt (Reigate) (Con): The way in which the Bill has been conducted is a great shame because much of the conduct in Committee was exemplary. The Minister considered points seriously, listened to concerns raised in the Committee and on one occasion accepted, unusually, an amendment tabled by the Opposition. The Committee tried seriously to improve a Bill that showed all the evidence of being drafted in a hurry. It is partly to the Government's credit and to the rather mysterious ways in which the Committee of Selection works that sitting behind the Minister were the hon. Members for Bassetlaw (John Mann) and for Bolton, South-East (Dr. Iddon) who demonstrated considerable expert knowledge in debate. It was a shame that the hon. Member for Newport, West (Paul Flynn) was not a member of the Committee, given his expertise and his contribution on Second Reading.

During the Committee's deliberations, when we had a great deal of contact with people who were concerned about the change to the legislation covering magic mushrooms, the hon. Member for Orkney and Shetland (Mr. Carmichael), who was representing the Liberal Democrats, moved an amendment with which he did not agree to enable a debate to take place. The two issues in the Bill that raised the greatest public concern were the reclassification of cannabis and khat, and the classification of psilocybin-related drugs to group A, and they were dealt with during the Committee's final sitting. Those issues were of great public concern, but no one was genuinely advocating the interests of people who will be affected by the Bill, except academically and artificially, because no one on the Committee agreed with the point of view put forward by a number of concerned members of the public. Therefore, it is important to have sufficient time to discuss such issues when the Bill returns to the House on Report.

Mr. Carmichael: In the interest of accuracy, during an earlier intervention, the hon. Gentleman said that the Bill applies only to England and Wales. Under clause 24(7), clauses 1, 2 and 21 also apply to Scotland.

Mr. Blunt: The vast majority of the Bill is a matter for England and Wales and only a limited number of provisions, mainly covering repeals, apply to Scotland.

When there is concern about such issues from public lobbies whose views are not over-represented in this Parliament, they deserve the opportunity to have their point of view taken into account. The Government may have an argument for programming if there is adequate pre-legislative scrutiny and an opportunity for interested lobby groups to make their case and to have meetings with hon. Members to ensure that their concerns have been properly taken into account. However, there is no case for this Bill to be rushed through when Transform, a drugs policy organisation, legitimately expresses its concerns about the Bill as follows:

"Its criminal justice focus appears to be motivated by election-time populism rather than evidence of effectiveness or the needs of the drugs field. The result is a series of reforms, most of which will be ineffective or actively counterproductive. They hold no prospect of addressing the very real issues around drug misuse and related offending in the UK."

That is a proper line of criticism of the Bill.

The measure has been put together in a great hurry and has more to do with appearance than substantive, considered changes to the law. Expert bodies and people with a particular interest in the Bill should have had the opportunity and time to consider it carefully. If that had been the case, they would not have said that there had been lack of consultation.

It being forty-five minutes after the commencement of proceedings on the motion, MR. DEPUTY SPEAKER *put the Question, pursuant to Standing Order No. 83A (8) (Programme motions).*

The House divided: Ayes 298, Noes 179.

Division No. 91] **[6.10 pm**

AYES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Best, Harold
Betts, Clive
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Connarty, Michael
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merth'rTydf'l & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stinchcombe, Paul
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Todd, Mark *(S Derbyshire)*

Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Mr. Tom Watson and Gillian Merron

NOES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Evans, Nigel
Ewing, Annabelle
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Oaten, Mark *(Winchester)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Andrew Selous and Mr. Mark Prisk

Question accordingly agreed to.

Orders of the Day

Drugs Bill

As amended in the Committee, considered.

Clause 1

AGGRAVATED SUPPLY OF CONTROLLED DRUG

6.25 pm

The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint): I beg to move amendment No. 9, in page 1, line 17, after 'committed', insert 'on or'.

Mr. Deputy Speaker (Sir Michael Lord): With this it will be convenient to discuss the following: Government amendment No. 10.

Amendment No. 4, in page 1, line 18, after 'school', insert

'or any other place where children frequently congregate'.

Amendment No. 5, in page 1, line 18, leave out 'at a relevant time'.

Amendment No. 3, in page 2, line 3, at end insert—

'(4A) In subsection (3) "in the vicinity" is—

(a) within one mile of the school; or

(b) within five miles of the school when on a route known to be used by pupils accessing the school; or

(c) on a vehicle used by local education authorities to transport children to school.'.

Amendment No. 6, in page 2, line 4, leave out subsection (5).

Government amendments Nos. 11 to 18.

Caroline Flint: Clause 1 stipulates the circumstances that a court must treat as aggravating factors when considering the seriousness of the offence of supply of a controlled drug when the offence is committed by a person aged 18 or over. It will be an aggravating factor where the dealer uses a person under the age of 18 as a courier to deliver a controlled drug, or in a drug-related consideration, or where the offence of supply occurs on or in the vicinity of school premises during the relevant times.

Recognising that schools are often used by young people outside conventional school hours, the clause establishes the relevant time as any time when the school is in use by a young person and one hour before or after that time. Because the clause focuses on protecting children at school, we have not included in its scope the supply of drugs at times when young people under 18 are not present at the school, but the clause would cover activities outside the normal school day and in the school holidays when young people are involved in an activity at the school.

John Robertson (Glasgow, Anniesland) (Lab): I have great sympathy with amendment No. 4 because it is much more protective of the child than the wording of the Bill. Can my hon. Friend allay my fears, so that places such as clubs where young children are brought together are not seen as easy prey for the kind of person we are talking about?

Caroline Flint: The clause deals with the vicinity of a school. We are focusing on the school as a place in the community that is a visible and known building where young people assemble to attend school and for other legal purposes. We discussed in Committee—and I shall go into this further—how we might extend the provisions to other places where young people go, such as a cinema or a swimming pool. As I shall explain, part of the problem is how we define that, as it could be anywhere that children go.

John Robertson: The places that concern me particularly are sports clubs and sports centres, where there are large numbers of young people in an area that can also be attended by adults, some of whom might not be as nice as those looking after the children.

Caroline Flint: We recognise that drug-related activities can, unfortunately, take place at any time and anywhere in our communities. I share my hon. Friend's concern. It is important that the police and others work to make sure that, using local intelligence, they identify where those activities take place. There is already protection for young people, and account must be taken of aggravating factors such as dealing directly to vulnerable people. That includes people under 18. Dealers would be caught by that if they were dealing to young people in areas such as my hon. Friend mentioned.

In the clause we are focusing on the school, which is a premises where children are expected to go by law. It is a visible building in the community which is known to be used by children. We are considering how we might best create a safe zone around it.

Several hon. Members *rose—*

Caroline Flint: I wish to make a little progress.

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): Will the Minister give way on that specific point?

Caroline Flint: I wish to deal further with some of the points that have been made, as this matter was dealt with extensively in Committee. I ask hon. Members to please bear with me.

The Bill does not define what constitutes the vicinity of school premises, so it will be for the courts to make a determination on a case-by-case basis. I shall return to that point in relation to amendment No. 3. The clause will catch all school premises, including buildings, main and ancillary, playing fields and dormitory buildings. It will also encompass the use of school premises for community purposes, provided that a young person under 18 is participating in that use.

In Committee, the hon. Member for Upminster (Angela Watkinson) gave the example of a community church using school premises and asked whether it would be caught by the provision. Initial advice suggested that the answer was no, but I sought further advice from parliamentary counsel, and they said yes.

[Caroline Flint]

As far as I am concerned, on the basis of that second opinion, any activities taking place within what are defined as school premises will be caught by the clause as long as they involve under-18s.

The courts may already take into account aggravating factors when considering the seriousness of an offence of supplying a controlled drug. The clause recognises public concern, particularly about aggravating circumstances in which children are exposed to risk, even if they are not directly involved in drug-dealing activities. We hope that the clause will provide a measure of reassurance to parents and a deterrent message to dealers, as well as offering protection to young people.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): May I offer to the Minister the example of the school in my village that my children attend? As well as the school, there are various play facilities that are frequently used by children after hours. Presumably, given the terms of subsection (5)(a), a time when the children are playing there would constitute a time when the school is in use by persons under 18. Is she satisfied that that definition gives sufficient legal certainty, particularly given the fact that the provision extends to an hour before the start of such use? If there is no fixed start time, it will not be possible for a person to regulate their conduct according to the subsection.

Caroline Flint: I am convinced that the provision would apply to play activities of the sort that the hon. Gentleman mentioned. If hon. Members remember, we discussed in Committee the defence of not knowing that young people were present at any given time, and I accepted an Opposition amendment.

It is necessary to recognise that the provision is about creating safer zones. Our intention is that, as far as is possible and practical—there are issues about how far the areas can be extended, what is practical and how wide the range should be—we should protect young people, particularly when they are attending school but not exclusively, from exposure to drug dealing. It is therefore important that all premises should fall within the scope of that approach. I think that the hon. Member for Chesham and Amersham (Mrs. Gillan) spoke about her own school, Cheltenham Ladies' College—I think that it was in relation to the cash issue—and she pointed out that accommodation in boarding schools may be located on a different site from that of the school and asked whether such buildings would be covered. I sought additional advice as to whether ancillary school buildings such as accommodation provided by boarding schools and remote playing fields—when I was at school in London, we had quite a trek to our playing fields—are caught by the clause. I am assured that they are.

I have considered the point further, and I have taken the view that it is helpful, in order to avoid any doubt, to table an amendment. At the same time, it will also help to resolve any possible doubt about whether the provision catches over-18s who are dealing on such premises. Government amendments Nos. 9 to 11 and 17 mean that an aggravating factor that a court must take into account when deciding a serious drug supply offence will be the fact that the offence was committed on or in a facility, which is covered by Government amendment No. 9, and that it was committed at a relevant time, which is covered by Government amendments Nos. 10 and 11.

It is always worth working through the different scenarios. It is possible that a teacher or caretaker might occupy solely as a dwelling, accommodation owned by the school, which is school premises, but which is not on or in the vicinity of other school premises. In an inner-city area, for example, a school might own accommodation that is not in the vicinity of the school or on the school plot itself. In recognising that such accommodation could be on the far side of town, our aim is to protect and provide a safe zone for children and young people, so that there is no need to catch premises used solely as a dwelling by a caretaker or teacher that are not on or in the vicinity of other school premises, although such a person might be defined as living in school premises. I hope that is clear.

The basic idea is to draw a distinction between catching those people who have accommodation on a site where children actively go to school or engage in activities and a situation in which a caretaker lives 10 or five miles away from his job, but his accommodation is linked to the school.

Lady Hermon (North Down) (UUP): Will the Minister clarify once and for all whether clause 1 will apply to school premises in Northern Ireland? Clause 24 is ambiguous about whether some or all of the provisions will extend to Northern Ireland. Will she put on the record that every school premises—as she has explained this evening, "school premises" is widely defined—includes school premises in Northern Ireland?

Caroline Flint: I thank the hon. Lady for giving me an opportunity to set the record straight. I am pleased to say that clause 1 will apply to Northern Ireland, as will clauses 2, 4, 6, 8 and 21. Clauses 4 and 6 mirror clauses 3 and 5, so they have an identity in their own right. I agree that the wording of clause 24 is not as clear as we might all want, but sometimes we are all hostage to the legalistic wording used in such legislation. Many clauses amend existing legislation, and where the scope and range of that legislation applies to Northern Ireland, those changes will apply to Northern Ireland too. I reassure her that the measures in clause 1, which attempt to create safer zones around schools, will apply to Northern Ireland.

Lady Hermon: Earlier, I referred to a letter that I received from the Northern Ireland Office. I must apologise, because it was actually a written answer from the Minister of State, Northern Ireland Office, who is responsible for this particular subject. On 24 January 2005, he stated:

"I have sought and obtained approval for the extension to Northern Ireland of the following provisions in the Drugs Bill".

He listed several points, including the

"Creation of aggravating circumstances in which a dealer will face an enhanced sentence—such as dealing near a school or using young persons as couriers' —[*Official Report*, 25 January 2005; Vol. 430, c. 302W.]

Given the clear import of that reply, will the Minister reflect on making it clear in the Bill that the provisions extend to Northern Ireland? The Police Service of Northern Ireland must apply those provisions, which are not clear.

Caroline Flint: Clauses 1 and 2 amend the Misuse of Drugs Act 1971 and therefore apply to England, Wales, Scotland and Northern Ireland. It is not necessary to specify Northern Ireland because we are simply amending existing legislation, which already applies to Northern Ireland and Scotland. I hope that that makes it clear that Northern Ireland is not excluded from the provisions that deal with the vicinity of schools and the possible use of children and young people as couriers by drug peddlers and dealers. I hope that that reassures the hon. Lady and conveys a strong message to her local community.

Let me be clear. Premises that are occupied solely by a teacher or a caretaker as a dwelling and are on or in the vicinity of other school premises that children and young people use would be caught by the measure. Government amendment No. 17 therefore defines school premises more closely and exempts from that definition land occupied solely as a dwelling by a person who is employed at the school. It is not unusual for buildings that are used solely as a dwelling by a member of staff to be distinguished in legislation from other school premises.

Amendment No. 3 defines "in the vicinity" as

"(a) within one mile of the school; or . . . (b) within five miles of the school when on a route known to be used by pupils accessing the school; or . . . (c) on a vehicle used by local education authorities to transport children to school."

The question of what constitutes "in the vicinity" was thoroughly aired in Committee and I have, perhaps rather belatedly, written to the hon. Member for Chesham and Amersham about the matter. I am concerned about the definition and I held extensive discussions about whether it was possible to include one in the Bill. After much discussion, I am worried that attempting a definition runs the risk of undermining our purpose. A definition could exclude a set of circumstances that may currently be difficult to foresee or a position that arises from local circumstances, which a court might want to include.

John Mann (Bassetlaw) (Lab): I want to raise a point of clarity that was not made in Committee about definitions of vicinity, especially in view of Government amendment No. 9, in relation to school athletics and sports facilities that are used by adults—through community use—and children, for example on a Saturday morning. Am I right that, if the measure were passed, this country would have the strongest anti-drugs-in-sport legislation anywhere in the western world? Anyone who dealt in performance-enhancing drugs on a sports field owned by a school—that applies to all athletics facilities and most rugby and football fields in my constituency—would be liable for conviction for aggravated supply. Will my hon. Friend the Under-Secretary consider whether such a provision could eventually be extended to cover professional sports, such as those football teams that are playing tonight?

Caroline Flint: My hon. Friend is right that the Bill covers sports activities that take place on school premises—playing fields, sports halls or facilities that are open to community use. As long as young people who are under 18 are engaged in those activities, clause 1 will apply. My hon. Friend mentioned performance-enhancing drugs. If they were illegal, the clause would apply in the circumstances that he outlined. I shall draw his final point about other sporting activities to the attention of my hon. Friends in the Department for Culture, Media and Sport.

John Mann: My hon. Friend will recall that I was somewhat sceptical about the parental fear of drug dealing outside schools and I gave examples from my constituency. I believed that the Government risked falling into the trap of overplaying a fear that was simply that and not a reality. My hon. Friend will be pleased that I am convinced by her arguments about tackling drugs in sport. Will she consider how best to publicise this to the sporting world? The issue did not come up in Committee, but it could represent a significant change in dealing with drugs in sport.

6.45 pm

Caroline Flint: I will think about the issue that my hon. Friend has raised. It will be important to make the provisions of the Bill well known, should it become law. That is an ongoing challenge for us, with regard not only to the new provisions but to the fact that record amounts of money are now being spent on all aspects of dealing with drugs, including prevention, treatment and building capacity. I know that my hon. Friend has played a huge role in this in his constituency, which I hope has been helped by the Government's determination to bear down locally on what can be achieved if people work together better to identify the problems and use the funds that we are providing to tackle them wisely. I will think about what he has said.

I would also like to point out to my hon. Friend that a conference is being held this week on the positive futures scheme, which we in the Home Office are funding, as well as Sport England and others. The scheme identifies young people who are at risk of drug involvement or who have already become involved with drugs. It is a sports-based scheme, and 50,000 young people have gone through it so far, with tremendous results. An awareness of the dangers of drugs—not only heroin and crack cocaine but performance-enhancing drugs—is an important part of the role of sports coaches, alongside providing brilliant sports coaching.

Mrs. Gillan: The Minister is showing a great deal of concern for children by introducing this legislation, and we are now being led down the sporting route. She has also embarked on looking at "what if" scenarios. Will she clarify what would happen if children from a school were invited to play sport at a private sporting facility, for example, or a well-known football ground? If the children were going there as part of their school activities, would those premises be covered by the Bill? If not, why not? Why will the Minister not consider our amendment to make the clause apply to places where children congregate?

Caroline Flint: I am going to address that issue in a moment, but the short answer to the hon. Lady's question is that the provision would not apply to such

[Caroline Flint]

facilities. The Bill covers school premises, and I have already attempted to explain what we understand by that term. The provision would capture the scenario that my hon. Friend the Member for Bassetlaw (John Mann) outlined, but it would not apply to that suggested by the hon. Lady. I shall explain later our views on places where young people congregate and on other places that have been mentioned, including community centres. We are trying to focus on what is practical and what we can actually deliver.

What constitutes "in the vicinity" could vary from location to location. For example, a dealing site might be close to a school—and let us not forget that we are talking not only about someone dealing directly to young people, but about the exposure of young people to drug-related activities going on around them. An aggravating factor may already be taken into account by the courts during sentencing in cases involving dealing directly to a vulnerable person, including those under 18. These provisions are an attempt to tackle the problem of young people on school premises having to walk past or be exposed to dealing activities that might not directly involve them. This is about the risk of exposure, and the creation of safer zones around those areas.

Angela Watkinson (Upminster) (Con): The clause relates to the supply of a controlled substance by a person who has attained the age of 18. However, it does not cover the supply of such a substance by someone who has not attained that age. We know that when pupils in schools have been tempted into drug use, it is common for them to sell on their surplus to their friends, thereby creating more and more people with a drug habit. Will the Minister tell us how the provision relates to people under the age of 18?

Caroline Flint: With the indulgence of the House, I will deal with that point, but I do not want to lose sight of the Opposition amendments. As the hon. Lady is aware, we had a discussion in Committee on that issue. We have to decide whether we accept that the law contains procedures that recognise how we might deal with under-18s in terms of sentencing, and how they are dealt with by different agencies, compared with over-18s.

There are enough examples of how we try to deal with young offenders, but that does not mean that we excuse for one moment the activity of someone under 18 who might be supplying drugs. That will be an offence for which—if they are caught and there is evidence—they can be charged. We had a discussion on this in Committee, and I do not think that applying to someone who is himself identified in law as a vulnerable person the aggravating factor of supplying to a vulnerable person is the right approach to take.

Do not forget that that is an aggravating factor linked to a charge for an offence. In dealing with under-18s, it is important that we charge them for the offence, but we should also consider what their involvement is and how they got involved. We should consider them as we do in other areas of law—in a way that understands that their actions are wrong, but at the same time they are young people, and perhaps even children. We need to deal with that appropriately. We have had that discussion, and although we may disagree, I think this is the right approach. So we are talking here about people over the age of 18 in respect of whom we believe such issues should be taken into account when they are involved in dealing activity.

A dealing site may be close to a school as the crow flies, but might be separated from it by a railway line that is not bridged for some distance from the school, and may therefore, for practical purposes, not be in its vicinity. Conversely, a dealing site may be some distance from the school using conventional footpaths or roads, but be easily accessible by less conventional means. In my constituency, young people going to school do not necessarily follow the paved route. They cut across fields and parks, and that becomes their normal route to school. If someone wanted to be involved in dealing activity, they might choose such an area for that.

Amendment No. 3, in attempting to define "in the vicinity", illustrates the dangers of doing so. As I have said, distance may not always be the only determining factor. If we were to go for a fixed distance, from what point on the school premises would a mile be measured, and who would have the authority to carry out that measurement? How would passengers on a bus know when they were within 5 miles of a school? Furthermore, the amendment would catch only buses provided by an education authority, but not public transport used by pupils on their way to or from school.

In addition, if there were active dealing on a school bus—we might presume that, apart from the driver, most of the people on it were under 18, and it might be the driver who was dealing—that would be caught by the aggravating factor of dealing to vulnerable people, which means those under 18. We also know that young people use other forms of public transport, such as trains or buses, and children could be exposed to dealing activity from which we need to protect them near a local train station, which is the dropping-off point for those making their way to school, or on buses.

We are talking about situations in which the young person is not directly engaged, but is exposed to the risk. We all want to try to deal with those situations, when young people experience those things around them. We need to consider how to ensure that they are seen as not acceptable and not a normal part of everyday life.

Paul Flynn (Newport, West) (Lab): I am following my hon. Friend's argument carefully. We would all agree that we do not want our children or grandchildren to be exposed to drug pushing, but as she is referring to the vicinity of schools and colleges, the route to school for all children and the means of transport to school, it seems to me that this measure will cover an enormous area. Has she calculated the percentage of urban areas that the ban will cover? It strikes me that a very small area would be excluded from it.

Caroline Flint: Well, some Members might be quite happy about that. The facility will be linked to the issue of risk to young people and children. Rather than having carte blanche, the risk of young people being exposed would have to be set against the activity and where it was located. Because those issues are complex, we feel that that is a matter for the courts to decide. I will

refer later to some other pieces of legislation in which "in the vicinity" is also used to provide coverage in a certain area.

The way forward is to allow the courts discretion to decide what constitutes "in the vicinity", not to remove that discretion as the amendment tabled by the hon. Member for Chesham and Amersham suggests. Following the Committee stage, I sought further legal advice on the matter, and I am 100 per cent. certain that it is not sensible to provide further definition of the term in the Bill.

As I said, there is legal precedent for that approach elsewhere. For example, the term is used in section 42 of the Criminal Justice and Police Act 2001, under which a constable may give a direction to a person who is present outside or "in the vicinity" of someone's home if he reasonably believes that the person is there to represent something to the resident or another person or to persuade such a person to do or not to do something. I have experience of that in relation to animal rights extremists setting up a vigil outside someone's home. The police have used that direction widely, even when someone is not in the particular street or outside the person's home but has been there and in that vicinity previously.

The term "in the vicinity" is also used in section 60AA of the Criminal Justice and Public Order Act 1994 as inserted by section 94 of the Anti-terrorism, Crime and Security Act 2001. Section 60AA provides police with the power to require persons to remove disguises in certain places and under certain circumstances. Section 60AA(8) provides that a member of the British Transport police has those same powers in any locality "in or in the vicinity" of any police premises and in police premises themselves. We have done a search of case law to show that the term "in the vicinity" was used.

It is right that we should indicate the intention behind the clause, and the Home Office will draw up, consult on and issue guidance indicating particular concerns in that regard. I would like guidance to indicate that distance from the school is the key but not necessarily the determinative factor, and that the practical accessibility of a location to young people is an important factor. The risk posed by drug dealing to young people when attending schools is a primary concern, premises such as cafés and private dwellings that are in the vicinity of schools could be covered, and other points in the vicinity of a school at which young people gather regularly, such as a bus stop on the way to or from school, are also a concern. As for whether a place is one at which young people gather, we should also consider informal routes that they may take to the school premises, which would include public footpaths and roads and, dare I say it, trespassing across private land. Transport used by schoolchildren should also be caught within the definition when such transport is in the vicinity of a school.

Lady Hermon: May I clarify, for my peace of mind, one point that bothers me? We are considering clause 1 on aggravated supply of controlled drugs. Is my interpretation of that clause correct that if a defendant is able to argue successfully that a location is not "in the vicinity" of school premises, that affects sentencing only? In view of the wide interpretation that the Minister has given, and her confirmation that it applies to Northern Ireland, for which I thank her, will she confirm that even if that argument is successful and a court does not hold that such a location is in the vicinity of school premises, it is still an offence for a defendant to supply controlled drugs?

Caroline Flint: Certainly it is still an offence for someone to supply controlled drugs. Such a person would be arrested and, I hope, charged with a drug offence, and it would be for the courts to take that into consideration as an aggravating factor, along the same lines as the aggravating factor of using children as couriers. The purpose is to focus the minds of those in our legal system on the importance of these issues, which should be reflected in sentencing. In Committee, the hon. Member for Orkney and Shetland (Mr. Carmichael) raised the issue of transparency, and I have agreed to write to the Sentencing Guidelines Council about how aggravating factors apply to sentencing. I felt that he had made a fair point.

7 pm

Before issuing guidance my officials have already begun to consult Adfam, Turning Point, DrugScope, the Association of Chief Police Officers and the Youth Justice Board. During initial discussions with a number of those bodies, none of them supported a definition of "vicinity" in the Bill; they felt that that should be covered by the guidance.

As for amendment No. 4, I understand the desire to protect young people from dealers operating in the vicinity of places other than schools, but feel that there are real practical difficulties in establishing what constitutes such a place. What constitutes a congregation of young people—three or 30? Moreover, as I have said, the current sentencing guidelines list, among other aggravating factors, "deliberately targeting vulnerable victims". I believe that that gives courts discretion to deal with young people appropriately.

Unfortunately, as I said earlier, we live in a time when drug dealing can take place in any location where there are young people. The aim is to come up with a focused practical measure that can be enforced in a way that does not dilute what we are trying to do. That is why we have singled out schools for the purposes of this offence.

Amendments Nos. 5 and 6 would require a court to identify an aggravating factor increasing the seriousness of an offence of supplying drugs when a person commits the offence in the vicinity of a school at any time. As we have acknowledged, schools are not the same as they were in our time, when the school day lasted from 9 am until 3.30 or 4 pm. I think we are all pleased that schools are now live buildings that operate outside the normal school day and are open to the wider community, and we have covered that in the Bill.

Again, however, we do not want to dilute the aggravating factor. On occasion a school may be closed, with no one on the premises. To apply the aggravating factor when young people are not exposed would, in my view, undermine the clause. We should not forget that someone dealing in drugs outside a school at any time is liable to arrest and prosecution, but we do not think it appropriate for a court to apply the aggravating factor to those dealing at 2 am, when children are not using the premises. There must be a link with the risk of exposure.

[Caroline Flint]

Amendments Nos. 5 and 6 go beyond the intention of the clause. Because the clause catches all who deal in the vicinity of schools, the amendments would establish an aggravating factor when an adult dealer supplied drugs to another adult in the vicinity of a school, even if he did so when the school was shut and no young persons were present and exposed to risk. We must not lose the focus of the clauses.

As for Government amendment No. 12, clause 1 makes it an aggravating factor—which a court must take into account when deciding the seriousness of a drug supply offence—to use a person under 18 as a courier. I know from what people have told me that there is concern about the use of children by adults wishing to avoid prosecution, and I think that that is terrible. We had a productive discussion in Committee, and I agreed with a number of points that were made.

New section 4A(6) of the Misuse of Drugs Act 1971, which clause 1 inserts, provides that a person uses a courier in connection with an offence

"if he requests another person . . . to deliver a controlled drug to a third person"

or

"to deliver drug related cash to himself or a third person."

In Committee the hon. Member for Orkney and Shetland tabled an amendment that sought to strengthen the word "requests", to make it clear that all acts of both commission and omission that a dealer might undertake in order for a young person to act as a courier were considered to be an aggravating factor. I acknowledged the merit of what the amendment was intended to achieve, and I hope that our amendment will achieve the same objective. It would replace "requests" with "causes or permits", so that the clause would catch not just any positive act that a dealer might commit to force or persuade a young person to act as a courier, but a dealer who accepted an offer from a young person to act as a courier. In Committee, we discussed circumstances in which young people might wish to ingratiate themselves with, say, someone with a fast car, and might offer to be used in that way. This provision would capture that possibility, and I pay tribute to the hon. Gentleman for raising the matter in Committee.

On Government amendments Nos. 13, 14, 15, 16 and 18, again, the Bill deals with young people under the age of 18 who are used as couriers. New section 4A, which is inserted by clause 1, provides that for this purpose, drug-related cash is cash obtained in connection with the supply of a controlled drug or intended to be used to obtain a controlled drug. New section 4A(8) defines cash as including inter alia notes and coins and any monetary instruments specified by order made by the Secretary of State.

I pay tribute to the hon. Member for Chesham and Amersham, who tabled an amendment designed to have the effect of broadening the definition of cash to ensure that all possible forms of payment or reward for drugs received was caught. She argued that the definition in the Bill may not recognise the reality of the situation, because payments may be made, for example, in the form of consumer goods, CDs or clothes, as well as cash and monetary instruments. I acknowledged her argument and I hope that she will agree that we have come back with a suitable amendment to replace the term "drug related cash" with the term "a drug related consideration". That is further defined by amendment No. 14 as

"a consideration of any description".

We had a discussion about "a consideration" in Committee as well, and I have sought and obtained definitive legal advice. We are clear that it would not be appropriate to define the term "consideration" in the Bill. I understand—as a lawyer, the hon. Member for Orkney and Shetland will probably know better than me—that it is a standard legal term that should properly be interpreted by the courts. It is used without definition in much other legislation, such as the Criminal Law Act 1967, the Customs and Excise Management Act 1979 and the Criminal Attempts Act 1981. To attempt to define "consideration" would call into question some of those other pieces of primary legislation.

Amendment No. 15 widens the definition of "a drug related consideration" to cover that which is intended to be used in connection with obtaining a controlled drug as well as that to be used to obtain a controlled drug. The detailed definition of cash in new section 4A(8) is therefore no longer required, and amendment No. 16 deletes it. The new section contains a power for the Secretary of State to make an order specifying monetary instruments that fall within the definition of cash. That is no longer needed, and amendment No. 18 deletes it.

Amendment No. 13 and consequential amendments Nos. 14 and 15, 16 and 18 taken together have the effect of ensuring that all forms of payment or reward in exchange for drugs are covered by the clause. I commend the Government amendments to the House and I hope that on the basis of my explanation, Opposition Members will not press their amendments.

Mrs. Gillan: It is so good to see that the Minister has done her job properly on the first group of amendments on Report. The fact that, in order to do her job properly, she had to take more than two thirds of the entire time available for that group shows that she has been badly let down by her Whips Office. Again, we have lost valuable time for discussing this Bill. *[Interruption.]* I see that the hon. Member for Glasgow, Anniesland (John Robertson) is laughing away. I in no way blame the Minister. She did a proper job on the first group. It is just that the Whips Office should have allowed more time and the Government should not be so keen to cut off debate in the House.

Mr. Carmichael: Shame on the hon. Lady.

Mrs. Gillan: It is a shame on the hon. Gentleman because I hope to leave at least some time for him to say a few words on the off-chance, but forgive me if I do not manage it.

I welcome the Government amendments. We spent a lot of time on this clause in Committee because the Government made it a flagship clause. The Minister has admitted that there were some problems with its drafting. I find that extraordinary because the provision to make an aggravated offence for dealing around schools has been on the drawing board for some time. To have brought it to the House in such an imperfect form is extraordinary, but I admit that the amendments

that she has tabled, which were stimulated by the debate on the Opposition Benches, will improve this part of the Bill no end.

I am particularly pleased that the Minister has caught up with the 21st century and realised that her original drafting, which included the exchange of bankers' drafts and bearer bonds and bearer shares by dealers in and around a school, is not today's reality. Her reality check has brought her to use the words "a drug related consideration". That is an excellent development that recognises that youngsters deal in and exchange many other things, from mobile phones and the new iPods, to cash or anything else that happens to be at hand. I must say that bearer bonds and bankers' drafts are used rarely.

Caroline Flint: I agree that their use is rare, but I remember that, in Committee, the hon. Lady thought that they were used at Cheltenham Ladies' College.

Mrs. Gillan: The Minister ought to ask her colleague, the hon. Member for Slough (Fiona Mactaggart), about that. She was in my year at Cheltenham Ladies' College, and the hon. Member for Northampton, North (Ms Keeble) was also at school with me. The Minister has two Cheltenham Ladies' College girls on her side of the House, whereas we have only one who has seen the light. We will exchange no further views on that.

I thank the Minister for her letter of 17 February dealing with some points raised in Committee, which I did not receive until yesterday morning. Despite those comments to me at that late stage and her comments at length just now, the clause is still imperfect and certainly not strong enough. I want to consider the amendments that I tabled, which would widen and strengthen the clause. I hope that I will be able to press the House to a Division when the time comes, particularly on amendment No. 5, if not also amendment No. 6, because nothing that the Minister has so far said has led me to believe that my amendments will do anything other than strengthen this part of the Bill, which is what we have been seeking to do.

Amendment No. 4 would widen the protection afforded to children where they congregate, or receive instruction or training. In her letter of 17 February concerning clause 1, the Minister said:

"I am advised that the clause does not include school premises which are in community use (eg a community church), even when the persons under the age of 18 are using the premises for such community purposes. This is because the term 'use' implies 'use as a school'. Children will be protected by this clause so long as they are using the school for some school-related purpose (eg., night class/drama rehearsal)."

That is not the comfort zone that I was seeking concerning the interpretation of this clause. It is my understanding that the Minister is actually saying that the aggravation factor will not apply if, for example, the children are at a school premises and attending a Sunday school.

Caroline Flint: I thank the hon. Lady for allowing me to intervene. As I tried to explain earlier, I sought additional parliamentary counsel advice on this issue following that letter. I have subsequently made it clear that the provision would apply to the circumstances described earlier by one of her colleagues, but also to any activity taking place on school premises, whether or not it was organised by the school. Therefore, sports organised by other community-based clubs would be covered, as would a church service that is organised by a church, but which takes place within a school. I hope that that reassures the hon. Lady.

Mrs. Gillan: I am grateful for that reassurance and I was anticipating that the Minister might intervene on me. That goes to show that even the information that the Minister and her office provided to the Opposition so late in the day was inaccurate and no attempt was made to correct it in the ensuing period. Information has been introduced at this late stage and the Opposition were not notified; in fact, the material provided to us was obviously inaccurate. I am pleased that she has explained the situation, which may lead me to withdraw amendment No. 4. Although the amendment is not perfectly drafted, its purpose is to widen the spirit of the clause.

Examples have been one of the Minister's strong points and I would like to discuss another example, which I hope that she will be able to tell me will definitely fall within the ambit of the Bill. For example, I want to be able to protect children when they are in a learning environment that is not necessarily on school premises. The Minister confirmed earlier that, if children from a school were playing sports at a private club, they would not be covered by the Bill. In my constituency, some children are taken out of school and put into a completely separate learning environment from which they can benefit.

7.15 pm

I shall provide one example of a project designed to help children who are having a tough time in school and who respond to learning in a different way. I refer particularly to the "Skids" project in Buckinghamshire. It takes place away from school and the kids get to work with cars and bikes. The kids get to do what they want to do and they respond very well. I want some reassurance that, if anyone enters those premises to deal to those children, who may not have responded so well to normal school practices, the Bill will protect them. The Minister is looking puzzled—

Caroline Flint *indicated dissent.*

Mrs. Gillan: The Minister could intervene to tell me that such children would be protected while attending such a project.

Caroline Flint: As I outlined in my earlier contribution, there are a whole host of places to which young people could be defined as going on a regular basis. We have tried to be practical about the matter and we acknowledge that a school is a known building in the community. In my constituency, projects are going on in all sorts of places and, from the outside, no one would be any the wiser that child-related or young persons' learning activities were taking place. The Bill would not apply in those circumstances, but it would apply to pupil referral units, for example.

Mrs. Gillan: That disappoints me. It may apply to pupil referral units, but when a group of vulnerable youngsters are in another learning environment outside

[Mrs. Gillan]

the school—and they have been taken outside of school by the school itself—they will not be covered. Once again, the issues have not been thought through.

I want the Minister to respond, if she has time, to amendments Nos. 5 and 6 because they are designed to strengthen clause 1. She says that she wants to protect children and that clause 1 is all about protecting children, yet she places a whole series of provisos on that protection by using the phrase "at a relevant time" at the end of subsection (3) and by including in subsection (5), the phrases

"any time when a school is in use by persons under the age of 18"

and

"one hour before the start and one hour after the end of any such time".

That effectively removes from the Bill's protection the very premises that attract children out of school hours.

Many of our youngsters feel safe and secure in the environments in and around school premises. The Minister must know that, because she must have seen, as I have, children congregating in and around school premises long after the school has closed. That is the very time—late at night—when these children are most vulnerable and when the dealer will have greatest access to them. Dealers well know that children can be found in and around a set of premises with which they are familiar.

Why on earth is the Minister cutting off her nose to spite her face over this matter? It would be simple to remove the term "at a relevant time" and remove subsection (5) so that the provisions would apply in, around or in the vicinity of school premises. I cannot understand why she is resisting and providing the dealers with a loophole. The dealers will find it easy to set up their places around schools at 11 o'clock at night, after they have shut down at 8 pm, yet they will not qualify for additional sentencing on grounds of aggravation under clause 1.

I sincerely ask the Minister to reconsider my amendments Nos. 5 and 6, on which I hope we will be able to vote. The common sense of the amendments has attracted some interest from Labour Members because they realise that they are proposed sincerely to protect children in and around schools. I hope that, if we vote on the amendments, Labour Members will join us in the Lobby.

Amendment No. 3 attempts to define the term "vicinity", and I listened to what the Minister had to say. She quoted a lot from her 17 February letter, but I am no longer sure which parts of that letter are accurate, and about which she has sought further advice from parliamentary counsel. One part of the letter refers specifically to the matter addressed by amendment No. 3. She wrote:

"Where a school has residential accommodation which is not on the site where teaching takes place, then this will also be caught so long as it is not occupied solely as a dwelling by a person employed at the school."

Why is that exemption made? If a school's caretaker were a drug dealer and lived in a nearby dwelling provided by the school, the drug deals are more than likely to happen at that dwelling.

Caroline Flint: That would be another consideration for the courts to take into account. A caretaker in the circumstances that the hon. Lady describes—living near the school and known to the students—would be caught by the Bill, even if he dealt only to adults and not to young people. It has been brought to my attention that a caretaker's accommodation is not always near the school at which he works. As a result, the exposure of young people to the dwelling is not always apparent.

Mrs. Gillan: Once again, the Minister is not on the side of child protection but of the drug dealers. She has missed an opportunity with this clause. She has tried to be tough but she has failed. She is not tough geographically, because she has not sought to define what "vicinity" means in the context of a school—

John Mann: Will the hon. Lady give way?

Mrs. Gillan: No, as I have nearly finished and I want to leave a little time for my hon. Friend from the Liberal Democrats, the hon. Member for Orkney and Shetland (Mr. Carmichael).

The Minister has not drafted the clause widely as far as time is concerned. It is a half-hearted attempt to pay lip service to protecting children near schools. She has missed a great opportunity. I hope that we can divide on amendment No. 5, if not on amendment No. 6 as well.

Mr. Carmichael: I want to make a few brief remarks in the time that remains. Before that, I want to say that I agree with the hon. Member for Chesham and Amersham (Mrs. Gillan) about the timetabling of this part of our deliberations.

As the Minister fairly said, the bulk of the Government amendments in this group had their genesis in amendments tabled by me or the hon. Member for Chesham and Amersham in Committee. They are to be welcomed, and they greatly improve the Bill.

I have some concerns about Government amendment No. 17. The hon. Member for Chesham and Amersham explored that very briefly earlier, but there are a number of school hostel premises in my constituency that are at some distance from the schools that they serve. However, there is often accommodation—either on the premises, or in the grounds—for a teacher or a janitor, or someone of that sort.

Caroline Flint: That would be covered, because the boundary around the accommodation for young people is taken into account and if the accommodation is on that site, the provision would apply.

Mr. Carmichael: I am grateful for that clarification. The matter is not as cut and dried as the Minister is suggesting, but we can deal with that on another occasion.

Amendments Nos. 5 and 6 were tabled by Conservative Members and we anticipate a Division on them. They have some merit because the inclusion of a reference to time in addition to place leaves the provision open-ended and makes it difficult for citizens to regulate their conduct. For reasons other than those for which they were tabled, I would be minded to support the Conservatives if a Division were called.

I accept the Government's reasoning concerning the definition of "vicinity". It is sensible not to include a definition, but I wonder whether the third part of the Conservatives' amendment No. 3 relating to school transport is not consistent with the Government's approach, although not just vehicles, but many other modes of transport—

It being two hours after the commencement of proceedings on the programme motion, MR. DEPUTY SPEAKER, *pursuant to Order [this day], put forthwith the Question already proposed from the Chair.*

Amendment agreed to.

Amendment made: No. 10, in page 1, line 17, leave out "a school" and insert "school premises".—*[Caroline Flint.]*

MR. DEPUTY SPEAKER *then proceeded to put the Questions necessary for the disposal of the business to be concluded at that hour.*

Amendment proposed: No. 5, in page 1, line 18, leave out "at a relevant time".—*[Mrs. Gillan.]*

Question put, That the amendment be made:—

The House divided: Ayes 147, Noes 273.

Division No. 92] **[7.25 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Evans, Nigel
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Maples, John
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Oaten, Mark *(Winchester)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Shephard, rh Mrs Gillian
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spring, Richard
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thurso, John
Tonge, Dr. Jenny
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Ayes: Andrew Selous and Mr. John Randall

NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Battle, rh John
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Best, Harold
Betts, Clive
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Buck, Ms Karen
Burden, Richard
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coffey, Ms Ann
Connarty, Michael
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cranston, Ross
Crausby, David
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
Davidson, Ian
Dawson, Hilton
Dean, Mrs Janet
Dhanda, Parmjit
Dismore, Andrew

Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foulkes, rh George
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Iddon, Dr. Brian
Ingram, rh Adam
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Linton, Martin
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stinchcombe, Paul
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, David *(NW Leics)*
Thomas, Simon *(Ceredigion)*
Todd, Mark *(S Derbyshire)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Winnick, David
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Vernon Coaker and
Gillian Merron

Question accordingly negatived.

Clause 1

AGGRAVATED SUPPLY OF CONTROLLED DRUG

Amendments made: No. 11, in page 2, line 5, leave out 'a school is' and insert 'the school premises are'.

No. 12, in page 2, line 9, leave out 'requests' and insert 'causes or permits'.

No. 13, in page 2, line 12, leave out 'drug related cash' and insert 'a drug related consideration'.

No. 14, in page 2, line 13, leave out

'drug related cash is cash'

and insert—

'a drug related consideration is a consideration of any description'.

No. 15, in page 2, line 16, leave out 'to obtain' and insert 'in connection with obtaining'.

No. 16, in page 2, leave out lines 18 to 25.

No. 17, in page 2, line 25, at end insert—

'"school premises" means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and'.

No. 18, in page 2, leave out lines 33 to 35.—*[Mr. Heppell.]*

Clause 20

ANTI-SOCIAL BEHAVIOUR ORDERS: INTERVENTION ORDERS

Amendments made:

No. 19, in page 20, line 8, after 'section', insert—

'made by the Secretary of State'.

No. 20, in page 21, line 7, at end add—

'(2) In section 114(2) of that Act (procedure for subordinate legislation) after "1A" insert ", 1G".'.—*[Mr. Heppell.]*

Order for Third Reading read.

7.41 pm

Caroline Flint: I beg to move, That the Bill be now read the Third time.

I understand the concerns that have been raised today but, overall, there has been a constructive approach to the Bill both on Second Reading and in Committee. I hope that I have responded positively in the areas that we have covered to many of the points made by hon. Members. I accept the role of scrutiny and the fact that other parties have something to offer, but it seems that, on the Bill's return to the House, the fact that I have listened is not welcomed. That is an important part of the process. The Bill is not, as the hon. Member for Chesham and Amersham (Mrs. Gillan) suggested, badly drafted, but sometimes things are left out of Bills or require clarification. We have certainly tried to deal with that. The Bill is not the only representation of the Government's efforts to tackle the problems of drug abuse in our communities.

Mr. Carmichael: That is a relief.

Caroline Flint: It is important that we look at what we can do to augment our achievements. It is acknowledged that we have devolved considerable amounts of Government funding to the local level through drug action teams and by pooling different moneys available for prevention and treatment into a single young people's partnership fund. We have enhanced powers for testing on arrest and for mandatory assessment of people who have tested positive for class A drugs. Those are significant efforts to break the vicious circle in which people commit offences to feed their drug habit. I am pleased that the drug intervention programme is beginning to bite, as an increased number of people are taking up treatment—a process that the Bill's provisions will only enrich. There are 54 per cent. more people in treatment than there were a few years ago, which demonstrates how importantly we take this issue. Even though people think it is important, drug treatment is not always a popular issue. It takes many forms—it is sometimes available in residential centres, but it must be supported within the community as well. We are committed to supporting and enhancing such initiatives. We are also building capacity, as we have not ceased in our ambition to grow the necessary treatment for people, whatever their age.

We are also keen to educate young people about the dangers of drug abuse so that they do not become problematic drug misusers. I am not complacent, but I am pleased to say that the use of class A drugs, which increased enormously in the 1990s, has stabilised since 1998 after years of increased use by young people. There is evidence to suggest that there has even been a drop in the use of cannabis by young people. We are reducing the supply of drugs in the UK, and Operation Crackdown, which we announced today, is showing impressive results. It is implementing the powers that the Government introduced effectively to shut down premises that are used to encourage drug dealing and other activities that are a blight on communities. We have had tremendous success in the past year, with 150 crack houses shut down. Today we announced further results provided by the police forces engaged in this important work.

Mrs. Gillan: I appreciate the fact that in her busy day the Minister had time to issue the press release first thing this morning, but she did not have time to properly inform the Opposition about matters pertaining to the Bill. I question the success of the operation, as reported in the press release. It states that in the past four weeks the police seized 17 kg of heroin. I understand from the statistics that back in 1999 the police seized 1,500 kg of heroin—that is, 160 kg in a month, so 17 kg is not that good. Likewise, the press release states that in the past month 413 people were charged with supplying class A drugs. Back in 1998, 7,230 people were charged—a rate of 605 a month. I am not sure that the statistics are as wonderful as the Minister trumpets them to be.

Caroline Flint: I shall have to look at the hon. Lady's reference sources. We are dealing here not with the whole picture, but with the specific campaign to focus on houses involved with drugs. That is where the police focus has been for the past four weeks. The results that we outlined today are due to that intervention. They do not account for all the other activities in which the police are involved, including the middle market drug units and the seizures taking place in other areas. The press release is designed to let people know about a particular campaign, which has been welcomed by police forces as a focus for their attention. It has also led to the seizure of firearms found at the same locations.

Lady Hermon: The Minister rightly pointed to the success of the Anti-social Behaviour Act 2003, which enables police forces in England and Wales to close down crack houses. May I draw to the hon. Lady's attention the fact that none of the 2003 Act extended to Northern Ireland? Will she give a commitment to look again at the needs of Northern Ireland in the absence of an Assembly? Given the activities of some bank robbers and those who are connected with them, it is highly unlikely that we will have our Assembly back in the near future. The issue is a serious one that must be dealt with by means of the legislation that goes through this House, so that commitment will be most welcome.

Caroline Flint: I will consider what the hon. Lady said and discuss with my hon. Friend the Minister for Crime Reduction, Policing and Community Safety and others the impact of the legislation on England and Wales and the effect of its not applying to Northern Ireland.

Mrs. Gillan: I am grateful to the Minister for giving way again. The statistics that I obtained are taken partly from the information in the drug seizure and offender statistics, United Kingdom, 2001 and 2002, second edition. It is a Home Office statistical bulletin. May I ask the Minister where table 2.3 is in the statistical bulletin? That is the table that enables us to see what the police seize and what Customs seize, and it is missing from the Home Office's paper. I thought it was a mistake in my downloading, but the specific amount of drugs that were seized by each of those two operations is in table 2.3,

[Mrs. Gillan]

which has been dropped from the paper. Will the Minister undertake to write to me, and will she provide us with the full details of how Operation Crackdown compares with the previous five years?

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. This is a Third Reading debate with a limited amount of time—*[Interruption.]* Order. With limited time and three long interventions such as those that we have had, we may not make progress as we should.

Caroline Flint: I am mindful of what you say, Mr Deputy Speaker. I shall look at *Hansard* and reflect on what the hon. Lady said.

The Bill builds on a strategy dealing with better enforcement in relation to supply and with how we might better engage young people, as well as get those who are addicted to drugs into treatment. That applies to those who are committing crimes, but our intervention in building capacity is also having a knock-on effect for those who are addicted to drugs but are not committing crimes. As I said, the Bill builds on that strategy.

Several measures in parts 1 and 2 are a direct result of working with and listening to groups such as police forces from around the country and other organisations in respect of the need to have specific targeted powers to tackle the problems of street-level dealing of class A drugs. We had a wide-ranging discussion earlier about the vicinity of schools and part of a discussion about children being used as couriers, so I shall not expand any further on those issues.

We are also giving police and courts additional powers to tackle drug dealers who swallow drugs or conceal them about their bodies, and we believe that the measures in the Bill will send a clear message to street-level drug dealers that it will be more difficult to hide evidence and escape prosecution where they have committed an offence.

On the powers for testing on arrest and follow-up assessment, we have again learned from experience. While we were making inroads with those whom we were testing on charge, who would perhaps present themselves for voluntary assessment if they were found class A positive as a result of such a test, we felt that we wanted to tighten that procedure. That is why we believe that testing on arrest is important and that making the assessment following a positive test should be mandatory, rather than voluntary. Of course, that links to the other measures that we already have on bail conditions at court, as well as other provisions in the Bill allowing for police bail to take into account someone's co-operation in dealing with their drug misuse problem.

Since antisocial behaviours were introduced, they have become a vital tool. The hon. Member for North Down (Lady Hermon) is obviously aware of that, and she would like to see them extended to Northern Ireland. The new civil intervention order that we are seeking to introduce will allow us to continue tackling the underlying causes of a person's antisocial behaviour. There is already provision for such an order to apply to young people with drugs problems who are involved in antisocial behaviour, but we felt that there was a gap in respect of some adults for whom there might be a problem.

Clarifying the status of fresh magic mushrooms is an issue that we debated in Committee. The issue is not defining magic mushrooms as a harmful drug. They are a harmful and hallucinogenic drug on a par with LSD, but what we are trying to do is close a gap whereby some 400 outlets have developed—I was going to say mushroomed—in the past year. The outlets are selling the mushrooms fresh and not in a prepared state, thereby exploiting a loophole in the current law. We are closing down that avenue as well.

The Bill adds to what we are already achieving. It is based on gaps that people have identified and experience of implementation of the law as it stands. I hope that it sends a strong message that illegal drugs are a blight on our communities and that they have to be tackled not only on an international and national level, but also on a community level. I believe that we now have the framework in place to tackle the issue on all fronts. I was involved with the Serious Organised Crime and Police Bill. The fact that the serious organised crime agency will have as its priorities drug and immigration crime will be an important contribution to this area, and through the Bill before us, we can further seek to deal with these problems in a real, practical and meaningful way.

7.53 pm

Mrs. Gillan: I say to the Minister that I am not being curmudgeonly. I acknowledge that she has listened to what the Opposition had to say. As I said, we conducted the passage of the Bill in relative harmony until the past few hours, but we have rehearsed in the Chamber the problems with her administrative arrangements, and I am sure that she will try in future to do better.

We have not however had time to discuss the Bill. For example, we have not had the opportunity today to discuss new clause 1, an important clause which indicates that the Conservative party would reclassify cannabis. I felt that it was important to discuss that subject in the context of the Bill, not least because yesterday's *Daily Mail* trumpeted the success of the Government's drugs policy in an article entitled, "Cannabis sales bonanza":

"The supply of cannabis has turned into a boom industry since the drug was downgraded, it was claimed yesterday. Police have made several large seizures in the South East since it was reclassified from a Class B to a Class C drug in January last year. They believe criminals are trafficking huge quantities because they think law enforcement agencies 'have taken their eye off the ball'. Officers have been under orders to stop arresting adults for possessing cannabis, except in exceptional circumstances, and to let them off with a warning and confiscation instead. The idea was to give police more time to tackle the trade in hard drugs such as heroin. But Scotland Yard chiefs believe the switch has sent out the 'wrong message' to criminal gangs, who are now focusing their attention on the softer drug. 'One of the biggest growth areas in the shifting of organised crime towards cannabis importation,' a senior Yard source said yesterday." *[Interruption.]*

The fact that the Whip is scoffing from the Front Bench shows that he does not think that the use of cannabis is a problem, which reflects the Government's attitude. Fortunately, that is not the Conservative party's attitude towards cannabis, and it is a shame that we were not able to have the discussion that we deserved on the Bill.

Few problems facing our society today cause so much crime, misery, pain and the squandering of human talent as drug abuse and addiction, and one has only to

examine the statistics for the prison population to see the evidence. More than 55 per cent. of convicted prisoners report committing offences connected with their drug taking, with the need for money to buy drugs being the most commonly cited factor. Shoplifting, burglary, vehicle crime and theft are all linked to drug misuse. Think of all the victims who are affected by drugs.

At the same time, the number of people imprisoned for drugs offences is high and growing. Back in 1993, drugs offences accounted for 7 per cent. of male and 27 per cent. of female sentenced prisoners. By 2002, the percentages had grown to 16 per cent. of male and 40 per cent. of female sentenced prisoners. The criminal possession and use of firearms is rising, particularly in urban areas, and the price of drugs has dropped alarmingly. Drug trafficking continues to be highly profitable and attracts more and more recruits from street dealing to manufacturing and importing.

The Government have offered up a very small and very thin Drugs Bill in the shadow of a general election. Why has it taken so long to introduce this particular Bill? I have a BBC news item from 21 May 2002, which stated:

"Drug dealers who target children at the school gate could face longer jail sentences under a new law being considered by the government."

At that time, my hon. Friend the Member for Ashford (Mr. Green) was shadow Education Secretary. He said that

"the government had clearly not thought the matter through and accused ministers of operating 'a media-driven stunt'"

Today, we can see that it was a media-driven stunt, because the Government have had two years in which to introduce the provisions around schools. They did not choose to do so, and now they have introduced the Bill, they have not offered the full protection that we expect.

I am disappointed that the Under-Secretary would not accept amendments Nos. 5 and 6. I do not want to rehearse the arguments, but it is obvious that she is leaving loopholes in the measure. She has not drawn up clause 1 in a way that will protect our children adequately.

The Bill is a missed opportunity. It has missed the opportunity to protect children wherever they congregate. The Under-Secretary has not protected even the most obvious places. On Report, she suggested that even a project to which schoolchildren are sent because they do not respond to teaching in school will fall outside the provisions. That means that vulnerable children will not be adequately protected in an educational environment. She has failed to grasp the opportunity to protect even youth clubs or other places where young people gather.

The hon. Lady has failed to reclassify cannabis. She has spent a lot of money on telling people that it remains illegal, but the latest reports make it clear that cannabis use and importation are growing. She failed to reclassify even khat, which was raised in Committee.

Caroline Flint: The hon. Lady will remember that I said in Committee that I was concerned about khat and that I would refer the matter to the Advisory Council on the Misuse of Drugs. We have two outstanding Home Office research projects that are examining khat. We are therefore mindful of the issue and I am asking the ACMD to consider khat as a classified drug.

Mrs. Gillan: I agree that the Under-Secretary said that she would consider the matter, but it is a little late. Introducing a Drugs Bill now and pushing it through so rapidly without taking advice on one of most obvious matters that was raised on Second Reading is unforgivable. Failing to consider reclassifying khat constitutes another missed opportunity.

The Under-Secretary has missed the opportunity to increase residential rehabilitation and to encourage schools such as the Abbey school to introduce random drug testing.

Caroline Flint: The hon. Lady accuses me of missing an opportunity to increase the provision of residential rehabilitation as a form of treatment. We are putting a record amount of money into communities to develop drug treatment, which includes residential treatment. The issue is about not including a provision to increase residential treatment on the face of the Bill, but putting in the money to invest in the treatment so that it can be provided. The National Treatment Agency is considering that, too. Provision exists and we are increasing capacity. That does involves not a Bill but the Government's commitment to provide the resources to make things happen.

Mrs. Gillan: The Under-Secretary's words are hollow and I shall set out our intentions shortly. There has been a missed opportunity and her comments are mere bluff and sentences thrown out purely for media benefit, not long-term benefit.

The Under-Secretary has missed the opportunity to set mandatory sentences for repeat drug offences by drug dealers. She has missed the opportunity to provide for automatic custodial sentences for those who deal to children. She has missed the opportunity to convince me that she has more plans for increasing the training and supply of suitably qualified drugs workers and assessors. We discussed that in Committee, and nothing she said will increase the qualifications and standards of people who treat drug users.

The Government should make a clear statement about drugs. They should have welcomed my suggestions for strengthening the Bill's provisions for dealing with drugs. The Government's message has failed the clarity test on many occasions and it lacks urgency. If I am in charge of drugs policy after the election, we will convey a clear message to people about drugs. We will reclassify cannabis to end Labour's confusion and send a clear message that the drug is dangerous.We will ensure that the message gets across that drugs are dangerous and illegal, that they ruin lives and that people should not take them. We will also ensure that random drug testing is supported for schools, and we will certainly allow head teachers to have the final say on expulsions. We will also provide the resources to enable drug addicts who wish to get off drugs to take up residential rehabilitation, by massively expanding the number of places available above and beyond the 2,500 that exist at present.

The Conservative party will make other announcements on these issues. In the meantime, I hope that when the Bill reaches the Lords, they will be able to strengthen its

[Mrs. Gillan]

provisions and perhaps add to them. Rather than being a comprehensive attempt to tackle a growing problem, this is a Bill that has been slipped in to try to boost the illusion that the Government are taking action when, in fact, very little has occurred. It is basically a cynical electioneering platform. After the election, however, we will have the opportunity to put forward a well thought through, resourced programme of action to help the addicts who wish to reform, to punish the dealers who peddle misery and death, and to protect our children. That day cannot come soon enough.

8.5 pm

Mr. Carmichael: The hon. Member for Chesham and Amersham (Mrs. Gillan) said that the Bill represented a missed opportunity. In many ways, I agree with her. It will surprise few people, however, to learn that the opportunities that I would have wished the Government to seize are rather different from the ones identified by the hon. Lady as having been missed.

I have found working on the Bill to be both an enjoyable and a frustrating experience. Our proceedings in Committee were remarkably good-natured and constructive, and in that regard, I give due credit to the Minister and to the Government Whip, the hon. Member for Nottingham, East (Mr. Heppell). I enjoyed working with them both, and we were able to improve the Bill. Credit for that must also go to those on the Conservative Front Bench. I found the experience frustrating, however, because we could have done so much more. This is a remarkably modest proposal, in the Swiftian sense of the term, and in some ways it risks doing damage, despite the good intentions behind it.

Controlled drugs blight many of our communities. In my professional experience, I am aware of a number of fishing communities in the north-east of Scotland where such drugs have taken hold and destroyed otherwise highly coherent and strong communities. In my constituency, we often congratulate ourselves on our good quality of life, but we have also seen the growing presence of drugs. I am reassured to some extent, however, when I see a determination to tackle the problem, particularly in Shetland. I am thinking particularly of the dogs against drugs project, in which local people have rallied against the growing threat of class A drugs in their midst. I want to place on record, however, that it is unfortunate that some of the funding that could be made available to such projects has not been made available—in this case, from the Scottish Executive, who have been asked, and have hitherto refused, to make funds available from the money recovered under the Proceeds of Crime Act 2002.

Mr. Stephen McCabe (Birmingham, Hall Green) (Lab): You are part of the Scottish Executive.

Mr. Carmichael: The hon. Gentleman says that we are part of the Scottish Executive. He is very perceptive: I have never sought to deny that. However, the Liberal Democrats do not have to pretend that everything that we do in Government is correct. There is occasionally scope for improvement, and I would commend such an approach to Back-Bench Labour MPs, if any were in the Chamber to hear it.

Others have observed that this is an election Bill. I drew that inevitable conclusion on Second Reading, and I am afraid that everything I have seen subsequently has served only to reinforce that view. We need something rather more comprehensive. Every 10 years or so, we have a revision of the Road Traffic Acts, but it is now more than 30 years since we had a comprehensive review of the Misuse of Drugs Act 1971, and such a review is long overdue. The best illustration of that came from our discussions on classification, particularly of psilocybin, or magic mushrooms. If we are to classify drugs according to their harm, the classifications A, B and C under the Misuse of Drugs Act 1971 manifestly are no longer sufficient.

Instead, the Government propose revisions of the 1971 Act in clauses 1, 2 and 21. I feel that clause 1 is an exercise in window dressing that does not achieve a great deal. I was reinforced in my view when I read *The Press and Journal*—a publication that I commend to the hon. Member for Chesham and Amersham as being infinitely superior to *The Daily Telegraph*—which reported on its front page of 29 January 2005, "Sheriff Lashes Out At Cannabis Confusion".

The Press and Journal reported a case from Aberdeen sheriff court, where the presiding sheriff was Sheriff Douglas Cusine, who in a previous incarnation as Professor Douglas Cusine was foolish enough to try to teach me conveyancing, but who otherwise is a man of blameless judgment and reputation. It will be of interest to the hon. Lady that the sheriff said that the reclassification of cannabis from B to C

"caused confusion in the minds of some".

He went on:

"I myself have some difficulty in understanding precisely what message it is the Government was intending to convey because cannabis is no less dangerous than it was before and the penalties for being involved in cannabis are exactly the same."

The case was brought against Craig Meldrum, who was sentenced to two months' detention in a young offenders institution for supplying cannabis—presumably cannabis resin—at Ellon academy in Aberdeenshire. Sheriff Cusine observed that drugs are the scourge of many schools and have to be tackled. He also said that supplying is serious, particularly when the "targets" are schoolchildren.

I bring that matter to the attention of the House because here we have an example of a sheriff applying the law as it stands and giving a more serious sentence—an aggravated sentence—where the supply in question concerns children in school. In other words, the law as it exists operates quite adequately to protect against the mischief that the Minister seeks to remedy. That is why I say that so much in Bill is in many ways merely window dressing.

I also have reservations about the operation of clause 2. Those were rehearsed on Second Reading and in Committee so I shall not go over them again, but I take issue with the claims made on behalf of the clause by the Minister in her letter to the hon. Member for Chesham and Amersham, dated 22 February 2005, which has already been referred to. I draw the attention of the House to paragraph 5, where the Minister states:

"Nonetheless our view is that this clause is a sensible step to take. It has advantages in that (a) not all defendants will be able to successfully"—

I apologise for the split infinitive, but I am quoting directly—

"raise the issue".

I am not quite sure why that is considered relevant. If it is perhaps being suggested that people who are not possessed of intent to supply will still be convicted I would have concerns.

The letter goes on to say that the clause

"will send out a clear message to dealers whose current methods may well be disrupted"—

I do not understand how the Government have reached that conclusion—

"and (c) it will improve consistency as to when those in possession with drugs are charged with intent to supply."

That in itself is absolutely fascinating, because, having been through all six Committee sittings and Second Reading, and having received more briefings on the Bill than I care to remember, I know that this is the first occasion on which anybody has suggested that there is a problem with clarity or consistency as to when

"those in possession with drugs are charged with intent to supply."

Again, we seem to have a solution in search of a problem.

The classification of magic mushrooms as a class A drug does not make ready sense to me. Putting them in class A, where they are on a parallel with heroin and cocaine, is difficult to justify and eloquently shows the inadequacy of the law as it stands.

As I have said, there is no doubt that drugs are a growing menace in our society. However, little that has been done in the 33 years since the enactment of the Misuse of Drugs Act 1971 seems to have been particularly effective. Nothing seems to have stopped the growing menace that permeates so many parts of our society. Drugs dealing seems to be a many-headed hydra—for every dealer who is removed, another three take his or her place. Surely this is a time to stop, take proper stock and proper consideration, and to ask whether things might be done better were much of this consideration removed from the political forum, which, notwithstanding the good nature of these proceedings, has been shown to be wholly inadequate to the task.

I very much regret that not a lot in the Bill will make an awful lot of difference in the long run. I am not opposing the Bill; I just wish that the Government had introduced something that the House could have approved and supported rather more enthusiastically than I am able to do tonight.

8.15 pm

Andrew Selous: No doubt like many other Members, I represent a constituency in which heroin use is quite a serious problem in the villages of south Bedfordshire and in the former market towns. Tonight, however, I want to speak about cannabis. The Government's declassification of cannabis from class B to C, and the consequences of that, is one of the actions of their term in office about which I am most upset and angry.

About a year ago, I attended a mental health carers support group meeting in my constituency. About 12 people came to the meeting that evening, all of whom cared for sufferers of mental illness, mainly family members. Some eight or nine out of the 12, when they explained the situation of their son, daughter or partner, were absolutely clear that cannabis had been the cause of the mental illness from which they were suffering. I see the Minister shaking her head when I say that, but an increasing amount of research evidence also points to that, and the fact is that cannabis today is considerably stronger and more dangerous than that which was smoked many years ago.

Caroline Flint: May I ask the hon. Gentleman what evidence he has for his allegation that cannabis is stronger now than it was years ago? We take samples from police forces' seizures, which are examined by the Forensic Science Service and others, which show that the vast majority of cannabis used in this country is no stronger than it was 10 or 20 years ago.

Andrew Selous: The Minister will be aware that there is research that disputes that. She will have seen such research reports, but it is not the time, with a few minutes remaining, to go into that in great detail. The fact is that there is a considerable body of opinion that believes that cannabis is stronger now and causes mental health problems. It worries me massively that the Minister sits there shaking her head and denying it. I wish that she could have come with me to that mental health carers support group meeting and met the families caring for the people concerned.

I shall tell the Minister about one more individual, and I would be grateful if she could listen to this story. A young man who came to see me with his mother about three weeks ago had been on the threshold of a very bright future—he had been the head boy of his school and all set for a career in the armed services—but he is now completely in the hands of my local community health trust. He has a very serious mental health problem, which is desperately sad for him and a great source of worry to his family, and which consumes a considerable amount of public funds. I spent half an hour with his mother two weeks ago, and she is adamant that what switched her son's future from being bright and promising was falling in with the wrong crowd and taking cannabis. That is the mother's view.

The Minister can sit there and shake her head, but I ask her to consider the feelings of the families involved. She asked me about the research evidence. According to reports I have seen, there is research evidence suggesting that cannabis is causing such problems. I know that many of her hon. Friends feel as strongly as I do about that.

Mr. Carmichael: Just about everything that the hon. Gentleman has said, including what he said about availability and increased strength, could equally be said of alcohol. Is he suggesting that we should prohibit alcohol?

Andrew Selous: What I am saying is that the declassification from B to C has sent entirely the wrong message. The hon. Gentleman will know as well as I do—indeed, he said as much in his own speech, to which I listened with great interest, when he spoke about the sheriff in Aberdeen—that many people, including young

[Andrew Selous]

people, who do not read the minutiae of the law gain the general impression from this place that cannabis is more generally acceptable than it has been.

Caroline Flint: Although cannabis has been reclassified, it is still an illegal drug, and our post-reclassification evaluation shows that 93 per cent. of young people recognise that. The hon. Gentleman should also acknowledge that there are different types of illegal drug. We have heroin, we have cocaine, we have amphetamines and we have cannabis. We should have a credible message for young people about recognising the different harms that those drugs cause—for they all cause harm—so that we can engage with them better about the consequences of using the various drugs, and explain how they can protect themselves. That is not to suggest that young people should take cannabis; they should not. We must send a credible message about the different drugs, however—and amphetamines, heroin and crack cocaine could also exacerbate a mental illness.

Andrew Selous: Of course I accept that neither the Minister nor any other Member present wants to encourage young people to have contact with cannabis or any other drug, but that is not the impression that most young people have.

Mrs. Gillan: The Independent Drug Monitoring Unit estimates that we spend between £2 billion and £5 billion a year on cannabis. According to European Union figures, one in 10 British adults is using cannabis. I think that that justifies the points that my hon. Friend is making.

Andrew Selous: I am glad to hear that.

I think that there is now confusion in the minds of the police, a point made earlier by my hon. Friend the Member for Chesham and Amersham (Mrs. Gillan). Let me give another example: that of a rather nasty divorce case, in which a departing father is turning a blind eye to his 17-year-old son's smoking of cannabis in the presence of his 11-year-old daughter. According to reports I have received, when the police have visited the premises they have been confused about exactly what powers they have and do not have as a result of the reclassification of cannabis. The Minister may be unhappy about that and say that it should not be the case, but it is a further example of what is happening on the ground.

On the basis of the evidence on mental illness and the reaction and attitude of the police, I must tell the Minister that there is great confusion about the issue, and that she really should think again.

8.23 pm

Caroline Flint: With the leave of the House, Mr. Deputy Speaker.

In the short time that I have left, I want to correct a few points. A point was made about articles in the press about a drugs surge following the change in the law relating to cannabis. I assure the House that I do not know which senior member of the squad expressed those views; it would be nice if that person could be named. What I do know is that those views do not reflect the view of the Metropolitan police or, for that matter, that of the Association of Chief Police Officers, which supports the policy of reclassification of cannabis.Since reclassification, an additional 199,000 police hours have been saved. I am quite happy when I hear of attempts by the police to run operations to identify and catch people who are supplying huge volumes of cannabis—

Mrs. Gillan: Will the Minister give way?

Caroline Flint: No, I will not.

I am happy about that because it shows that the police are diverting their activity to where it is most necessary: to the import and distribution of drugs—cannabis or any other drug. The people involved in the distribution of drugs deal not just with cannabis but with heroin and cocaine.

In relation to mental health, there is no proven causal link between cannabis and mental health problems, but we recognise that people who have an underlying mental health issue and use drugs can exacerbate their problems. That is why we are working with mental health organisations to deal with that.

The Bill is about providing more ways in which we can tackle the problems of drugs in our community through engaging with our young people by dealing with treatment and with supply. For those reasons, I commend the Bill to the House.

Question put and agreed to.

Bill read the Third time, and passed.

DELEGATED LEGISLATION

Mr. Deputy Speaker (Sir Alan Haselhurst): I propose to put together the Questions on motions 8, 9 and 10.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Gender Recognition

That the draft Gender Recognition (Approved Countries and Territories) Order 2005, which was laid before this House on 20th January, be approved.

Employment And Training

That the draft Industrial Training Levy (Construction Board) Order 2005, which was laid before this House on 10th January, be approved.

Pensions

That the draft Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005, which were laid before this House on 13th January, be approved.—*[Mr. Heppell.]*

Question agreed to.

Mr. Deputy Speaker: I propose to put together the Questions on motions 11 and 12.

Motion made, and Question put forthwith, pursuant to Standing Order No. 18(1) (Consideration of draft regulatory reform orders),

Regulatory Reform

That the draft Regulatory Reform (Joint Nature Conservation Committee) Order 2005, which was laid before this House on 24th January, be approved.

That the draft Regulatory Reform (Trading Stamps) Order 2005, which was laid before this House on 17th January, be approved.—[*Mr. Heppell.*]

Question agreed to.

NORTHERN IRELAND GRAND COMMITTEE

Motion made, and Question put forthwith, pursuant to Standing Order No. 116 (Northern Ireland Grand Committee (sittings)),

That—

(1) the draft Budget (Northern Ireland) Order 2005 be referred to the Northern Ireland Grand Committee;

(2) the Committee shall meet at Westminster on Tuesday 8th March at half-past Two o'clock; and

(3) at that sitting—

(a) the Committee shall take questions under Standing Order No. 110 (Northern Ireland Grand Committee (questions for oral answer)); and shall then consider the instrument referred to it under paragraph (1) above; and

(b) at the conclusion of those proceedings, a motion for the adjournment of the Committee may be made by a Minister of the Crown, pursuant to paragraph (5) of Standing Order No. 116 (Northern Ireland Grand Committee (sittings)).—[*Mr. Heppell.*]

Question agreed to.

Church Schools (Dorset)

Motion made, and Question proposed, That this House do now adjourn.— [Mr. Heppell.]

8.25 pm

Mr. Robert Walter (North Dorset) (Con): The subject of the debate is of much interest in my constituency, particularly in the Blandford area. May I express my thanks to the Bishop of Salisbury, the Rt. Rev. David Stancliffe, who is a member of the other place, to his director of education for Salisbury diocese, Mr. Simon Tong, and to the director of education for Dorset county council, David Goddard, for their help in preparing me for this debate.

Capital funding is applied to voluntary-aided schools via three routes. There is the devolved formula capital, which is allocated directly to schools by formula on an annual basis for their discretionary use on a range of capital items. That is typically about £25,000 for a primary school and £90,000 for a secondary school at current rates. There is then the more important local education authority co-ordinated voluntary-aided programme, known as LCVAP, which is allocated annually to local education authorities by formula and distributed by them and the dioceses for expenditure on agreed middle-range capital projects, usually up to about £400,000 each. There is a restricted number of projects annually under that programme. The third route is the targeted capital funding, which is allocated centrally against bids by the local education authority and the dioceses for major capital projects.

The main capital baseline for voluntary-aided schools covers the LCVAP and the targeted capital funding. The devolved formula capital is funded in addition to those. That is a complex system that has, I am told, proved difficult for the Department for Education and Skills to control and monitor. The annual announcements have become increasingly erratic in their timing, often coming months after their scheduled dates.

I am told that a point was reached in June last year at which no further funding could be allocated, a moratorium on targeted capital funding bids was called and the LCVAP allocations summarily reduced. Only the devolved formula capital continued unabated.

That has caused great problems for the dioceses and indirectly for the local education authorities. For example, my own Salisbury diocese is owed some £200,000 by the Department for outstanding works at Verwood Trinity Church of England first school in the constituency of my hon. Friend the Member for Christchurch (Mr. Chope). I understand that liability is accepted but that payment has not yet been approved because of lack of money in the VA capital budget.

Although that crisis has forced the setting up of a joint working group between the Department and the dioceses to create a more manageable system, and although the latest announcements by the Government indicate some cause for optimism, the current situation is extremely difficult. It will continue thus until greater clarity emerges.

The Salisbury diocese, which covers my constituency, has so many Church schools that any local education authority initiative that is not matched by voluntary-aided funding could result in a disparity of provision,

[Mr. Robert Walter]

even within the same town or area. Until now, the main driver of improvements to the diocesan building stock has been the LCVAP, but the national allocation has been drastically reduced in the current year and beyond. In 2003–04, it was £210 million; for 2004–05, it is £108 million; and in 2005–06 it will be £80 million. In 2006–07 and 2007–08, the estimated allocation is £66 million. The LCVAP allocation for Church schools in Dorset is £0.6 million for 2005–06, £0.5 million for 2006–07 and £0.51 million for 2007–08. There were successful targeted capital funding bids in Dorset of £1.2 million in both 2003–04 and 2004–05, but no bids are allowed for 2005–06. It was only the diocese's ability to carry forward £1.1 million that enabled it even to look at any projects under the scheme. I understand that TCF bidding rounds will take place only every two years.

There has been a major crisis at Beachcroft primary school in Weymouth, which is in the constituency of the hon. Member for South Dorset (Jim Knight). However, he has made representations on this issue, so I do not want to dwell on it. Rather, I want to deal with the practical implications for major projects in my own constituency. Dorset local education authority is reorganising education in the Blandford area from three-tier to two-tier. That will incur significant building costs as first schools become primary schools.

The diocese and the local education authority committed to this reorganisation in the expectation that TCF would be available to them, as it was in the previous year for the reorganisation of schools in the Shaftesbury pyramid, which is also in my constituency, and for the reorganisation of schools just across the border in west Wiltshire and Salisbury, which feed the Shaftesbury upper school. In that situation, the LCVAP could have covered the costs if the TCF had not been granted, but the 2004–05 bidding round was cancelled without warning, the LCVAP allocation was halved and a Church schools' private finance initiative was axed. There is currently no funding stream in place for these school improvements.

The Archbishop Wake Church of England first school in Blandford needs some £2 million because it is moving site and taking over the premises of a former middle school. Blandford St. Mary first school needs £0.8 million, Durweston Church of England first school needs £0.5 million, and Spetisbury Hall and Slater's Church of England first school also needs £0.5 million. In summarising the situation in Blandford, I want to express my thanks to the head teachers of those four schools: Richard Chapman, of Archbishop Wake school, Judy Baker of Blandford St. Mary school, Neil Tarchetti of Durweston first school, and Sue Tipping of Spetisbury Hall and Slater's school.

Those four voluntary-aided schools are preparing for the change from a three-tier to a two-tier system. The effect will be that they change from first schools to primary schools, so they will have an extra two year groups of children and will need the resources, equipment and buildings to accommodate them.

The reorganisation was to be funded through the targeted capital funding money—I mentioned it earlier—for which the diocese of Salisbury bids to the Department for Education and Skills. However, the bids to that fund have been stopped this year and the system is currently under review. As a group of schools, they entered into the reorganisation on the understanding that the required capital works, which are considerable, would commence in the academic year 2005–06. Work starting at this time is essential, because it is when the reorganisation takes place and the time at which this group of schools has to start providing a first-class education for the additional older children.

Now that the funding has been withdrawn, the expected date for the completion of the work could be as late as 2008; without the targeted capital funding money, the diocese does not have the funds to carry out the work. That is particularly disturbing for a number of reasons. More than half the children in the Blandford pyramid are educated in voluntary-aided schools, and they will suffer from the lack of funding. As a pyramid of schools, they ensured complete unity and parity in the process up to now. The funding problem will prevent them from continuing in the same manner.

The reorganisation appears to fit in with the Government's education policy, but the funding is not secure to carry it through. The lack of parity is made worse as the local education authority appears to have other ways to fund the required works for its schools. That means that the Church schools are disadvantaged when the LEA initiates a reorganisation, as it does not have a duty to the Church schools to see that it is carried through successfully. The Department for Education and Skills demands that LEAs remove surplus capacity, but what happens when 50 per cent. of the schools are actually voluntary-aided? The LEA has a duty to reduce surplus accommodation, but no responsibility to the voluntary-aided schools.

I put these questions to the Minister. Why has this funding been reduced at a time when the Government claim that they are spending more on education? Where has the money gone? Why, when Dorset receives the lowest central Government grant of any English local education authority, is the problem compounded by the adverse treatment of the diocesan schools' budget? What hope can I give to my constituents?

8.37 pm

The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg): I congratulate the hon. Member for North Dorset (Mr. Walter) on securing this debate on such an important issue. It gives me an opportunity to remind all hon. Members of the record levels of investment that the Government are making in all our schools. The voluntary-aided schools—the category that most people think of as "Church" schools—are receiving their fair and proportionate share of the investment. I appreciate that we have had to make some short-term adjustments to the balance in the various elements of that programme, and I will explain why in a moment.

The capital programme for all voluntary-aided schools has increased from just above £100 million in 1996–97 to well over half a billion pounds this year—in fact, some £540 million. Voluntary-aided schools in Dorset are receiving their share of that money. Indeed, since 1997, the Department has approved major capital projects at voluntary-aided schools in Dorset with a total value in excess of £19 million.

We are aware that there are plans in parts of Dorset that may need major investment. We are announcing this week the details of the next round of bidding for the

associated funding. Officials are prepared to work with the local authority and the relevant dioceses to ensure a consistent approach and consistent outcomes. I am particularly concerned that the voluntary-aided sector should not be at a disadvantage in relation to other categories of school. That is why I am keen that we reach agreement on funding for the planned reorganisation in the Blandford area. I shall say more about that shortly.

I should also set the particular issues in a wider context. The capital programme for all maintained schools has gone from a totally inadequate base of less than £700 million in 1996–97 to £5.5 billion in the coming year. That will rise to £6.3 billion in 2007–08. That is enabling us to begin a radical programme, "Building Schools for the Future", to bring every secondary school in the country up to 21st-century standards. This programme will include all schools, including those that are voluntary-aided.

I appreciate that it will be some time before Dorset schools benefit from the programme, but departmental officials are meeting local authority representatives early next month to discuss what we can do to help target the most pressing needs. More than a quarter of all local authorities are making a start with the programme now.

This increased funding also has wider benefits. Support is being provided for a more diverse range of faith schools to become voluntary-aided. They include Muslim, Greek Orthodox, and Seventh Day Adventist schools. In addition, more than £3.5 million has been provided to support the first Montessori school proposed to join the state sector.

On top of the £19 million, we have increased the amounts that we pay to individual voluntary-aided schools by way of devolved former capital grant. The amount going to schools in Dorset has increased from £419,000 in 2000–01, when the grant was introduced, to £1.6 million in the coming year.

The money enables schools to decide their specific priorities for smaller-scale investment. A typical primary school will receive £34,000 in 2007–08, compared with £12,000 when the grant was introduced five years ago. A typical secondary school will get £113,000, compared with £35,000 in 2000–01. I shall say something in a minute about the improvements that we plan to make to the way in which we pay the grant to voluntary-aided schools.

The hon. Member for North Dorset asked about another part of the capital programme for voluntary-aided schools—the local education authority co-ordinated voluntary aid programme, or LCVAP. The aim of LCVAP is to allow local decisions to be taken to prioritise need and ensure that locally agreed capital work is carried out. The sums are calculated by formula, and are normally used for medium-scale capital works, although bigger projects can be funded by spreading the costs over more than one year. The money is allocated to individual projects by partnerships between local authorities and voluntary-aided sector representatives. At present, the Department retains the money, which is then paid direct to schools.

We are aware that the voluntary-aided sector prefers to manage and prioritise work through this programme. For a number of years, the level of LCVAP has increased significantly. In Dorset, the amount has risen from some £200,000 in 1996–97 to £1.8 million in 2003–04. However, pressures elsewhere in the voluntary-aided capital programme meant that although the total programme had been increasing, we had to reduce the LCVAP element from this year, to ensure that the total programme for the voluntary-aided sector was not overspent. We also had to stop approving new projects towards the end of last year.

One of the pressures on the voluntary-aided schools capital programme has been the devolved formula capital. Schools are allowed to roll their entitlement for up to three years, but the annual nature of public sector funding meant that there were difficulties in carrying forward the corresponding amounts of money.

The sector has already benefited from the money in other ways, of which extra funding through LCVAP is one, but the difficulties also coincided with the large backlog of commitments built up on the bigger projects approved in earlier years. That mainly resulted from progress on building works being slower than expected—because of unexpected increases in costs, the vagaries of the weather, or delays arising from local issues, such as securing appropriate planning permissions. A combination of those factors meant that, to ensure that we did not overspend, it became necessary to reduce LCVAP. That was the only option available to us.

The sector has generally understood that we had to do something. To resolve the problem, we have allocated additional money to the voluntary-aided capital programme for 2006–07 onwards. For the coming year of 2005–06, we have had to retain the reduced level of LCVAP, but we have announced that there will be a minimum level of LCVAP for 2006–07 and 2007–08.

We have established a voluntary-aided capital working group, with representatives from the stakeholders in the voluntary-aided sector. It now includes a representative from the Dorset local authority. At its meeting last week, the group confirmed its wish to see as much as possible being paid through LCVAP. In light of that discussion, officials are working out the details of how the voluntary-aided capital programme could be divided into various elements. We will announce the final programme to 2007–08 by the end of next month.

I fully expect that we will be able to increase LCVAP very substantially. Not only does that demonstrate our investment, it shows that we value the views of our partners in helping us to get the right balance between formulaic and targeted capital programmes that will ensure that the sector's needs are met. We are also arranging a conference in March for the major stakeholders in voluntary-aided schools, to explain to them in detail how the voluntary-aided capital programme is formed, so that they understand the parameters within which we need to work. I am sure that it will be helpful to all those involved in the process.

I understand that plans had been in place to use Dorset's share of the LCVAP programme to fund a planned reorganisation in Blandford, to which the hon. Gentleman referred. Inevitably, considerable disappointment was felt when that could not proceed as planned. Although we had suggested alternative solutions to the problem, one of the options may no longer be available. It was to use funds from an existing project in Dorset that has not been able to progress for

[Derek Twigg]

one of the reasons that I mentioned earlier. That money is not now available because there has been a fire at the school and some immediate funding is needed.

It is therefore important that we work together to ensure that the best possible case is put forward, if it is still appropriate, for funding through our targeted capital funding route. Alternatively, those involved might think that the matter is better left until LCVAP funding is available again. That is why I have asked officials to work together with local stakeholders, as I mentioned earlier. I should also say that, as a general principle, we have also strengthened our internal processes to ensure that different outcomes do not arise for voluntary-aided schools if there is a clear link with decisions to be taken on other funding.

I will ensure that the hon. Gentleman is made aware of the outcomes of the discussions that take place between officials and those representing the local authority and the diocese. I wish to make it clear again that I understand the concerns that he has expressed about the apparent reduction in capital funding for voluntary-aided schools in his constituency. He also mentioned that my hon. Friend the Member for South Dorset (Jim Knight) had made representations to colleagues in the Department about the funding in Dorset and the implications in his constituency. However, in the bigger picture, there is no reduction, but the money has, of necessity, had to be reallocated in different ways to meet the sector's needs. As I have just mentioned, however, we are putting in even more money—another £80 million over the two years 2006–07 and 2007–08—to help to ensure that the problem does not arise again.

The debate gives me the opportunity to remind the House that in 2002, the Government introduced a major reform of the basis for funding voluntary-aided schools through one of the first orders under the Regulatory Reform Act 2001. We are building on that, together with the relevant stakeholders, and looking at the scope for simplification of the processes used to allocate and pay grant to those schools. Our aim will be to place as much responsibility for decision making and funding as possible where it should be—at local level.

For example, I mentioned earlier the devolved formula capital grant that all maintained schools receive. For the voluntary-aided sector we propose to pay that money directly to the individual schools, without the need for a claim. We are also looking at the possibility of paying all capital grant to the voluntary-aided sector in a way that is much more in line with that used for other types of schools, although that will not entail any changes to the underlying principles relating to the voluntary-aided sector. The very simple aims are to cut out any unnecessary bureaucracy in the processes and to ensure greater consistency of treatment—I am sure that we would all agree with that.

I acknowledge the problems that have occurred. I hope that I have been able to assure the hon. Gentleman that we are aware of them and are trying to arrive at solutions that will benefit Blandford in particular and Dorset in general.

Question put and agreed to.

Adjourned accordingly at twelve minutes to Nine o'clock.

House of Commons

Wednesday 23 February 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

NORTHERN IRELAND

The Secretary of State was asked—

Grammar Schools

1. **Sir Teddy Taylor** (Rochford and Southend, East) (Con): What percentage of secondary school children in Northern Ireland attend grammar schools; and what the percentage was 10 years ago. [216991]

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Barry Gardiner): In 2004–05, 41 per cent. of secondary school children attended grammar schools compared with 40 per cent. in 1994–95. As the number of secondary school age children continues to decline, the proportion of pupils with grades C and D admitted to grammar schools is expected to continue to increase, so while the actual enrolment figures may remain relatively static, the percentage figures for those attending grammar schools could rise further.

Sir Teddy Taylor: As the Northern Ireland grammar schools have provided unique opportunities for able children from disadvantaged areas to break through the class barriers, and as Northern Ireland has achieved hugely successful education results, why cannot the Government leave the system alone? Does the Minister not accept that abolishing the selective tests will basically undermine the whole principle on which the grammar schools have been created and have achieved so much for the people of Northern Ireland?

Mr. Gardiner: The hon. Gentleman will know that only 7 per cent. of children from poor or disadvantaged backgrounds go to grammar schools, unlike the rest of the post-primary sector where 29 per cent. of children from disadvantaged backgrounds attend the secondary school sector, so to say that that is the way through for bright children from poor backgrounds really is a myth. I am sure that the hon. Gentleman would not wish to suggest that only 7 per cent. of those children were capable and intelligent and were therefore able to prosper from a good education. We must ensure that children from precisely those disadvantaged areas have the educational opportunities that he rightly insists should be there for some.

Mr. Iain Luke (Dundee, East) (Lab): My hon. Friend will recognise that this is an issue on which I have written to Ministers before, but does he agree that the controversy that surrounds it clearly underlines the need for constructive working by all parties in Northern Ireland to ensure an early return of an Assembly there so that the local issue of education is dealt with in Northern Ireland itself?

Mr. Gardiner: My hon. Friend is entirely right to point out that it would be a good deal better were these decisions being taken by the Assembly. Of course, this matter came from the Assembly. It was initiated by the Assembly, and in that sense we are continuing work that was begun under that Administration.

Mr. David Lidington (Aylesbury) (Con): The Minister wants to scrap academic selection in Northern Ireland. Does he think that the majority of people there support that policy?

Mr. Gardiner: The hon. Gentleman will know as well as I do that the responses from the household survey were mixed—58 per cent. of people wanted to get rid of the 11-plus and 64 per cent. of people said that for grammar schools academic selection in some form might be retained. Equally, he will also know that 77 per cent. of parents—a figure less often quoted—said that they thought that the transfer from primary to post-primary should be by parental preference, and that is what we are trying to achieve.

Mr. Lidington: The Minister knows that the point of principle at stake here is not the 11-plus or an alternative method of academic selection, but the Government's determination to get rid of academic selection altogether. If the Minister is confident that he has public support, why does he not put it to the test and give parents in Northern Ireland the same right to a vote on grammar schools that the Government have given to parents in England? Why is he running so scared of the views of parents in Northern Ireland?

Mr. Gardiner: The hon. Gentleman is entirely wrong. We are not running scared of anybody. In fact, on 28 January we launched a public consultation and 14,000 consultation documents have already gone out, precisely to seek the views of the public and of education professionals on a wide range of options available for transfer.

Peace Process

2. **Mr. Alistair Carmichael** (Orkney and Shetland) (LD): If he will make a statement on the peace process. [216992]

3. **Mr. Siôn Simon** (Birmingham, Erdington) (Lab): When he last met Irish Government Ministers to discuss the Northern Ireland peace process. [216993]

The Secretary of State for Northern Ireland (Mr. Paul Murphy): The Government's ultimate goal remains the restoration of an inclusive power-sharing Executive in Northern Ireland. However, both we and the Irish Government are clear that the main obstacle to achieving this is the Provisional IRA's continued involvement in criminal activity.

I keep in close contact with the Irish Government to discuss ways of moving the process forward and will be meeting them again next week at the British-Irish intergovernmental conference to review the position.

Mr. Carmichael: May I suggest to the Secretary of State that the identification by the Irish Justice Minister of Martin McGuinness and Gerry Adams as members of the IRA council alters the political landscape in Northern Ireland, that our priority in that altered landscape should be the promotion of democracy and accountability, and that we should therefore be willing to consider new options, including the recall of the Assembly, without Sinn Fein in the Executive if it cannot meet the required standards?

Mr. Murphy: As I said earlier, the Government's ultimate aim must be that which the people of Northern Ireland expressed when they voted for the Good Friday agreement and an inclusive Executive. However, the hon. Gentleman makes a valid point that the trust and confidence simply does not exist at the moment in Northern Ireland to establish that inclusive Executive. We have examined alternative ways of allowing people in Northern Ireland to increase the accountability of Ministers and ensure that the democratic deficit is tackled. However, any solution requires cross-community support from nationalists and Unionists. That is not always easy to obtain.

Mr. Simon: My right hon. Friend knows that communities such as Erdington and Kingstanding in my constituency, which has one of the highest concentrations of people of Irish origin anywhere in Britain, in a city that marked before Christmas the 30th anniversary of one of the worst and most despicable terrorist outrages in Britain, feel profoundly powerless and frustrated at such times. What promises can he offer such diaspora communities of two steps forward when all they seem to hear about from London, Dublin and Belfast is one big step back?

Mr. Murphy: There is no point in trying to underestimate the difficulties that we currently face in the process through the Northern bank robbery and continued criminality on the part of the IRA. However, it is also important to look at the bigger picture, examine what has happened in the past decade and realise that Northern Ireland is a better place in which to live and work. For example, the latest employment figures in Northern Ireland are the best ever. More people are in work there than ever before. People enjoy a standard of living and quality of life that they never previously experienced. We cannot underestimate the problems with the political process but we must appreciate the enormous progress that has been made in Northern Ireland in the past decade.

Mr. David Trimble (Upper Bann) (UUP): Does the Secretary of State realise that the position that he has adopted is tantamount to saying that the IRA will have a veto over the creation or resumption of the Northern Ireland Assembly and the implementation of the agreement? If he continues to adopt that position, there is no prospect of progress. Indeed, he will have to move from it before we have any chance of progress. Does he not also ignore the fact that the people who supported the agreement in the referendum voted for parties to adopt peaceful and democratic means, which Sinn Fein and its linked organisations refuse to do? The agreement provided for consequences in such circumstances, but the Secretary of State is obstructing them. Is it not time that he thought the matter through clearly?

Mr. Murphy: I do not think that the right hon. Gentleman is accurate when he says that I have adopted a position in the rigid fashion that he suggests. He knows that I said yesterday that we have ruled nothing out or in and that we are considering all the different options. I appreciate that the right hon. Gentleman knows much more than me about the difficulties of making something work after the restoration of an Assembly. I do not say for one second that an Assembly should not be restored in Northern Ireland if we believed that we could get such a body to work and to produce an Executive that would be representative of the entire community in Northern Ireland, with nationalists as well as Unionists on it. I assure the right hon. Gentleman that we have not ruled out the different suggestions that he and other political parties in Northern Ireland have made in recent weeks. However, none of us must forget that the central obstacle is the problem of criminal activity by the IRA. We have to deal with that. I hope that the right hon. Gentleman will be reassured that we have not ruled out his suggestion or others that might be presented in the House and during the political talks in Northern Ireland.

Mr. Seamus Mallon (Newry and Armagh) (SDLP): Does the Secretary of State agree that the single greatest obstacle preventing criminality from being dealt with is the inability to protect people who want to give evidence but cannot because of the paramilitary might that surrounds them? Does he agree that while other things are not possible at present, one thing is possible and should be required of every political party that will be involved in any future negotiations? Should not all those parties now join the Policing Board, so that the Police Service can protect the only people who can end criminality—the people on the ground?

Mr. Murphy: My hon. Friend is entirely right to point out that intimidation of witnesses is a major problem in Northern Ireland. He was referring to a specific case in Belfast, and I could not agree more with all that he has said about it. I also agree that it would be right for every political party in Northern Ireland to accept the policing arrangements recommended by Patten and the Good Friday agreement, and that that is ultimately the best answer in policing terms.

I pay particular tribute to my hon. Friend's party, for accepting the new policing arrangements. That took great courage, and has shown over the past few years how important it is for Catholics to join the police force and become members of the Policing Board.

Mr. Jeffrey M. Donaldson (Lagan Valley) (DUP): The Secretary of State will know of the plight of innocent victims of terrorist violence, many of whom sense that during the peace process they have not been given enough recognition and support. He will also recall that both during and since the negotiations, the Democratic Unionist party has argued for the establishment of a victims commission to champion the cause and the rights of victims of terrorist violence. Does he now recognise the merits of that idea?

Mr. Murphy: Yes, I do. I know that the hon. Gentleman and his party, along with other parties and organisations, individuals and groups in Northern Ireland, have investigated the possibility of such a commission, and I see great merit in it. I hope to be able to make a statement to the House shortly. I also agree with the hon. Gentleman that the work done by victims groups throughout Northern Ireland is enormously important in bringing about reconciliation. I visited the Wave trauma centre not long ago, and was deeply impressed by what I saw.

Mr. David Lidington (Aylesbury) (Con): Does the Secretary of State agree that if the republican movement wants democrats of any persuasion or background to start taking it seriously, it might begin by dropping its incredible claim to be able to decide whether or not a particular action is a crime, and then advise republicans—in undiluted language rather than weasel words—that if they have evidence connected with criminal activity, and in particular with the brutal murder that took place in Belfast the other week, they should go to the police and give the Police Service of Northern Ireland whatever evidence they can provide so that the killers and their accomplices can be detected, arrested and brought to trial?

Mr. Murphy: Yes, I agree with all that. The hon. Gentleman echoed points made by my hon. Friend the Member for Newry and Armagh (Mr. Mallon) about the importance of ensuring that people go to the PSNI and give them all the information that they have, so that the murderers involved in that particularly horrendous case in Belfast can be apprehended.

It is important for the words used to be much clearer, and for people in the community we are discussing to go to the police. I am sure the House will agree, however, that it is also important to recognise that there may well be a shift in the traditional support for republicans in Northern Ireland, because people are fed up with intimidation, thuggery and savagery on the streets of Belfast and other cities and towns in Northern Ireland.

Sinn Fein

4. **Mr. Andrew Turner** (Isle of Wight) (Con): What recent discussions he has had on Sinn Fein's fitness for political office in the Province. [216994]

The Secretary of State for Northern Ireland (Mr. Paul Murphy): The Independent Monitoring Commission's latest report, which I published earlier this month, made it clear that, had the Assembly been sitting, it would have recommended that Sinn Fein Ministers be excluded from office in response to the Provisional IRA's involvement in the Northern bank raid. In the absence of an Assembly, the commission recommended that I impose financial measures. My statement to the House yesterday set out how I intend to give effect to that recommendation.

The Government will not promote a political settlement in which a party inextricably linked to an organisation that has carried out major criminal acts can assume responsibilities in a devolved Administration.

Mr. Turner: I am grateful to the Secretary of State for that answer. He told the House yesterday that restoring the Assembly would be very difficult in the absence of a clear plan that would see the parties in the Assembly come together on a cross-community basis to form a Government, so we have the extraordinary position where Sinn Fein has behaved so badly that it deserves to be excluded, but it cannot be excluded because it has behaved so badly that there cannot be an Assembly from which to exclude it. Why is he allowing Sinn Fein this veto?

Mr. Murphy: The hon. Gentleman is referring to the same sort of point that the right hon. Member for Upper Bann (Mr. Trimble) made earlier. I am not saying that Sinn Fein has a veto over the political process. I am saying that, if we restore the Assembly under the current rules that govern its operation, we have to have a situation where there will be nationalists and Unionists operating an Executive in that Assembly. It would be much better if we could get a clear plan of how that would work before the restoration, but I repeat the points that I made to the right hon. Member for Upper Bann. We are not ruling out such a possibility, but we obviously have to ensure that whatever plan arises has a chance of working.

Mr. Eddie McGrady (South Down) (SDLP): Does the Secretary of State agree with the current expression of the position in Northern Ireland—that it is leading to political stagnation? He indicated in an earlier answer that he will seek to give greater accountability to the people of Northern Ireland. Has he examined carefully the proposals made to him and to the Irish Government by the Social Democratic and Labour party? Has he discussed them with other parties, and indeed, have other parties made submissions? In the meantime, political accountability is missing. Will he abide by the answer he gave on "Any Questions?", when he said that it was not his business to impose legislation on Northern Ireland against the will of the people? Yet that is the very thing that he is doing with the legislation on higher education and water charges. He knows the will of the people of Northern Ireland through the decision of the Northern Ireland Grand Committee, which defeated the Government motion on higher education.

Mr. Murphy: That is why it is very important that we see an end to direct rule as soon as possible, so that the people in Northern Ireland who are elected by Northern Ireland voters can take these decisions for themselves. The person who is most anxious to see the end of direct rule is me. That is so important for future democracy in Northern Ireland. My hon. Friend's party has made proposals for restoring the Assembly and having civic

administrators running the Departments until such time as an Executive could be restored. Different proposals have been put forward by the different parties. We are trying to find a way through that because the SDLP's proposals are not yet acceptable to members of the Unionist parties on the Opposition Benches. We have to find some method by which we are able to ensure that democracy returns, but there are quite significant gaps at the moment between the different ideas.

Mr. Nigel Dodds (Belfast, North) (DUP): Does the Secretary of State accept that Sinn Fein's unfitness for office was clearly illustrated in the disgusting pictures of Gerry Adams at a parade in Strabane on Sunday presiding over an IRA show of strength with men in paramilitary uniforms, when he eulogised IRA murderers? Is not it clear that the Secretary of State should take action in relation to that event? Given that Sinn Fein has clearly failed the test of democracy, does he accept that, as far as my party is concerned, no matter what others have done in the past, there will be no further chances for Sinn Fein-IRA, there will be no further fudging of democracy, there will be no more second chances for IRA-Sinn Fein and it is time to move on without them?

Mr. Murphy: I think that I have referred to the second part of the hon. Gentleman's question on more than one occasion this morning. On the first part, obviously, any prosecution is a matter for the police and I am sure that the Parades Commission will have seen what happened, but I agree with the hon. Gentleman on the general point that he makes. I do not see that photographs or television pictures of people in paramilitary uniforms help the process in Northern Ireland. In fact, they hinder it considerably.

David Winnick (Walsall, North) (Lab): In view of the fact that Sinn Fein's credibility has rightly been at an all-time low in recent months, does my right hon. Friend agree that we should be very careful not to play into its hands by giving the impression that it is being politically prosecuted? That is precisely what the IRA wants in order to turn the tables and keep up its vote in Northern Ireland and, of course, in the Republic of Ireland.

Mr. Murphy: The issue that is holding up political progress in Northern Ireland is criminal activity on the part of paramilitary organisations—in this case, particularly the Provisional IRA. We must deal with that if we are to make any progress in Northern Ireland in the months to come. The answer is, frankly, now in the hands of the republican movement itself. It can alter the future by ensuring that Sinn Fein goes down a completely and absolutely non-violent and peaceful road.

Lembit Öpik (Montgomeryshire) (LD): Does not the current approach risk playing directly into the hands of Sinn Fein by generating exclusive dialogue between the Government and Sinn Fein-IRA instead of an inclusive discussion with all the other organisations involved in the process? Does he acknowledge that there is a risk of over-focusing on Sinn Fein, thereby under-focusing on other supporters of the process? Will he give an assurance that he will drive the peace process forward so that the obstructive individuals and groups have to run to keep up, instead of holding the entire process back to keep up with the slow learners?

Mr. Murphy: The hon. Gentleman knows that I said yesterday that this Government and the Irish Government do not believe that we should stop talking to any of the political parties in Northern Ireland, including Sinn Fein, because it is important to keep the dialogue going. The main issue that we face remains the problem of criminal activity, which needs to be resolved. The hon. Gentleman is right that there is a democratic deficit, and we must talk to all the political parties in Northern Ireland to ensure that we overcome it.

Decommissioning

5. **John Robertson** (Glasgow, Anniesland) (Lab): What recent discussions he has had with the Irish Government in connection with IRA decommissioning. [216995]

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Ian Pearson): As my right hon. Friend the Secretary of State said earlier, we continue to discuss with the Irish Government ways of moving the peace process forward. Decommissioning was, and is, an issue that has to be resolved.

John Robertson: Does my hon. Friend agree that for too long, IRA-Sinn Fein have seen token decommissioning as their way on to the Executive while still continuing with their criminality? Will my hon. Friend stand firm with the Irish Government and get a message across to Sinn Fein-IRA that only total decommissioning will do, and that it has to take place with the agreement of both Governments?

Mr. Pearson: I certainly agree with my hon. Friend that we want total decommissioning. The British and Irish Governments are at one on that. We want to see not only decommissioning, but an end to paramilitary and criminal activities on the part of the Provisional IRA.

Lady Hermon (North Down) (UUP): Since the de Chastelain commission has already cost nearly £4 million and achieved scarcely anything, can the Minister honestly stand at the Dispatch Box and tell the House that it has been money well spent?

Mr. Pearson: As a Government, we need a decommissioning commission and we are absolutely clear about that. The cost of the de Chastelain commission has been some £3.8 million over eight years, which I do not believe is excessive. As a Government, we continually look to ensure that we keep costs to a reasonable minimum and I can tell the hon. Lady that, since 2000–01, there has been a 60 per cent. reduction in the annual cost of operating the decommissioning commission. If we are to take the gun out of politics, we need such a commission.

Mr. Harry Barnes (North-East Derbyshire) (Lab): Do we know what the IRA is doing with its money? Are there any signs that it is recommissioning rather than decommissioning, or is it just acting like a mafia?

Mr. Pearson: I do not know personally what the IRA is doing with the proceeds of the Northern bank raid, but 45 detectives are working on the case with their counterparts in the Garda Siochana, trying to track down those responsible. It is clear from the last Independent Monitoring Commission report that the Provisional IRA continues to maintain a capability, and that so-called punishment beatings are still being carried out by both the IRA and loyalist organisations. All of that is unacceptable to the Government, and we are making every effort to deal with those problems effectively.

Security Situation

6. **Mr. Andrew Mackay** (Bracknell) (Con): If he will make a statement on the security situation in the Province. [216996]

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Ian Pearson): Paramilitary activity by republicans and loyalists continues in various forms, although it is at a relatively low level compared to previous years.

Mr. Mackay: Can the Minister give a categorical assurance that, in the present difficult circumstances, there will be no troop reductions in the Province and that no military installations will be removed?

Mr. Pearson: No, I cannot give that assurance. The assurance that I can give is that the Army will always provide the level of support to the police that is appropriate and necessary, given an assessment of the threat. We will not take any risks with the security of the people of Northern Ireland, but it is important that we use our resources in the most effective manner. That means ensuring that they are deployed against the threat that exists. Therefore, we will look at these matters from time to time, in a sensible and responsible way.

PRIME MINISTER

The Prime Minister was asked—

Engagements

Q1. [217016] **Mr. Bob Laxton** (Derby, North) (Lab): If he will list his official engagements for Wednesday 23 February.

The Prime Minister (Mr. Tony Blair): This morning I had meetings with ministerial colleagues and others. In addition to my duties in this House, I will have further such meetings later today.

Mr. Laxton: Large-scale capital investment has been made in the schools in Derby, which I welcome. However, there is still a need for further moneys to be made available to rebuild establishments such as Lees Brook secondary school and Ivy House school. I also very much welcome what I term the curriculum investment being made in vocational education. Will my right hon. Friend assure me that a future Labour Government will continue to pump capital money and curriculum investment money into education?

The Prime Minister *rose—*

Hon. Members: Answer!

The Prime Minister: Yes, I can assure my hon. Friend that we will continue to make that investment in the state education system, in which the capital investment programme has risen sevenfold since this Government came to power. That money is providing new schools, classrooms and computer equipment, and it is also helping to provide new teachers and teaching resources. I think that I am right in saying that in Derby the investment has risen from just below £3 million to over £50 million in the past few years. I can assure my hon. Friend of one other thing: we will not take money out of the schools budget and give it to a private education voucher system, as proposed by the Opposition. Instead, we will continue the investment programme that has secured record results at every level.

Mr. Michael Howard (Folkestone and Hythe) (Con): We all agree that terrorism is a real and current threat, and that special powers are needed to deal with it. Today this House will debate the Government's proposals, but before we do so, will the Prime Minister clear up one area of confusion? Will he confirm that nothing need be finally resolved in the next two weeks, as the existing powers can be extended beyond 14 March?

The Prime Minister: Of course it is true that we could extend the existing powers, but the House of Lords ruled that we should change them, and we are bringing forward the new proposals in deference to the House of Lords judgment. I have made it clear throughout that the Government strongly support the existing powers. That is our position, but the House of Lords judgment—which I am sure that the House would expect us to respect—has led us to bring forward the control orders proposals. The security services and the police—through the Association of Chief Police Officers—have told us that the orders are necessary to protect this country's security. My understanding is that the right hon. and learned Gentleman and his party will vote against the control orders in total.

Mr. Howard: I have in front of me the Government's own explanatory memorandum, published less than four weeks ago. It makes it clear that

"the Act"—

the terrorism Act—

"remains . . . valid, enforceable and effective",

and that in

"exercising the powers . . . the Secretary of State is . . . acting lawfully".

We have offered—I repeat that offer today—to renew those provisions for a short period so that Parliament can fully consider the nature of the legislation needed to replace them. Will the Prime Minister now accept that offer?

The Prime Minister: As I have just explained, the reason why we have brought forward these alternative proposals is that we believe that we must act on the House of Lords judgment. Yes, of course it is correct that I and other Government members supported the existing legislation. That is why we fought the matter in the House of Lords. However, in the end the issue, as I understand it from our discussion last Friday, is one of principle. The Leader of the Opposition is opposed to the new control orders altogether. That is my understanding of his position.

Mr. Howard: Does the Prime Minister not recognise that the Government are in the mess that they are in today because the existing legislation was rammed through Parliament? Surely he should learn from that mistake rather than repeat it. Is not the best way forward to give Parliament the time it needs to work towards a consensus, so that we can effectively protect our country from terrorism?

The Prime Minister: First of all, I do not accept that the powers were rammed through Parliament. They were necessary. I simply point out to the House—and, incidentally, to the country—that several hundred people have been arrested post-11 September in connection with terrorist activity in this country. There is a serious security threat to this country. That is the view of our security services and chief police officers, particularly those concerned with terrorism. It is important, therefore, that we take the necessary measures, while respecting civil liberties, to protect the nation's security.

We can debate the matter over and again—[HON. MEMBERS: "No, we can't."] Well, the advice of our security services and chief police officers is that we need control orders. In other words, we need to be able to disrupt the planning of terrorist activity early and we need to have orders in place, the breach of which can lead to immediate imprisonment. Whatever debate we have, there is that issue of principle. My understanding of the Liberal Democrats' position is that they are not against control orders in principle; their worry is about judicial scrutiny. That is their position. As I understand the position of the Leader of the Opposition, he makes the point about judicial scrutiny, but it is more fundamental than that. He is against control orders completely. Perhaps he will confirm that that is true.

Mr. Howard: We do have reservations about control orders, but let us be quite clear: we have offered to support renewal of the existing powers so that the House has time to consider the issues fully. We have come up with constructive proposals based on the Newton committee recommendations to ensure that more terrorists are sent to prison rather than left in the community, and we have put forward a carefully constructed scheme to allow intercept evidence to be used in court with the absolute guarantee that no evidence prejudicial to national security would be disclosed. The truth is that there are alternatives to the Government's proposals that would more effectively protect British lives and the British way of life. Such measures are too important to be steamrollered through Parliament. We need time to debate the issues. Why is the Prime Minister denying Parliament that time?

The Prime Minister: First, let me deal with the issue of intercepts. There is an issue about whether we let intercept evidence be used. We have come to the conclusion that it should not be used because the strong advice of those engaged in this type of business is that it would disrupt their service. Indeed, that was the advice received not just by this Government, but by the Leader of the Opposition when he was Home Secretary and raised precisely that issue. That is, no doubt, why he did not do that when in office.

However, the second point, which is completely different, relates to the use of control orders. The right hon. and learned Gentleman mentioned the Newton committee, which specifically recommends such provisions. Therefore, the issue between us is this: it does not matter how much time for scrutiny there is—*[Interruption.]* That is because there is an issue of principle, which is this: the security services and the police say that these orders restricting the movement of people whom we suspect are planning terrorist acts in this country are necessary for our national security. That is accepted here, and it is even accepted by the Liberal Democrats; the question is whether the right hon. and learned Gentleman is prepared to accept that. The fact of the matter is that we are not steamrollering this measure through; rather, I am afraid that he is playing politics with it.

Mr. Howard: The Prime Minister accuses us of playing politics. I will tell him what playing politics is all about. Playing politics is when a Government ram a Bill through Parliament when they do not need to. Playing politics is briefing national newspapers that terrorist suspects would have to be released when they would not have to be released. Playing politics is using national security for political point scoring, when that should be the furthest thing from the mind of a Prime Minister faced with these threats. Why does the Prime Minister insist on curtailing debate on these vital questions? Why will he not recognise that there are alternatives to his proposals that merit consideration? Why is he being so arrogant about these questions, which are so fundamental to our security and our liberties?

The Prime Minister: I will tell the right hon. and learned Gentleman what should be the nearest thought in a Prime Minister's mind in these circumstances: protecting the security of the country. That is what I intend to do, and I repeat that the reason why we are putting forward these proposals is that the security services, unanimously, and the heads of police in this country, unanimously, have recommended that these powers are necessary to disrupt the planning of terrorist activity in this country. We know what these terrorists can do, and we know what they want to do. The advice of the security services and of the police is that these powers should be introduced. The right hon. and learned Gentleman has now set his face against them altogether. In my view, the only responsible thing to do is to put the security of our country before any other

consideration. That, if I may say so, is not simply what a responsible Prime Minister should do, but what a responsible Leader of the Opposition should also do.

Mr. Peter Pike (Burnley) (Lab): My right hon. Friend will know that four years ago, the biggest single problem in Burnley was that there were 4,500 empty houses, and the dereliction and destroyed housing market that that caused. He will know that Elevate is a housing renewal pathfinder project in east Lancashire, that the number of empty houses is now falling, and that the housing market is beginning to improve. Can he reassure the people of Burnley that the Government's long-term commitment to that process will continue, and that we will also get the £150 million for new high schools that they are committed to providing?

The Prime Minister: My hon. Friend is absolutely right about what is happening in Burnley, and I understand from my right hon. Friend the Foreign Secretary that it is also happening in Blackburn—so we have Burnley and Blackburn on the same side. The most important thing, however, is that we keep this investment going. There are areas of the country—I have visited many of them over the past few months—where regeneration programmes are making a real difference on the ground. That is why we will never follow the Opposition's proposals. Cutting the housing programme and the sustainable communities programme would do immense damage to communities such as those that my hon. Friend represents, and we simply will not do it.

Mr. Charles Kennedy (Ross, Skye and Inverness, West) (LD): Returning to the proposed terrorism measures, and following on from the exchanges on them, why is the Prime Minister seemingly so convinced that more accountability will be built into the system if the Home Secretary decides whether someone is to be locked up and that decision is subject to a judge's re-examination within seven days, than if the decision is taken in the first instance by the judge on the basis of an adequate burden of proof? What has persuaded the Prime Minister that more accountability can be achieved at the expense of overturning long-standing fundamental principles of justice?

The Prime Minister: I do entirely understand that as a point. It is obviously a completely different point from the one being made by the Conservative party. The reason why we have decided, however, that it is right in the first instance that the Home Secretary has these powers is for speed of action, but it has to be taken before a court within seven days. Obviously, we would hope to do that far more swiftly than in seven days, but the key thing is to get the control orders in place. As I understand it, the right hon. Gentleman is not opposed to them, but he would like it to go in front of a judge first.

The reason why we have chosen this method is that although we will bring it before a court very quickly, in seven days maximum, there may be circumstances—this is what we are concerned about—in which the Home Secretary has to act very, very quickly and there could be a delay in bringing it before a court that could cause difficulty. One of the things that I should like to say to the right hon. Gentleman—and to the House, and more widely, to the country—is that there are large numbers of people whom we are surveying at the moment. We keep them under surveillance in this country because we believe they may be involved in the planning or funding of, or the procurement of weapons for, terrorist offences. It is extremely important that we have the maximum speed of movement to disrupt them if we decide that although we do not have the evidence to secure a conviction, we none the less reasonably suspect that they are engaged in such terrorist activity. I come back to the point that I made a moment or two ago: the essence of this, for us, is the existence of the control orders. The reason why we have introduced the Executive order first, which will then be subject to judicial review, is that there may be circumstances—albeit a limited number—in which for speed of action we need the Executive order first.

Mr. Kennedy: Yes, but as we all know, all too sadly, our country has been no stranger over the years to either the threat or the reality of terrorism. Is it not worrying, where the principles of justice are concerned, that under three successive Labour Home Secretaries, we have today house arrest and the ending of trial by jury, and in the future, ID cards? Whenever the Government are presented with a problem their instinctive response is authoritarian. After two terms of Labour government, where would our civil liberties be left were there to be a third?

The Prime Minister: I really do not accept that identity cards are the same type of issue at all. They are a necessary, sensible measure in the modern world, and I am sorry that the right hon. Gentleman and the Conservative party are against them. In respect of terrorism, however—let us be very clear—were there to be a serious terrorist act in this country and afterwards it was thought that we had not taken the measures necessary, believe me, no one would be talking about civil liberties; they would be talking about why we had not done more to protect the security of this country. I agree that these powers should be taken only in the most exceptional circumstances, but I conclude on this point: I do not believe that the terrorism we face today is the same as the IRA terrorism of, hopefully, the past. I think that these people would kill thousands of our citizens if they could. I think that this is terrorism without limit, and that in the use of suicide terrorists, it is different—so in those circumstances, for that limited number of cases, my best judgment is that considerations of national security have to come before civil liberties, no matter how important those civil liberties are.

Mr. Gordon Prentice (Pendle) (Lab): Has my friend had an opportunity to visit my website, gordonprenticemp.com, to read about the disgraceful behaviour of my Liberal-controlled council in Pendle, which is selling greenfield land for development although there are brownfield sites all around? Is not that another case of the Liberals talking green but acting dirty?

The Prime Minister: That sounds to me like a very fair case; I must make sure that I visit my hon. Friend's website. He is absolutely right of course; there is always

a great difference between the way the Liberals act in theory and how they actually act whenever they have their hands on power.

Q2. [217017] **Sir Nicholas Winterton** (Macclesfield) (Con): May I tell the Prime Minister that on Sunday 13 February, my wife and I attended the annual Christ the Healer service for the East Cheshire hospice, which we jointly opened 17 years ago? The reflections of an 88-year-old day-care resident, Barbara Jo Millington, were read out at the service. May I quote just a few of her words:

"What a pity Government funding is so mean to this worthy cause. Let's hope the politicians will not need the special care if or when it is no longer there."?

May I ask for an assurance that he will review the funding of the hospice movement, because it undertakes work that otherwise would have to be carried out by the national health service?

The Prime Minister: First, I congratulate not just the hospice that the hon. Gentleman referred to but the hospice movement in general on the magnificent work that it does. *[Interruption.]* An Opposition Member shouts, "Give them money," but we are now investing an extra £50 million a year in specialist palliative care services, including hospices. That represents a 40 per cent. increase in NHS funding since 2000. In addition, almost £50 million, on top of the existing funding that I have just mentioned, is being made available over the next three years by the New Opportunities Fund and £15 million of that money is going directly to children's hospices. I am well aware that it could be more, but it is also fair to say that the Government are making a far greater contribution to the hospice movement than before. Of course, part of the increasing budget of the primary care trusts can also be used for such palliative care, and I hope very much that some of that money, at least, finds its way to the hospice mentioned by the hon. Gentleman.

Q3. [217018] **Helen Jones** (Warrington, North) (Lab): People living near Beamont junior and infant schools in my constituency are very concerned about drug dealing in their area and are supporting my campaign for CCTV to stop drug dealers using a phone box opposite the school. Will the Prime Minister offer his backing to the residents who, as the *Warrington Guardian* rightly put it, are setting out to stop this evil trade? Will he assure them that the measures that the Government have implemented to tackle the menace of drugs will make a difference on the ground, that people who are dealing from rented properties will be evicted, and that drug dealers operating outside schools will receive much harsher sentences?

The Prime Minister: I congratulate the people in my hon. Friend's constituency. Yes, we certainly will make sure that that is the case. Indeed, the Drugs Bill now going through Parliament makes it an aggravating factor in an offence if a drug dealer is using someone under the age of 18 near school premises. In addition, of course, we have the new power to shut down houses that are being used for drug dealing, and I know that it is being used in many parts of the country now. In addition we have the Proceeds of Crime Act 2002, which allows us to take money from drug dealers—millions of pounds is being taken from them—or, for example, to confiscate their cars, the means of transport from which they often do their drug dealing, and force them to prove that they came by the money for them lawfully. Those are all new powers that we have given. I hope that the police and local authorities use those powers, because when they are combined with the action of local residents, they make a difference in many parts of the country.

Q4. [217019] **Mr. Adrian Flook** (Taunton) (Con): What is it in the Prime Minister's principles that now makes it right and acceptable, against the recommendations of four Select Committees, to sell arms to China?

The Prime Minister: The reason why we have supported a change in European policy in respect of China is that we think that the reasons originally given for that ban no longer apply in the same way. What is more, we are not simply removing the existing restrictions, we are replacing them with a whole series of obligations, not just for ourselves but for all European countries, which will mean that only in very specific circumstances would those arms be sold. I think that that position is sensible because it meets both the concerns about China and its legitimate interest to be treated in the same way as other parts of the international community.

Q5. [217020] **Mr. Ronnie Campbell** (Blyth Valley) (Lab): The Prime Minister, like many Members, will be aware that we have had a lot of letters and postcards about public sector pensions. Can he tell us what the situation is now and, more importantly, whether there is any chance of a compromise on this thorny subject?

The Prime Minister: I know that discussions are taking place between my hon. Friend and the unions about this. The situation is difficult, for a reason that I am sure he appreciates: the actuarial advice is that there is a £400 million shortfall. That must be met in some way or other, and we certainly do not want to land it on people's council tax bills. We, like virtually every employer in the country, including some of the trade unions themselves, are looking at how we can make proper provision for pensions in the future. I hope that a compromise can be found, but it must be consistent with the prudent management of our resources.

Q6. [217021] **Sir Teddy Taylor** (Rochford and Southend, East) (Con): When the Prime Minister met President Bush this week, did he remind him that the US supplied massive quantities of weapons of mass destruction to Saddam Hussein when that repulsive dictator was invading Iran? Did he further ask why US troops today are protecting Camp Ashraf, although there are more than 1,000 trainee terrorists there belonging to the Mujaheddin-e-Khalq organisation? In the light of all that, will he try to persuade President Bush to resolve his problems with Iran penitently and peacefully, rather than in any other way?

The Prime Minister: We obviously want to ensure that we get a diplomatic resolution to the situation regarding Iran, as President Bush made clear over the past few days. There are genuine concerns, which I am sure that the hon. Gentleman shares, about Iran in relation to the development of its nuclear capability, its sponsorship of terrorism and human rights issues. All that is right, but it is possible, through the engagement by Britain, France and Germany that is happening, backed by the United States, to get a diplomatic solution, so that is what we are working for. On Iraq, I would simply point out that the appalling dictator Saddam Hussein has, of course, been removed from Iraq only as a result of the action of coalition forces, including British and American forces.

Jim Knight (South Dorset) (Lab): On behalf of my constituents, may I thank the Government for the proposed new offences to punish careless drivers who kill? The majority of those drivers are young men. Will the Prime Minister urgently examine the effect of car magazines such as *Max Power*, which target irresponsible young men and effectively encourage them to break the law, most recently by congratulating someone on speeding at 120 mph through the Dartford tunnel?

The Prime Minister: I hope that anyone who publishes such magazines recognises that they also have a responsibility to encourage law-abiding behaviour. I have not seen the specific article to which my hon. Friend refers, but it certainly sounds deeply irresponsible.

Q7. [217022] **David Burnside** (South Antrim) (UUP): The Prime Minister has shown great leadership in his fight against international terrorism, and he has based that on a belief in freedom and democracy and an opposition to tyranny. In our back yard in Northern Ireland, we have republican criminals who are unfit to join the Executive Government at Stormont. Will he persuade his right hon. Friend the Secretary of State for Northern Ireland to bring together the two Unionist parties, the Social Democratic and Labour party and the Alliance party to determine whether we can form a voluntary coalition of democrats against the republican criminals in Northern Ireland, and let democracy defeat terrorism and criminality there?

The Prime Minister: There is always a question of whether we can find a way forward, and we would require not merely the Unionist parties but the SDLP to be prepared to co-operate in such a way. I still believe that the best way forward—although this might not be possible—is on an inclusive basis. However, I say to the hon. Gentleman that we should not ignore one positive thing that has come out over the past few weeks: the strength of feeling about the need to ensure that no one should come into government in Northern Ireland unless they are exclusively committed to peaceful and democratic means. That feeling exists not only in Northern Ireland but in the whole island of Ireland—in the Republic of Ireland, too. Unified pressure from north and south is now necessary to ensure that we either manage to get a way forward involving all political parties, or find a different way forward.

Mr. Siôn Simon (Birmingham, Erdington) (Lab): In order for us to push most vigorously on with our project of rebuilding and revivifying communities that the Tories tried but failed to destroy, please may we have a general election straight away?

The Prime Minister: I do not think that this is quite the appropriate moment to say that. However, whenever the election comes, I look forward to putting up in lights an economic record of low inflation, low mortgages and low unemployment—

Bob Russell (Colchester) (LD): Boom and bust!

The Prime Minister: Absolutely—without the boom and bust of the Conservative party. I look forward to putting up in lights record public services investment, rather than the private voucher scheme of the Conservative party. I also look forward to putting up in lights the antisocial behaviour legislation that is making a difference in various parts of this country, although it was opposed by the Conservatives and the Liberal Democrats. Whenever the election comes, I think we will be in pretty good shape.

Q8. [217023] **Mr. James Clappison** (Hertsmere) (Con): The Prime Minister has said that the Mayor of London should apologise for his remarks, which in the view of many people were offensive and ignorant. Yesterday the Mayor of London refused to apologise. Is that it, as far as the Prime Minister is concerned?

The Prime Minister: The Mayor of London has said what he has said—I have already made my position on it clear. I believe that it is sensible to move on, however. I will tell the House what else I think—that there has not been a bigger supporter of the state of Israel than this Government and this Prime Minister. Whatever mischief some Conservatives make out of the incident, I hope that it is not taken seriously, as I am sure that it is not, by the Jewish community.

Mr. Tom Harris (Glasgow, Cathcart) (Lab): Will the Prime Minister join me in paying tribute to a charity based in my constituency, Glasgow The Caring City, led by Rev. Neil Galbraith, which was one of the first, if not the first, charity to mobilise aid for the areas most affected by the Boxing day tsunami? Yet despite our record of delivery in the developing world, The Caring City has not been able to access any funds raised by the Disasters Emergency Committee. Does the Prime Minister agree that smaller charities, as well as large ones, should be able to get some of the money raised by the generosity of the British people?

The Prime Minister: I entirely understand my hon. Friend's point. Of course, how the funds are distributed is a matter for the member agencies of the committee, and the extent to which they can provide support to other organisations is a matter for their trustees. I hope, however, that support is given to the small charities as well as the larger ones. The generosity of the British people has been quite remarkable, and the combined generosity of the British people and of the British people through the Government through

the taxpayer now runs into many hundreds of millions of pounds. That will do an awful lot of good in rebuilding some of the places that have been deeply affected by the tsunami.

Perhaps the House will be interested in hearing that the most recent figures for the loss of British life in the tsunami are 199 in category 1—that is, likely to be lost—significantly fewer than 100 in category 2 and, I think, 61 confirmed dead. The contribution made in my hon. Friend's constituency and right around this country is an incredible tribute to the generosity and good spirit of the British people.

Mr. John Hume (Foyle) (SDLP): On a point of order, Mr. Speaker.

Mr. Speaker: I know that the hon. Gentleman wants to make a point of order, but the rules of the House are that I must take it after the statement. I will happily do so after the statement.

Education and Skills (14 to 19)

12.32 pm

The Secretary of State for Education and Skills (Ruth Kelly): With permission, Mr. Speaker, I would like to make a statement—*[Interruption.]*

Mr. Speaker: Order. Will hon. Members leave the Chamber quietly? There is a statement.

Ruth Kelly: I would like to make a statement about the reform of education for 14 to 19-year-olds.

I would like to start by putting on record my thanks to Sir Mike Tomlinson and his working group members for their time and effort. They issued us with a challenge: how to fulfil the needs and aspirations of every young person. Today, I shall set out how we will meet that challenge.

We have made much progress in raising standards in our schools. As a result of smaller class sizes and the literacy and numeracy strategy, we have the best ever primary school results. As a result of the continued record investment and reform in our secondary schools, we also have the best ever GCSE and A-level results. There are more young people in apprenticeships than ever before, but we now need to go much further.

Historically, our education system has produced a high-achieving elite while failing the majority. In today's global economy, in which our national competitiveness increasingly depends on the skills of each and every person, we cannot afford to let so much talent go to waste. We cannot afford to let intellectual snobbery leave us with a second-class, second-best vocational education system.

I agree with Sir Mike's analysis: there are historic weaknesses in our education system which we have to tackle. Too many young people are unattractive to employers, deficient in the basics of English and maths, unprepared for further study and unable to demonstrate their true potential. I want all that to change.

I want to transform the opportunities available to young people. I want the same emphasis on vocational education as we currently have on academic. I want all young people to leave school competent in the three Rs. I want every pupil stretched to their full potential. All teenagers should have the opportunity of a place in education, training or on an apprenticeship. Education maintenance allowances are already helping overcome financial barriers. I want to end the scandal of our low staying-on rate at 17, increasing it from 75 per cent. to at least 90 per cent. over the next decade—effectively making the current school-leaving age a thing of the past.

There are some who argue that to transform opportunities for our children, we should scrap the current system of GCSEs and A-levels. I do not agree. We will not transform opportunities by abolishing what is good, what works and what is recognised by employers, universities, pupils and parents. We must build on what is good in the system, and reform and replace what is not working.

In my reforms, there will be a relentless focus on the basics. It is totally unacceptable that at least 70,000 16-year-olds a year are weak in the basics of reading, writing and arithmetic. I want and expect much more. I want every young person to be competent in English and maths before leaving school or college—to be able, for example, to work out their family budget or write a clear description for an insurance claim.

I am therefore toughening GCSE so that, in future, no one will be able to get a higher grade in English or maths without mastering the basics. I shall free up the curriculum—starting at age 11—to make space for extra help and support in English and maths to ensure that children who fall behind can catch up. I shall introduce a new diploma to recognise the achievement of those who achieve five good GCSEs or equivalent, including English and maths.

We must also transform vocational opportunities. Our programme of apprenticeships has made an excellent start in this. We must build on that and go further. We need qualified health care professionals, software designers, plumbers, graphic designers, engineers and much more—all competent in the basics, all with specialised skills and all ready to acquire more skills as they progress. To achieve that, we need specialised qualifications that include both practical skills and academic content, with English and maths at their core as well as relevant GCSEs and A-levels. We need all universities to value those qualifications, and we need employers actively to seek out students who hold them.

The key is to give employers a real say. To do so, I shall introduce new specialised diplomas and ask employers, via their sector skills councils, to sign off their content. Specialised diplomas will be made available in 14 broad subject areas—reflecting key sectors of the economy—at levels 1, 2 and 3. They will replace the current system of around 3,500 separate qualifications. The first four employer-designed diplomas—in information and communication technology, engineering, health and social care, and the creative and media industries—will be available in every local area by 2008. I am pleased to tell the House that major employers such as IBM, Hewlett Packard, Rolls-Royce, Nissan, the national health service and the BBC have already agreed to work with us on their design. A further four specialised diplomas will follow in 2010, and an entitlement to all 14 will be in place in every local area by 2015.

Employers will have never been so involved in designing the courses studied by our young people, guaranteeing that those qualifications add real value to young people's employment prospects. We will also involve universities in the design of level-3 diplomas to ensure that the young people who take them are ready for higher education.

We must provide real opportunities for young people to be stretched to achieve their full potential. I expect all diplomas and A-levels to offer optional, more challenging questions for the brightest students. We will also pilot other measures to add stretch, including an extended project, as suggested by Sir Mike, and the use of HE modules in schools and colleges.

Our top universities have told us that they need more information to differentiate among top achievers, especially for popular courses. I shall act immediately to make A-level unit results available to universities before they make offers of places. In the longer term, moving to

[Ruth Kelly]

post-qualification application to universities will mean that final A-level results and unit grades are available for all candidates.

There are those who argue that we should challenge our A-level students further, by demanding breadth in the curriculum as well as stretch. Some schools in the state sector do that already by offering the international baccalaureate, often alongside A-levels. I understand those arguments, but there is no clear consensus among pupils, parents, employers or universities on whether or how it should be done. I also believe that so soon after the introduction of curriculum 2000, stability is important. I will therefore work with employers and universities to see whether we can identify what, if anything, would add value to A-levels, and I will review progress in 2008.

Our education system has not done enough for those most at risk of dropping out of the system, resulting in pupils and society paying a high price. I believe that the key to remotivating those teenagers is to broaden the range of places in which they can learn. I shall enable pupils to mix school with college and employer-based learning to suit their needs. I shall introduce a new programme for 14 to 16-year-olds to provide intensive support to allow learning at work, based on our existing and successful entry to employment programme, which is currently available only to those over the age of 16.

These measures are a radical package, which we will introduce with care, and schools, colleges, employers and other local partners will need to work together to deliver it, each contributing their own expertise for the benefit of all pupils in the area. In doing so, we will move from a system of comprehensive schools to a genuinely comprehensive system of education in each local area.

I believe that every child has equal worth; that every child has potential; that the job of the education system is to develop and extend that potential; and that, in doing so, education must enable all children and teenagers to achieve and prepare for life and work, equipping them with the skills that employers need.

There are many ways to achieve and many ways to prepare young people, all of which have dignity and value and all of which deserve respect. Those are my values, the values of this Government and, I believe, values that the whole country will share. This White Paper embraces those values. I commend it to the House.

Mr. Tim Collins (Westmorland and Lonsdale) (Con): I thank the Secretary of State for allowing me to see a copy of her statement half an hour in advance. I would thank her for the chance to see a copy of the White Paper in advance, but sadly it did not arrive.

Let us start on the points where there is consensus between us. We are agreed that A-levels and GCSEs should remain, but that they should be much more challenging for the most able. We are agreed that vocational education must be massively expanded and dramatically raised in status. We are agreed that no child who is able to learn to read and write should ever leave school without those fundamental skills. We are agreed that participation rates among older teenagers must rise at least to the levels seen in other countries. We are agreed, in short, that despite all the hard work of teachers, schools, pupils and parents, the current education system in Britain has been letting down far too many for far too long, right across the spectrum from the most to the least academic.

We are also agreed, I am sure, that Mike Tomlinson and his team should be thanked. We would go further. We do not just thank him and his team, we congratulate him on a creative, important and imaginative report. Sadly, it seems that the Secretary of State came not to praise the Tomlinson report, but to bury it. Not one diploma for all, but at least 15 different diplomas for different categories of children; no new challenging qualification in literacy and numeracy; and no integration of academic and vocational qualifications. There is not much left of Tomlinson, is there?

The Secretary of State told the Sunday papers categorically that she would make exams harder. Why, then, today did she just say that she would see if "we can identify what, if anything, would add value to A-levels, and I will review progress in 2008"? There was no commitment; after eight years, all we get is a promise to look at it all again in another three years—all talk, yet again.

Exams have not been getting harder in the last eight years, have they? The former chief examiner Tony Whelpton said:

"Yes, it is easier to get a good result at A level and GCSE than it used to be."

Will the Secretary of State scrap the AS-level and the option to resit A-level modules over and over again? She has given the impression that she will get the present Qualifications and Curriculum Authority to make exams more challenging, but these are the very people who have allowed A-grades at GCSE to be handed out to candidates with just 45 per cent. of the marks and permitted a pass mark to be set at just 17 per cent. Will she confirm that she still has confidence in the very institutions that have debased our exam system? If she has, why should anyone believe that standards will get any higher at all?

The Secretary of State says that she wants to raise the effective school-leaving age to 18. Let us examine whether that is a stunt or a real pledge. Is she undertaking to change the formal, legal school-leaving age set down by statute—yes or no? Teenage truancy has risen by a third since 1997. If she cannot keep 14 and 15-year-olds in school, why should anyone believe that she will be able to keep 17 and 18-year-olds there?

The Secretary of State said that she wants to improve basic literacy and numeracy, but her statement on this is somewhat unclear. Is she accepting or rejecting the specific Tomlinson recommendation for a new and entirely separate assessment in literacy, numeracy and ICT that every child would have to pass before getting a diploma? Will she at last embrace the academic research from this country and around the world, which demonstrates unequivocally that by far the most effective way to spread literacy is to teach phonics?

The Secretary of State claimed that literacy and numeracy have been improving under Labour. However, the independent Statistics Commission said only last week that

"the improvement in KS2 test scores between 1995 and 2000 substantially overstates the improvement in standards in English primary schools over that period . . . Government Departments have usually failed to mention any caveats . . . in their public comments."

The Secretary of State did not mention any caveats in her public comments this afternoon.

The National Audit Office reported two months ago that the number of adults without adequate literacy and numeracy skills is growing by 100,000 a year. The CBI says that one in three companies has to provide remedial training for school leavers who have not mastered reading, writing and arithmetic. In 2003, the CBI survey of 500 companies showed that 34 per cent. were not satisfied with the numeracy and literacy standards of 16-year-olds. In 2004, that figure rose to 37 per cent. Even someone who has learned maths under this Government knows that 37 per cent. is higher than 34 per cent. It is getting worse, not better, isn't it?

The biggest disappointment today is that the Secretary of State has not accepted Tomlinson's central recommendation for an overarching diploma, embracing both academic and vocational qualifications, that every school leaver would be expected to get in at least some form.

The Secretary of State and I agree that A-levels and GCSEs should remain clear and permanent parts of the system. Last year, there were cross-party talks on this issue and it was clear that agreement could have been reached that results at A-level and GCSE would be printed loud and clear on the front of the diploma. That would have preserved the integrity of those exams while still enabling other achievements in vocational qualifications, longer-term projects and basic skills to be properly recognised. Why instead—*[Interruption.]*

Mr. Speaker: Order. The Under-Secretary of State for Education and Skills, the hon. Member for Bury, South (Mr. Lewis) must be quiet.

Mr. Collins: Why instead—*[Interruption.]*

Mr. Speaker: Order. Do not tell me what to do.

Mr. Collins: Why instead has the Secretary of State chosen to set in stone the age-old British divide between academic and vocational qualifications that has bedevilled our society and economy for 150 years? Does she not realise that in the 21st century every child, perhaps especially the brightest, will need vocational as well as academic qualifications? How can she possibly expect to achieve parity of esteem if some young people obtain A-levels and others a diploma, and there is no overlap between the two?

Why did the Secretary of State choose to throw away the chance for a consensus on the diploma? Why did she not build on the extensive efforts that Sir Mike Tomlinson himself made to try to reach very broad agreement? Why, when her predecessors issued invitations for discussions with other parties, did she not do the same? Of course, the teaching unions would not be happy with the view that both she and I take over A-levels, but they would have been a lot happier than they are today if she had delivered an overarching diploma, would they not?

The Secretary of State chose to listen to members of the No. 10 policy unit rather than to her Department or to outside advice. She has thrown away the chance to get substantial agreement across parties and the education sector. She will not now be remembered as a great reformer. This was her first big test. She has flunked it.

Ruth Kelly: I found the hon. Gentleman's reply most entertaining, and his new-found enthusiasm for vocational education and training and a diploma a little surprising. But it is hard to take the hon. Gentleman seriously when his priorities for the state education system are to use £1 billion of taxpayers' money to subsidise the private education of an elite few—a sum equivalent to cutting more than 24,000 teachers and more than 22,000 classroom assistants—and when his proposals for driving up standards in schools are to slash the number of Ofsted inspections, so that a child could go the whole way through secondary school without that school being inspected.

The hon. Gentleman's new-found conversion to a diploma just reminds me how opportunistic the Conservative party really is. Is his new proposal for a diploma also based on a return to selection at 11, or a return to selection at five, and a grammar school in every town? Far from agreeing that every child should be stretched to their full potential, he is preparing to cast us back to the past, when his party argued that standards are maintained only if a majority of children fail and a minority succeed. Far from transforming vocational education and training, he and his party would relegate vocational education to the second-class, second-best training that it was under their leadership. In 1997, there were 75,000 apprenticeships; today there are more than 250,000.

The hon. Gentleman accuses the Government of not raising standards in primary schools. Let me tell the House what we have achieved in primary education. Everyone agrees that the increase in standards since 1998 has been dramatic. Even David Bell, the chief inspector, in his recent Ofsted report said that there have been significant improvements in literacy and numeracy standards since the introduction of the national strategies. In literacy, English 10-year-olds were the third most able readers out of 35 countries in recent international assessments, and between 1995 and 2005 standards in maths have risen faster than those in any other country. We have made progress. We have world-class standards in primary schools and record results in GCSEs and A-levels, but we have to go further. We must ensure that there is no cap on aspiration, no limit to a child's potential.

The hon. Gentleman asks whether we will raise the school-leaving age to 18. The answer clearly is no. We want every child to want to stay in learning until they are 18 or 19 years old, because they have the chance, for once, to learn in a way that motivates them, in the place that motivates them, with real qualifications that have real currency with their parents, employers and our universities, including our top universities. If we manage to do that, we will really, once and for all, have bridged the vocational-academic divide.

The hon. Gentleman asks whether we have accepted the Tomlinson proposals on English and maths and on functional literacy and numeracy. Yes, we have, and we have gone much further. We have made it a condition of getting the diploma that children not only achieve functional literacy and numeracy, but continue from the age of 11 to be given real stretch, and also space for

[Ruth Kelly]

catch-up in English and maths, until they reach the required standard. Our new proposals for the GCSE diploma will have English and maths at their heart. We will also change the league tables to ensure that English and maths are a component of their five A to C grades. We are toughening English and maths to ensure that children who achieve high grades have a real grasp of literacy and numeracy.

I am glad that the hon. Gentleman welcomes our proposals, because this is a once-in-a-generation chance to transform standards and increase opportunities. The proposals provide, not just at GCSE, a much greater focus on the basics, but real stretch, in vocational as well as academic subjects. We will continue to keep that under review to see how much stretch we can provide, offering additional extension papers at A-level, offering the opportunity to all children to study HE modules at school, and introducing the extended project recommended by Sir Mike Tomlinson. We will see if we need to go further by looking at breadth in the curriculum as well as stretch.

The proposals are a radical reform that should be welcomed across the political spectrum. We have done a lot, but there is a lot more to do. I want a society in which people with ambition are not thought to be getting above themselves, and in which children from all backgrounds have high aspirations. I commend the proposals to the House.

Mr. Phil Willis (Harrogate and Knaresborough) (LD): I thank the Secretary of State for the courtesy of providing an advance copy of her statement today.

I always try to begin on occasions such as this by welcoming something in the statement, but to be perfectly honest that has been quite difficult today. However, Liberal Democrats welcome the move to post-qualification applications to university. When does the Secretary of State expect to introduce that, because it needs to be quick, and the universities must not stand in the way? Tomlinson was clear that we should also be raising the bar in terms of literacy, numeracy and ICT for post-16-year-olds. Will that be included?

We also welcome the emphasis on maths and English, a commitment on which all would agree. Does the Secretary of State agree that she must now abandon the league tables, which concentrate on five A to C grades, and that instead, any information on student performance at 16 from the Government should show whether students have achieved a level 2 in English, maths and ICT as a prerequisite, and we should abandon the idea of getting a GNVQ, building up four equivalent GCSEs and including that in the Government's success targets?

Will the Secretary of State explain what she means by a genuine comprehensive system of education in every area? Does that mean that there will be no comprehensive schools, but a combination of other schools that make up a comprehensive package, or does it mean abandoning grammar and other schools as well?

From the outset, we have supported the Government's fundamental desire to increase the vocational offer, to extend the time that students spend in education and training and to make demands on our brighter students. We are with the Government on that. Indeed, Mike Tomlinson recommended all those things in his report. However, it went one step further. For the first time in my professional life—indeed, in my lifetime—it brought together the academic and vocational strands. The Government appear to have abandoned that fundamental principle at the heart of Mike Tomlinson's proposals.

There has been huge consensus about the Tomlinson proposals. When the only major figure who stands against them is the former chief inspector of schools, Chris Woodhead, we know that Tomlinson must be right. However, instead of supporting the spirit of Tomlinson, the Secretary of State has cherry-picked the proposals and thus undermined their integrity. The Chancellor of the Duchy of Lancaster said on 12 January on "Today":

"New Labour is best when it is radical."

If today's statement reflects what he meant by that, God help us, because it represents not radicalism but reaction.

Does not the Secretary of State realise that continuing to separate GCSEs and A-levels from the vocational offer perpetuates the very division that Tomlinson hoped to bridge? How does she intend to create parity of esteem between academic and vocational programmes now that the diploma in its entirety has been rejected? How will she encourage academically able young people to take up vocational options when she has effectively described the vocational diploma—

Mr. Collins: Diplomas.

Mr. Willis: The hon. Gentleman is right. How will the Secretary of State encourage students to take up the diplomas when she effectively described them as for the disaffected and academically less able?

Given that the proposals are to cover all young people in the 14 to 19 age group, how will they affect the NEET—not in education, employment or training—group or the 15 per cent. of 16 to 18-year-olds who are in work but not in training? Where do part-time learners fit into the proposals? They were not mentioned once in the statement. What proposals does the Secretary of State have for extending a statutory right to time off to 16 to 19-year-olds? Without that, her promise of extending education to the age of 19 is an empty gesture.

Where are the funding proposals? Those are of fundamental interest to schools and colleges. I asked the Secretary of State in October—

Mr. Speaker: Order. The hon. Gentleman is asking a long question. *[Interruption.]* Yes, it is very interesting. Perhaps the Secretary of State can now reply to the hon. Gentleman, who can follow up with parliamentary questions.

Ruth Kelly: The hon. Gentleman has asked me many questions, which I shall do my best to answer in the time available. We intend to introduce post-qualification application by 2010. We are raising the bar on literacy and numeracy, which are a condition of attaining a specialised diploma or a GCSE diploma. The diplomas will have to include English and maths, and it will not be possible to progress to level 3 without literacy and

numeracy. I assure him that we shall change the league table to include English and maths. That is a key component of our proposals.

The hon. Gentleman asked what a truly comprehensive system would look like. I envisage schools working together in networks with colleges and employers to deliver what every child needs to meet their requirements so that they can learn in a way that suits their motivations, taps their aptitudes and enables them to develop to their full potential.

The hon. Gentleman said that there was consensus about abolishing GCSEs and A-levels. That is not what teachers, parents and children in school tell me. He asked how we could break down the academic/vocational divide. Vocational, specialised lines of learning will include A-levels and GCSEs when relevant, and practical subjects taught in practical ways, so that children can learn in a way that motivates them. They will provide qualifications with genuine currency that employers and universities respect, just as A-levels and GCSEs are currently respected. If qualifications are genuinely recognised and valued in their own right, because we value skilled technicians, software designers and engineers, that is the way to achieve parity of esteem.

The hon. Gentleman referred to my use of the word "disaffected". He misunderstood my proposals. There will be a new route for people who are at risk of dropping out. It goes way beyond the Tomlinson recommendations. We propose a new route for those who, at 14, are at risk of disengaging from the system. It is based on our current entry to employment route for over-16s. That will be extended to 14 to 16-year-olds so that they can spend up to two days a week learning in the workplace as well as the classroom. They can then come back to learning after doing their level 1 or level 2 diploma. That is a radical departure from the current system, and it will extend genuine benefits to all our pupils.

Mr. Willis: Part-timers?

Ruth Kelly: The thrust of my proposals is that students should learn skills on which they can build and progress in work as well as school so that the qualifications that they gain in school will lead to progression later in life. I have outlined a radical set of proposals.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): The statement is much better than many of us anticipated until a short time ago. My right hon. Friend knows that many of us would have preferred Tomlinson, the whole Tomlinson and nothing but Tomlinson, but we are all realists, and there is much of Tomlinson in her proposals.

Let me clear up a minor point. Tomlinson never advocated the abolition of GCSEs and A-levels as a requirement for introducing a diploma. Page 33 of the report specifically states that GCSEs and A-levels are compatible with a radical change.

My right hon. Friend knows that most of us hold dear the prospect of sorting out the academic and vocational divide once and for all. Much in the statement deals with that. I disagree with her about one thing. There is a consensus that I have not previously experienced on the need to sort out the 14 to 19 situation, and we have a unique opportunity to do that. I therefore hope that she will listen to comments about the White Paper and ensure that we get it absolutely right and thus challenge the aspirations and future of our young people.

Ruth Kelly: I thank my hon. Friend, the Chairman of the Education and Skills Committee. I know that he takes a great interest in these matters and that he has followed the subject closely. He is right that a consensus exists, but I do not think that it is about the abolition of A-levels or GCSEs or the way in which we meet objectives. The consensus is that we need to do more to tackle the basics and ensure that every child is literate and numerate on leaving school. There is also a consensus that we need to do more to stretch our most able students and to transform radically the nature of vocational opportunities for our students. I believe that the package that I proposed fulfils those tests.

Mr. Ian Taylor (Esher and Walton) (Con): I welcome the wider encouragement of literacy and numeracy and working with employers that the White Paper proposes. However, I am especially concerned about the decline in the number of A-level students who take individual science subjects. What does the White Paper do to encourage that? What does it propose to stimulate people beyond the age of 13 and subsequently beyond the age of GCSEs to take those subjects and go on to university? Has the Secretary of State considered, for example, increasing the weighting of individual science subjects in university applications?

Ruth Kelly: The hon. Gentleman is right to draw attention to the importance of science and of ensuring that we have enough students who are motivated and inspired by the science curriculum and want to study science, not only for GCSE but for A-level and at university. He knows that our proposals to maintain compulsory science at key stage 4 will be introduced in 2006. They will create a platform on which to make the science curriculum more inspiring, as the Roberts review proposed. I firmly expect at least 80 per cent. of students to study the equivalent of two science subjects at GCSE, and more to go on to study science at A-level.

I hope that the hon. Gentleman agrees that we have a platform on which to invest for the future and deliver enough scientists both to employment and to our university system.

Helen Southworth (Warrington, South) (Lab): Great Sankey high school in my constituency, a specialist engineering college, and the employers and trade unions working with it, are keen to see a focus on engineering. Will my right hon. Friend work with universities to ensure that they recognise the importance of the subject? We need students at every level to contribute to our society and community, so that we can really succeed in engineering.

Ruth Kelly: My hon. Friend is right to draw attention to the importance of engineering. One specialised route will indeed lead to an engineering diploma. I think that if we get the content right by working with universities and employers, we—or they—can design courses that

[Ruth Kelly]

will stretch our most able engineering students and provide them with direct routes to our top universities. It will be a test of our reforms: can we really create qualifications that combine conceptual with practical learning, and are recognised and respected by employers and the university system?

Mr. John Redwood (Wokingham) (Con): What should Bracknell and Wokingham further education college do about its great difficulty in recruiting people to teach electricians and plumbers, given the current salary and funding levels? We have people who want to train as electricians and plumbers; we have colleges that want to give them places. What are the Government going to do about the problem of recruiting the teachers?

Ruth Kelly: Delivering that agenda will pose a challenge to all our institutions: schools, employers, the FE sector, local authorities and learning and skills councils. I do not deny that for a moment. It also gives the FE sector a huge opportunity to build on its current strengths and its excellent record of delivering vocational skills, but the sector must nevertheless rise to that challenge—which is one reason why we commissioned Sir Andrew Foster to undertake a thorough review to ensure that the sector is fit for the purpose of delivering such an exciting agenda.

Mr. Robert Jackson (Wantage) (Lab): Does my right hon. Friend agree that the belief that parity of esteem can be generated by a single formal structure of formal qualifications is simply too mechanistic? Surely a better route to it is the pursuit of higher levels of individual attainment and ambition in both academic and vocational studies.

Will my right hon. Friend tell us something about the relationship between her proposals and the promotion of two-year vocational foundation degrees at universities, which is such an important step for the future?

Ruth Kelly: My hon. Friend is absolutely right to point out that we must continue to raise standards in our schools and colleges, but also raise the ambitions and aspirations of all our young people. That is what my proposals set out to do—and yes, we should have diplomas designed by employers and leading directly to university foundation degrees.

It may become much easier for young people to go to university when they have qualifications that are recognised by employers and the university system. That is how to achieve parity of esteem between the academic and vocational.

Mr. Roy Beggs (East Antrim) (UUP): Which of the initiatives that the Secretary of State has announced will apply to Northern Ireland, and do the Government intend to introduce a genuinely comprehensive education system to the Province?

Ruth Kelly: We will obviously go on working with those in Northern Ireland to see how the arrangements might apply to them, but I can confirm that the proposals I have announced apply to England.

Mr. George Mudie (Leeds, East) (Lab): I welcome the attempt to raise standards, but as an inner-city Member I see inner-city teachers and pupils struggling because of such factors as background. Changes in systems are fine, but does the Secretary of State accept that it is impossible to reach the standards of which she speaks in inner cities unless inner-city schools, with all their genuine and long-lasting problems, are given the same resources as leafy-lane suburban schools? Is there anything about that in the White Paper?

Ruth Kelly: My hon. Friend is right to draw attention to the need for more investment in the inner cities. Our excellence in cities initiative has already driven up standards in participating areas. My hon. Friend is also right to draw attention to the practical challenge of delivering that agenda, but we have seen examples of its being done. In Knowsley, for instance, schools have been working in networks with employers and the FE sector to give young people an opportunity to take up apprenticeships. We have seen their motivation increase and their standards rise. We have seen the agenda work in practice, and now we must ensure that it is delivered throughout the country.

Sir Sydney Chapman (Chipping Barnet) (Con): I listened carefully to the statement. Near the beginning, the right hon. Lady said unequivocally that our education system had been failing the majority. Does she really believe that? If so, it is an appalling indictment of her predecessors and, perhaps, of those who work in the system, including my daughter. Surely the right hon. Lady should have said that the education system had been failing too many pupils, and addressed herself to that problem rather than trying to make that statement embrace the vast majority.

Ruth Kelly: There are always some who argue that the best education system is one that creates and fosters an elite. I do not agree. I think we should aspire to much more. We have raised standards—more than half our young people gain five A to C grades at higher levels—but too many people are left drifting at 14, too many are defined by failure at 16, and too many drop out of the system altogether at 17. The challenge that we must address is an historic weakness in our education system, and I believe that this is the way in which to address it.

Mr. Eric Joyce (Falkirk, West) (Lab): As my right hon. Friend will know, the new "higher still" structure in Scotland works extremely well in tandem with the traditional Scottish variants of A-levels and GCSEs, highers and standards. Does she agree that we can learn a good deal from that positive experience?

Ruth Kelly: Yes, I do. My hon. Friend is right to draw attention to the Scottish experience, and Wales has also had an interesting experience in this regard. We must learn from what works, but it is just as important for us to work with employers and the higher education sector to establish whether we can add value to our

existing A-level system. It is clear to me, and there is a clear consensus, that we must add opportunities for stretch—there are children who could do more than they are doing now—but there may also be opportunities for breadth, which is why we are piloting the extended project proposed by Sir Mike Tomlinson. I will work with the HE sector and employers to discover whether they would like more stretch than the current system offers.

Dr. John Pugh (Southport) (LD): The Secretary of State seems to think that breadth, as well as the ubiquitous stretch, is a good thing, but I think I am being fair when I say that her statement implied that she does not have a clue how to achieve it. Is that a fair précis?

Ruth Kelly: I have made it absolutely clear that HE modules and the extended project give us ways of offering A-level students more. We will also test advanced extension awards in A-levels, which will give students a real opportunity to show their potential. There is, however, no clear consensus in the higher education sector or among employers on whether pupils should do more than the current A-level system offers—whether they should study a broader range of subjects alongside their A-level subjects. I want to work with universities and employers to establish what, if anything, could add value to the studies that pupils currently pursue.

Mrs. Anne Campbell (Cambridge) (Lab): Cambridge is one of the universities that has called for greater discrimination between students getting top A-level grades. Their wish will not be completely satisfied by making A-level unit results available to universities before they make their offers. Can my right hon. Friend outline some of the measures that she will take to ensure that there is greater discrimination, particularly between students who are getting three As at A-level?

Ruth Kelly: Some universities do indeed say that because 3.5 per cent. of students now achieve three A grades at A-level, they want to be able to discriminate between those students. I have responded to that in my proposals. I will act immediately to make unit grades available at AS-level, so that that information will be available to universities before they make offers. Once PQA comes in, it will be possible to provide unit results and marks at A-level as well as AS-level. However, universities are also interested in seeing whether they can use the scholarship, self-study, research and softer skills that are acquired in doing the extended project as a basis on which to differentiate between pupils. Therefore, we will test the extended project and HE modules in schools, too. I am sure that universities will be interested in those.

Miss Julie Kirkbride (Bromsgrove) (Con): The Secretary of State's answer to my hon. Friend the Member for Esher and Walton (Mr. Taylor) was a bit of a cop-out. She must be aware that there is a collapse in the number of students taking pure science at university. The principal reason is that not enough pupils take chemistry, biology and physics at GCSE. Instead they are pushed into combined sciences. What specifically will she do in the area of science to increase both stretch and breadth, which she has said so much about, because that needs to be done as a matter of urgency?

Ruth Kelly: I agree that we need to motivate more students as a matter of urgency, which is why we have worked with the science community to review the science curriculum at key stage 4. Those changes will be in place by 2006, so we have recognised the urgent need to get more students to be motivated by science both at key stage 3 and at key stage 4 and to continue with it. We are taking science seriously. As a result, 80 per cent. of students will continue to take at least two science GCSEs and we will see more students continuing to pursue science as a career option after they have done their GCSEs.

Keith Vaz (Leicester, East) (Lab): I welcome my right hon. Friend's statement and congratulate her on what she said, but will she confirm that the Government's policy towards faith-based schools has not changed, that schools such as the Islamic school in Leicester, St. Paul's Catholic school and the Swaminarayan Hindu Mission school in north London will continue to receive Government support and will be acknowledged as part of the education system of this country?

Ruth Kelly: Of course I can confirm to my hon. Friend that the position has not changed and that those schools will make a valuable addition to our education system. In delivering this agenda, they will have to be able to work with other schools in their local area. I see it as a fundamental part of these reforms that we open up schools to work in partnership with one another to deliver an all-round education that meets the needs of every pupil.

Paul Holmes (Chesterfield) (LD): I was a secondary school teacher for 22 years, mostly in comprehensive schools. The problem with vocational courses was always that they were seen as second best. Only this morning, the new vice-chancellor of Oxford university confirmed in the Education and Skills Committee that that university has no intention of and no interest in admitting students with vocational qualifications. Will the Secretary of State think again about rejecting the key part of Tomlinson, as otherwise the vocational diplomas will go the same way as the GNVQ, the BTEC, the CPVE and all the rest?

Ruth Kelly: Of course, at that point the vice-chancellor did not have the opportunity to study these proposals and he did not know that the new specialised diplomas will include A-levels and GCSEs where appropriate. An engineering diploma, for example, could include A-level maths or an advanced optional paper at the end of A-level maths, where a student can show their potential. If we design these advanced level diplomas in specialised subjects together with HE, for the first time, HE will have a real say in what pupils learn. As a result, the qualifications will be taken seriously. That is what employers and HE have been telling us.

Mr. Brian Jenkins (Tamworth) (Lab): My right hon. Friend will be aware that at present a comprehensive

[Mr. Brian Jenkins]

system is in operation in my constituency. I have six comprehensive schools and one college, which work as a consortium. It is the intention from September to convert one of the comprehensive schools into a skills academy. We have almost everything on board, but we need a little extra money to ensure that there is parity of esteem as regards the equipment in the skills academy. We have a conference in March to try to get more business people on board. We have many; we are trying to attract more. Will she accept the offer of being top of the bill at that conference?

Ruth Kelly: How could I ever refuse my hon. Friend? I know that he has been pursuing this matter. He has brought to my attention and to that of my hon. Friend the Minister for School Standards the practical experience of his constituency. We can all learn from practical experiences such as the ones that the pupils in his constituency are lucky enough to be having. We must now ensure that all our youngsters have that opportunity.

Mr. Henry Bellingham (North-West Norfolk) (Con): On page seven of her statement, the Secretary of State talks about the first four employer-designed diplomas. She then mentions sectors such as engineering, health and social care, and talks about large companies, but most of the companies in those sectors are small and medium-sized, or very small. How will she engage small firms organisations to get their contribution?

Ruth Kelly: I mentioned—the hon. Gentleman may be interested in this—that the NHS is very keen on taking part in these proposals. It is one of the largest employers not just in this country but in Europe. I also mentioned that IBM, Hewlett Packard and Rolls-Royce are very keen to get involved too. We want small firms to be included too. In fact, they will be essential to delivering our new route for 14 to 16-year-olds, which will, I hope, remotivate children who are at risk of dropping out of the system entirely. I am delighted to say that Digby Jones, head of the Confederation of British Industry, has said that he will work with us in trying to attract employers to get involved in the education system, so that more and more young people have the opportunity to work not just in vocational subjects but in the workplace, learning in the way that most motivates them.

Mr. Khalid Mahmood (Birmingham, Perry Barr) (Lab): I welcome my right hon. Friend's statement, particularly in relation to vocational education. I welcome too the investment that her Department has made in my constituency. I thank her and her predecessor for the investment of £45 million in a PFI school, which is working brilliantly. Children were working in huts before that. I welcome her commitment of £5 million for the new Kingsland school in Oscott, which is to be completed in 2007. Will she, in order to meet the commitment to increase staying-on rates by 90 per cent., allow Great Barr school, the largest in the country, to have a proper sixth form, so that such rates can be achieved?

Ruth Kelly: My hon. Friend is right to draw attention to the fact that many successful schools want to expand to open sixth forms, which is one of the reasons why there should be a presumption that successful schools that want to open sixth forms should be allowed to have them. That is also something that will be central to achieving our proposals.

Mr. Damian Green (Ashford) (Con): I hope that the Secretary of State sticks to her guns in rejecting the notion that by re-badging vocational qualifications as academic qualifications, one thereby raises the esteem of vocational qualifications. It is the quality of the vocational education on offer that raises the esteem. Can she clear up one ambiguity? Will the work-based route for those over the age of 14 be available only to those whom she described as disaffected, or will it be available to those who show a particular aptitude in some vocational skill, who could clearly benefit from it hugely?

Ruth Kelly: The hon. Gentleman makes some important points. One does not achieve parity of by esteem by offering the same to all. One achieves it by offering something that is valued and worth while in its own right, and that is recognised in my proposals. For 14 to 16-year-olds who are at risk of dropping out of the system, the route will clearly involve employers, but those children who are motivated by learning in the workplace, in an FE college or in a practical way in another setting should also have the opportunity to be motivated and to learn in that different place and in that different way. We will work with employers to open up opportunities for everyone who would benefit from that experience to work in the workplace.

Helen Jones (Warrington, North) (Lab): While I welcome much of what my right hon. Friend has said today, as a Member of the House and a parent, I am deeply disappointed that she has not taken the opportunity to implement the whole of the Tomlinson report, which is about broadening and enriching the curriculum, not just about dealing with vocational and academic divisions. What funding streams will she introduce to ensure that schools do not have a vested interest in ensuring that children go either one way or the other, and what assessment has she made of the training requirements necessary to implement the structures for vocational education and the extra teaching in English and maths as well as the major project?

Ruth Kelly: My hon. Friend makes some interesting points. May I tell her that we will return to the theme of broadening and enriching the curriculum over the remaining weeks and months? I shall have a lot to say about that. On Mike Tomlinson's report, we are implementing the extended project that he recommended, which will provide an opportunity for students to demonstrate their potential in a different way from the current approaches.

My hon. Friend is also right to draw attention to potential barriers in the funding system between schools and further education colleges. Learning and skills councils will have to work flexibly with local authorities to deliver in practice. I can tell her that, where it is in practice at the moment, it works. We have real practical experience of seeing delivery happen. We know it can be

done: it will be a challenge not just to overcome the barriers but to train the work force to deliver the skills in an appropriate way. We must face those challenges head on, and we will overcome them to deliver this agenda.

Several hon. Members *rose—*

Mr. Speaker: Order. It would be unfair of me not to call the remaining Members who wish to speak, but I must appeal to them and tell them that their questions must be brief, because the rules of the House recommend that ministerial statements end after an hour.

Mr. Nick Gibb (Bognor Regis and Littlehampton) (Con): The Secretary of State's decision to reject Tomlinson is welcome—if, indeed, that is what she is doing. It is refreshing to see a Minister who does not slavishly follow the advice of the education establishment. I hope that she will adopt the same approach to the teaching of reading and writing in primary schools, but I am concerned about her intention to introduce a diploma for those with five or more good GCSEs, as many of the most damaging proposals in Tomlinson may still be implemented. Will she give an assurance that she will rule out the Tomlinson proposal to reduce external examination at the age of 16 and replace it by more teacher assessment? Will she categorically rule—

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. The hon. Gentleman cannot have heard what Mr. Speaker just said.

Ruth Kelly: Thank you, Mr. Deputy Speaker, but the hon. Gentleman does talk some common sense and it is a pleasure for me to answer him. He is right that we cannot roll back on accountability; that we cannot roll back on existing mechanisms for achieving standards; and that we must ensure that we place an emphasis on literacy and numeracy in primary schools, then continuing from the age of 11. We are going way beyond Tomlinson in considering the 11 to 14 curriculum as well as the 14 to 19 curriculum, so right from the word go there is space for catch-up on the basics of reading and writing. We will make getting that right a priority. If children are to have a real opportunity to benefit at 14, they must be educated by 14.

Mr. David Chaytor (Bury, North) (Lab): I welcome my right hon. Friend's analysis of the weaknesses of our current system, as I welcome much in her statement, particularly her rehabilitation of the concept of comprehensive education. Is she now placing the pupil's choice of different curricular pathways at the age of 14 at the heart of our system, and if so, is that not increasingly incompatible with our admissions system, which still allows schools to choose which pupils to admit at the age of 11? In giving further consideration to the development of proposals, will she return to consider that matter?

Ruth Kelly: I certainly think that it would be disastrous if we were to introduce selection at the age of five, which is the policy of the Conservative party. It will become more and more important as we develop this agenda for schools to work together in partnership to offer not just academic options but vocational and more practical ways of learning. They will have to work together in networks to deliver, and I suspect that each area will deliver a common prospectus for all students in the area, with the various options available to them at the age of 14. We will also need an intensive system of advice and guidance before that happens, to ensure that children really take the options that best meet their needs.

Mr. Andrew Turner (Isle of Wight) (Con): The Secretary of State's statement will go down well with the smarter tabloids, as it favours comprehensive systems over comprehensive schools; it is more Woodhead than Tomlinson, and it keeps A-levels and GCSEs. However, will she respond to my hon. Friend the Member for Bognor Regis and Littlehampton (Mr. Gibb), who asked about assessment? Will GCSEs be externally assessed or will there be a drift, as Tomlinson recommended, towards more internal assessments?

Ruth Kelly: I am sorry if I did not answer the question earlier, and I can confirm that there will be no moving away from external assessment of GCSEs and A-levels. Standards are here to stay and we want more students to continue to meet them. We also want to open up opportunities across the board so that more children can achieve their potential.

Mr. David Rendel (Newbury) (LD): Before the Secretary of State announced her policy of insisting that pupils needed A to C grades in maths and English to be counted in the league tables, she must have had some estimate of the difference that it would make. Will she remind us what proportion of pupils gained five A to C grades this year, and what the proportion would have been if the new policy had already been in place?

Ruth Kelly: I can tell the hon. Gentleman that this year 53.7 per cent. of pupils gained five A to C grades at GCSE, up from 45.1 per cent. in 1997. Had the new system been in place, 42.6 per cent. of pupils would have achieved a new diploma, compared with 35.6 per cent. in 1997.

Banking Practices (Protection of the Elderly)

1.36 pm

Dr. Julian Lewis (New Forest, East) (Con): I beg to move,

That leave be given to bring in a Bill to require banks to adopt and maintain specific practices in dealing with vulnerable elderly clients at risk from certain financial arrangements by institutions and from other forms of exploitation by individuals.

This Bill would have three provisions. The first is to ban ATM cash machine charges for pensioners who are in the process of gaining access to the accounts in which they are now obliged to receive their pensions. The second is that banks that operated the ill-fated shared appreciation mortgage schemes in the 1990s, which left elderly people unable to sell their homes without giving three quarters of the increase in their value to the banks, should be declared inequitable. The debt should be rescheduled to impose only a reasonable rate of interest on those loans. I have a direct interest in the third provision, which is that banks should have in place software that will automatically alert account managers, cashiers and, where appropriate, relatives and carers of elderly people, to untypically large or frequent withdrawals being made from a vulnerable client's account—irrespective of whether they are made personally by the account holder. The purpose is to improve safeguards against the activities of con men and other criminals who prey on the vulnerable and the suggestible.

The first provision is self-explanatory. It has been pointed out to me by Terry Cassels, the chief officer of Age Concern in Essex, that some cash machines charge as much as £5 per transaction for a pensioner to withdraw his or her own pension. That can amount to approximately 5 per cent. of what they receive. That is obviously unsatisfactory. It results from the bringing into being of a system that many pensioners did not want in the first place, and I would have thought that it should be made a condition of any cash machine being placed in a bank, whether owned by the bank itself or by another company working within the bank, that pensioners be exempted from any such charge.

The second provision of my Bill is more complex. Shared appreciation mortgage schemes were offered between April 1996 and July 1998, by Barclays bank and the then Bank of Scotland, which subsequently merged with the Halifax. About 15,000 people remain trapped in those arrangements.

I shall give some examples, without identifying the people concerned, from among my constituents. Mr. C. borrowed £44,000 in 1998, but must pay back £180,000 only six years later. Mr. T. borrowed £36,000 in 1998 and must now pay back £152,000. Such massive repayments arise from the nature of the gamble that people took in embarking on these schemes. Instead of paying an agreed rate of interest on the loans, borrowers undertook that three quarters of the increase in the value of their property when it was sold—either by them or by the people to whom they left it—would go to the bank in lieu of interest.

We all know what happened—the value of houses shot up. As a result, the sums that must be repaid are grossly disproportionate to what a reasonable interest rate would have required. The daughter of another of my constituents, Mr. B., said that

"surely if a lending company were to charge this they would be considered to be a loan shark and would be treated accordingly. I find it impossible to believe that a High Street Bank can carry on in this manner".

I wrote to the Barclays bank group chief executive, Matthew Barratt, suggesting that the bank might surprise me, agree to reschedule the loans, and make available to the borrowers interest requirements proportionate to the amount of money borrowed. Sure enough, I got nowhere. I was told that the people involved had taken a risk and that the bank's shareholders could have lost out because the value of property might not have risen. The fact that new Financial Services Authority rules meant that such schemes would not be allowed was never mentioned, nor the fact that the schemes were wound up after only a couple of years.

Another factor needs to be considered. It is a falsehood for the banks to say that they did not know that property values were likely to rise. I am grateful to Miss Margaret Borwick, a specialist in these matters, who sent me a copy of an article that appeared in the February 1997 edition of the publication *Housing Finance*, which is the quarterly digest of the Council of Mortgage Lenders. The article shows that the value of property was forecast to increase by 9 per cent. in 1997, and by 7 per cent. in 1998. Both Barclays bank and the Bank of Scotland were members of the council at the time.

I come to the third and final provision of the Bill. I refer to an Adjournment debate that I held on 11 December 2003, about the activities of Mr. Paul Grey, a rogue builder in Swansea who managed to fleece my father out of £7,500 in cash withdrawals for building work that was never done. Subsequently, he admitted to me in a late-night telephone conversation laced with anti-Semitic abuse that he had been doing that sort of thing for 20 years and that there was nothing that people like me could do about it.

My proposal is simple, and has to do with the arrangements currently used by credit card companies to cover the situation when a person—like myself, or you, Mr. Deputy Speaker, or any other hon. Member—makes an untypically large withdrawal from an account. Straight away, we receive telephone calls asking us, "Was that really you? The amount being withdrawn seems untypical."

A similar arrangement should be in place for vulnerable elderly customers at risk of being conned by rogues like Paul Grey. I warned Lloyds bank in Swansea that I was afraid that my father would take out money to pay a builder when he should not. When such a warning is given in other cases, it ought to alert the people running the relevant branch that an untypical payment might occur.

I have had extensive argument and consultation with Lloyds bank on the matter. Although staff made a note on the bank's computerised database that they would

ring me if they suspected that something was going on, they failed to do so because no automatic mechanism existed to alert tellers or initiate the warning process when my poor father started to withdraw money.

A recent agreement has tried to make banks and cashiers more alert to the dangers posed by con men. However, I am not satisfied, from my dealings with either Lloyds bank in the one case or Barclays bank in the other, that banks can be relied on to act without being forced to do so. That is why I have brought forward the Bill.

I commend the Bill to the House.

Question put and agreed to.

Bill ordered to be brought in by Dr. Julian Lewis, Mr. Nigel Evans, Mr. Martin Salter, Andrew Selous, Mrs. Alice Mahon, Michael Fabricant, Mr. Mike Hancock, Mr. David Amess, Mr. Gordon Marsden, Mr. Desmond Swayne, Mr. David Chidgey and John Robertson.

BANKING PRACTICES (PROTECTION OF THE ELDERLY)

Dr. Julian Lewis accordingly presented a Bill to require banks to adopt and maintain specific practices in dealing with vulnerable elderly clients at risk from certain financial arrangements by institutions and from other forms of exploitation by individuals: And the same was read the First time; and ordered to be read a Second time on Friday 8 April, and to be printed [Bill 65].

Point of Order

1.48 pm

Sir Patrick Cormack (South Staffordshire) (Con): On a point of order, Mr. Deputy Speaker. I mentioned to Mr. Speaker that I would raise this point before the debate on the Prevention of Terrorism Bill, because he has overall responsibility for security in the House. Over the past year we have had to introduce new security measures. Some of them, like the screen in front of the Public Gallery, are immediately apparent to visitors, while others, such as the fact that every taxi that comes here is searched, are apparent to those who frequent the Members' entrance.

In spite of all that, four Members of the House accept all its privileges but take no part in proceedings. They refuse to swear the oath of allegiance, and have known and fully established terrorist links. We are moving towards introducing very severe measures to restrict terrorists' activities. Surely it would be appropriate for Mr. Speaker to exercise his authority and forbid those people to be near the Westminster premises.

Mr. Deputy Speaker (Sir Alan Haselhurst): I am grateful to the hon. Gentleman for giving me notice that he wished to raise this matter, with a view to putting it on the record for Mr. Speaker's consideration. However, I think that Mr. Speaker would want to be aware of the views of the whole House in a matter of that kind.

Orders of the Day

Prevention of Terrorism Bill

[Relevant documents: Memorandums laid before the Constitutional Affairs Committee on the Operation of the Special Immigration Appeals Commission (SIAC), HC323-II, Session 2004–05]

Order for Second Reading read.

Mr. Deputy Speaker (Sir Alan Haselhurst): I have to announce to the House that Mr. Speaker has selected the amendment in the names of the Leader of the Opposition and of the leader of the Liberal Democrat party. He has also placed a 15-minute limit on speeches by Back-Bench Members in the debate.

1.49 pm

The Secretary of State for the Home Department (Mr. Charles Clarke): I beg to move, That the Bill be now read a Second time.

The core of the case for this legislation is that this country faces substantial and real threats to the freedoms of institutions and people in our society that are qualitatively different since 11 September 2001. Despite this country's long experience over decades of terrorism of different kinds in relation to Ireland and anti-colonial struggles of various descriptions, the nature of the threat that we now face is of a qualitatively different order and, in my opinion, requires qualitatively different measures.

Al-Qaeda and its network are qualitatively different in five ways that I shall set out to the House. First, their ideology is entirely destructive in nature. They wish to destroy religious toleration and tolerance; they wish to destroy freely elected democratic government; they wish to destroy the rule of law in our society; they wish to destroy free discussion and freedom of opinion in the media and elsewhere; they wish to destroy equality for women; they wish to destroy our market economy. The destruction of those things and values for which we and our predecessors in the House have fought for centuries is qualitatively different from terrorism of different types in the past when individuals fought for particular freedoms, as they saw it, in certain circumstances. Al-Qaeda and its colleagues seek to impose on us a nihilist regime.

Mr. Peter Lilley (Hitchin and Harpenden) (Con): Will the right hon. Gentleman give way?

Mr. Clarke: I shall do so in a moment, when I have made the essence of my argument.

Al-Qaeda and its network are qualitatively different in their destructive character. Secondly, they are distinctive in the cataclysmic and catastrophic lack of restraint in the measures that they use. They are prepared to use biological, chemical and nuclear warfare to poison water supplies and to destroy whole systems of life—mass murder that is utterly different in its scale and impact from any previous terrorism. Thirdly, they are qualitatively different, because they are prepared to combine mass murder, violence and a cataclysmic approach with a suicidal—I use the word advisedly—readiness to commit such crimes. Suicide and martyrdom are not unique in the history of fights of this kind—what is unique is the combination of suicide and the readiness to commit suicide with the mass murder that they seek to commit. That, I believe, requires different measures from us.

The fourth difference is particularly important and needs to be well understood. The capability, resources and capacity of terrorist organisations around al-Qaeda, their ambition and sophisticated operation are of an utterly different order in terms of lawbreaking from their predecessor organisations. The final qualitatively different characteristic of that organisation is its global reach. There have been terrorist acts on an enormous scale: in the US itself on 9/11; in Africa, in Tunisia, Kenya, Egypt and Morocco; in Asia, in Pakistan, Indonesia and Turkey; in the middle east, in Saudi Arabia and Yemen; and in Europe during the general election campaign in Spain. This terrorism therefore has a global reach of a different order.

Mr. Lilley: I do not demur from the point that the Home Secretary is making, but is there anything in the Bill that limits or restricts the use of the qualitatively different powers that he is seeking to those who indulge just in this extreme form of terrorism, or are they available for use against any kind of terrorism that he may choose?

Mr. Clarke: The derogation powers in the Bill require the Secretary of State to put before both Houses of Parliament an assertion or order stating that there is a threat to the nation from international terrorism. Such a derogation could not be made unless both Houses were convinced of the merit of that case. I can tell the right hon. Gentleman and the House that the Government would propose such a derogation only against international terrorism with the characteristics that I have just described.

Mr. Edward Leigh (Gainsborough) (Con): No one denies that al-Qaeda wants to destroy democratic debate, but is it not then all the more important that in changing practice that has existed in this country for 800 years we have sufficient parliamentary time to do so? All the arguments could be put and, as far as possible, we should proceed by consensus. Would the right hon. Gentleman at least agree to that?

Mr. Clarke: I certainly agree with the desirability of proceeding by consensus, and that is what I have sought to do, both before my statement to the House on 26 January and in subsequent discussions. Let us not equate the perfectly legitimate case that the hon. Gentleman made for sufficient time for parliamentary debate, which is part of the conventions of the House, with al-Qaeda's determination to destroy Parliament itself.

Helen Jackson (Sheffield, Hillsborough) (Lab): My right hon. Friend described well the international nature of the terrorist threat posed by al-Qaeda and others. I agree that it is distinctly different from the domestic threat, particularly against Westminster, from the IRA in the past. What international endorsement has he sought and received from Europe or further afield for the particular proposals that he is asking us to endorse over the next few days?

Mr. Clarke: I am grateful that my hon. Friend accepts the qualitatively different nature of the terrorist threat. The G8, the European Union and the Council of Europe have clear and well-established positions on terrorism with which we work, and we have discussed these issues with the Justice and Home Affairs Council of the European Union. As for endorsement—my hon. Friend's word—of our measures, that has not been delivered by those organisations, because we do not live in a regime of world government in relation to such issues, which are for different nations to address individually.

Jeremy Corbyn (Islington, North) (Lab): If the Home Secretary has an enormous body of evidence against individuals who are about to prepare a monstrous attack, surely it is up to him to bring a prosecution against them in the courts in the normal way. The concern of many people both inside and outside the House is that he is seeking powers for Executive control and detention that are outwith all our democratic traditions.

Mr. Clarke: I shall come on to that detailed point in a second, but I agree with my hon. Friend—and it is the Government's policy, as I have set out on a number of occasions—that prosecution in the courts and conviction for particular offences are the most desirable course of action.

Mr. David Trimble (Upper Bann) (UUP): I thank the Home Secretary for his generosity, and urge him to reconsider the limitation that he put on the actions that he could take. Surely, the issue is whether there is something that poses a threat to the life of the nation and whether there is an emergency. That emergency and threat could come from a range of sources, and he should not fetter himself too much at this stage.

Mr. Clarke: I agree completely with the right hon. Gentleman, who states the case correctly. In my answer to the right hon. Member for Hitchin and Harpenden (Mr. Lilley), I said that at the moment the state of emergency or threat to the life of the nation that would require a derogation is focused on international terrorism from al-Qaeda and related organisations. However, I completely accept the point made by the right hon. Member for Upper Bann (Mr. Trimble) that in theory and practice it is perfectly possible that terrorist threats of other kinds might arise.

Lembit Öpik (Montgomeryshire) (LD): I have listened with great interest to the Minister, but he seems to be in danger of generating a league table of terrorism in which paramilitary killings in Northern Ireland are not regarded as just as bad as killings by al-Qaeda. I am sure that he does not intend to give that impression, but why does he think that it is right for the Government to attempt to dispel the motives for terrorism in Northern Ireland when, by contrast, he is intent on using the suppression of the opportunity to terrorise as the sole method for acting against international terrorism?

Mr. Clarke: I would not dream of doing that, and the suggestion of league tables in this area is deeply offensive. My argument, which has been widely made, is that 9/11 changed things, the existence of al-Qaeda and its related organisations changed things and, therefore, it is incumbent on the Government and the House to address that change.

Mr. Frank Field (Birkenhead) (Lab): Will my right hon. Friend give way?

Mr. Clarke: I want to make more progress, but I will give way later.

As I said, the five qualities that I set out, concluding with global reach, show that al-Qaeda is qualitatively different from other organisations. Moreover, al-Qaeda has repeatedly stated that the United Kingdom and its citizens are targets of its terrorist network. Since 9/11—I emphasise this because it is important that it is understood—the police and intelligence services in this country have successfully disrupted a number of attacks in the United Kingdom before they could be mounted. The fact that there has been no terrorist attack in this country since 9/11 is due to the quality of our security services and police, not to any lack of terrorist ambition to mount an attack in this country. It would be deeply ironic if our success in preventing terrorist attacks should persuade us that now is the time to lower our guard in any way. I argue exactly the contrary: that our success in that regard makes it even more important not to lower our guard in any way.

Mr. Crispin Blunt (Reigate) (Con): Will the Secretary of State give way?

Mr. Clarke: I want to make a little more progress, but I will give way in a moment to the hon. Gentleman and other colleagues.

In the battle against the terrorist threat—it is a battle, and a war, against an organisation that seeks to attack us—we must acknowledge that the terrorists' capacity has changed and increased. We must also acknowledge that our capacity has changed and increased in surveillance, in the resources that we allocate to the security services, and in international co-operation, to which my hon. Friend the Member for Sheffield, Hillsborough (Helen Jackson) referred. We are seeking much higher levels of international co-operation than previously to address precisely those questions. We must strengthen our capacity in those areas. We are engaged in a battle and it is a battle that we cannot resile from in any way.

When Sir John Stevens was Metropolitan Police Commissioner he gave us the following advice in November 2003:

> "What we have to do is to see attack as inevitable in terms of the way in which we prepare and try and protect ourselves against such an attack."

I am not prepared to accept that an attack is inevitable and I will do all in my power to prevent the inevitability of any attack. That is why the Bill is before the House.

Mr. Blunt: Does the Secretary of State understand the danger of proceeding on the basis of assertion, and the need to produce evidence to sustain support throughout the House and the country for these extraordinary measures? He said that the Government have been successful in preventing operations, but the terrorists

[Mr. Blunt]

surely know that those operations have been disrupted, so why can he not share that information when making his case? He is making a case for the powers of administrative detention on the basis of assertion, but, following the war in Iraq, the Government have lost trust. I urge the Home Secretary to bring a detailed case to the House.

Mr. Clarke: First, I set out yesterday in the House—I hope that the hon. Gentleman studied what I said in detail—a series of papers addressing precisely the point that he raised. Secondly, he simply does not accept the seriousness of our situation—[HON. MEMBERS: "He did not say that."] He did say that he could not accept it. He said clearly that he could not accept, without further evidence, that we face a threat of the sort that I assert. He should accept that.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): Given that the Home Secretary is referring to international terrorism, can he tell the House of any democracy in which such Executive orders exist?

Mr. Clarke: A wide range of democracies use such measures, depending on the legal system in the countries concerned. In some European Union countries, individuals may be locked up for three, four or five years, but, as the hon. Gentleman well knows, a different legal system exists in those regimes with an instruction judge system.

Dr. Julian Lewis (New Forest, East) (Con): The Home Secretary rightly paid tribute to the security services' successful prevention of attack. It was adequate to use judges in special courts at the height of the IRA offensive when it was involved in wide-scale attacks, so why is it not adequate to use judges in special courts, instead of politicians, at a time when, thank goodness, attacks have not yet been successfully carried out?

Mr. Clarke: There are different solutions, and having judges in special courts is one solution that could be considered. However, that does not address the central objection of those who criticise the legislation. The fact is that there is evidence of activity that cannot be put before a court, of whatever type. That is the fundamental issue.

Mr. Nick Gibb (Bognor Regis and Littlehampton) (Con): Given that some countries use intercept evidence in court, would not an alternative approach be to amend our disclosure rules so that intercept evidence could be used in our courts safely and securely?

Mr. Clarke: We considered that in detail in the review commissioned by the Prime Minister and on which I gave a written statement to the House some weeks ago. It is certainly possible to consider different approaches, but the core point that must be understood is that there is no evidence that the use of intercept evidence has been successful in bringing terrorists to trial in any country in the world. That is the reality with which we must deal.

Mr. David Heath (Somerton and Frome) (LD): The Secretary of State knows that our substantial difference of opinion with him is that he is proposing a system of Executive control orders that he would make, which would then be considered by a judge. In our view, it is essential that those orders are confirmed, in the first instance, by a judge on application from him. When the Prime Minister was questioned on the matter, he suggested that the principal argument for that was urgency. Is there not a case for some form of interim order on sufficient evidence, to deal with precisely that issue?

Mr. Clarke: I intend to deal with that matter later in my speech and will address the hon. Gentleman's point then. However, it is an appropriate matter to be discussed in Committee because the issues raised by the Liberal Democrats, as well as those raised by some of my hon. Friends, are legitimate aspects of debate on the Bill.

Mr. Tam Dalyell (Linlithgow) (Lab): On a point of fact—it may be to my discredit that I do not know—in which other democracies are people locked up without charge and without trial?

Mr. Clarke: That happens in France, Spain and Italy, for example, under a different legal regime.

Mr. Dominic Grieve (Beaconsfield) (Con): The Home Secretary must not mislead the House. He must be acquainted with the different regimes in force in other European countries. If detention takes place in those countries, it is in the context of investigation prior to trial. It is not administrative detention of the sort that he envisages.

Mr. Deputy Speaker: Order. I suggest that the hon. Gentleman rephrase the initial part of his intervention. No right hon. or hon. Member seeks to mislead the House.

Mr. Grieve: The Home Secretary should not inadvertently mislead the House.

Mr. Clarke: I was not seeking to mislead the House in any way, inadvertently or otherwise. I said that there are different regimes of the sort to which the hon. Gentleman referred. The fact is that people end up locked up and deprived of liberty. The different systems are a key issue in looking at the way in which the legislative changes will take place.

Mr. Robin Cook (Livingston) (Lab): My right hon. Friend gave an important response to the intervention from the hon. Member for Somerton and Frome (Mr. Heath). Does he understand that he would meet the anxieties of many Labour Members who cannot support the Bill as drafted if he would take the next logical step and allow the courts to make the decision in the first instance, rather than second-guessing his decision? The sticking point is that the decision on whether to deprive a citizen of liberty should be judicial and not political.

Mr. Clarke: I certainly understand very well my right hon. Friend's concern, which, it has to be said, is shared by other Members in all parts of the House. In their view, there needs to be judicial involvement at the earliest practical opportunity in the control order process, particularly if it results in someone being deprived of their liberty. I can assure the House that I will continue to give careful consideration to this issue, which has been raised with me by a number of colleagues, and we will of course debate it in detail in Committee on Monday. However, I must be certain that nothing is done to undermine my responsibility or ability as Home Secretary to safeguard the security of the country. That said, I recognise the point that has been made.

Mr. Michael Weir (Angus) (SNP): Will the right hon. Gentleman give way?

Mr. Clarke: No, I will now make some more progress. As I have said, I will come to the judicial point later.

The Bill is before the House as part of a key set of proposals to address the terrorist threat that the country faces. There are four motivating principles behind the Bill, which I want to set out as clearly as I can. The first of them addresses the point made by my hon. Friend the Member for Islington, North (Jeremy Corbyn). We need to have a more secure prosecution process; on that, I share the ambition described by my hon. Friend. I emphasise that control orders will be used sparingly and only, as now with the current part 4 powers, in very serious cases. As I explained yesterday, prosecution is, and will continue to be, our preferred approach. These orders are for those dangerous individuals whom we cannot prosecute or deport, but whom we cannot allow to go on their way unchecked because of the seriousness of the risk that they pose to everybody else in the country.

Simply to illustrate the point, let me confirm the facts again. Between 11 September 2001 and last December, there were 701 arrests under the Terrorism Act 2000; 119 of those arrested were charged, and 45 of those 119 were charged with other offences as well. A further 135 were charged under legislation other than the 2000 Act, and 17 were then convicted of other offences. I set out those figures to emphasise to the House the seriousness with which we take the view that we must go down the prosecution route first and foremost, if we can achieve that.

David Winnick (Walsall, North) (Lab): Will my right hon. Friend give way?

Mr. Clarke: I will do so when I have finished my point on prosecutions.

Before making, renewing or remaking any control order, I shall ask the police whether there are realistic prospects of bringing criminal charges against the individual concerned, and I shall seek the confirmation of the police that further investigations will be carried out during the period when the order is enforced in order to pursue prosecution as the preferred route.

I turn to my final point on prosecution.

Mr. John Denham (Southampton, Itchen) (Lab): Will my right hon. Friend give way?

Mr. Clarke: I will do so in a second. Finally on prosecution, I mentioned yesterday that we are looking at the framework of our current counter-terrorist legislation and at the scope of the offences with which terrorists are charged to see whether there are any gaps or deficiencies that we can and should remedy. I hope to introduce further legislation as soon as it is practicable to do so; that is my objective. Yesterday, I mentioned a potential new offence of being concerned in the commission, preparation or instigation of acts of terrorism, but there are others as well, because we must give the police all the tools that they need to combat terrorism and to bring the perpetrators to justice.

David Winnick: As I said yesterday, I will support Second Reading of the Bill later today, but I would be much happier if the Home Secretary would reinforce the point that he made to my right hon. Friend the Member for Livingston (Mr. Cook), when he said, in effect, that he will give very careful consideration to the valid points made by my right hon. Friend and other Members. If the Home Secretary does that, I will vote tonight in the way that I suggested in a much happier frame of mind.

Mr. Clarke: My hon. Friend's happiness is very high on my list of priorities. I can confirm what I said to my right hon. Friend the Member for Livingston (Mr. Cook). However, as I have said on a number of occasions, I will come to the judicial point a little later and I will elaborate on it then.

Mr. Denham: I am grateful to my right hon. Friend for giving way. I welcome what he has said about seeking assurances from the police on whether there is a sufficient case to prosecute and to conduct further investigations. However, might not the appropriate route be for the Director of Public Prosecutions to consider all the information that is available in a particular case, and for him to provide the Home Secretary with advice as to whether that case is prosecutable?

Mr. Clarke: My right hon. Friend and his colleagues on the Home Affairs Committee have addressed this issue, and he has also said to me separately that there is a case for looking at whether an intervening procedure would also help in dealing with this process. I can assure him that I am ready to look at the precise way in which this issue can be dealt with.

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): The right hon. Gentleman told the House about the number of individuals charged under terrorist or related legislation. Will he be good enough to tell us how many have been convicted?

Mr. Clarke: I will repeat what I said a few seconds ago: 17. I am sorry that the right hon. and learned Gentleman was not listening.

Mr. David Kidney (Stafford) (Lab): My right hon. Friend has been very fair in saying on a number of occasions that prosecution would always be the first preferred route, but nowhere in the Bill is that stated. Would he be amenable to amending the Bill, so that it states that that would be a constant consideration of the

[Mr. David Kidney]

Home Secretary? The significance of such an amendment is that at every stage of judicial oversight, judges could take that factor into account.

Mr. Clarke: I will take advice on that point and on the legal process that my hon. Friend suggests. I can assure him absolutely and without qualification that prosecution is the preferred route, as I was at pains to set out in this speech and in my statement to the House yesterday. I will look into whether that can be reinforced in law in any way.

Lynne Jones (Birmingham, Selly Oak) (Lab): Will my right hon. Friend also seek advice, through the DPP, the police or any other relevant body, as to whether a prosecution might be possible if impediments to the use of certain types of evidence, such as intercept evidence, were removed? I understand that the Metropolitan police, the former head of MI5 and a number of other organisations believe that the Government are tying the hands of the police and others behind their backs with regard to achieving a prosecution in some circumstances.

Mr. Clarke: I want to make the situation clear, and I should point out that I simply do not accept my hon. Friend's description of the position of the Metropolitan police. I think the individual she was referring to was Sir Stephen Lander, the former head of MI5 and chairman designate of the Serious Organised Crime Agency. I commend to her his letter to the newspapers of a few days ago and his excellent interview on the "Today" programme against the leader of the Liberal Democrats, the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy)—I should have said "with", not "against"—on precisely that point. Our position is clear.

Vera Baird (Redcar) (Lab): I am very pleased that my right hon. Friend has said that he will consider sending all these files to the DPP, because that is an essential step. Is it not implicit in the application for a control order that the case in question has been impossible to prosecute? It is not appropriate for the Home Office to take such a decision when there is a constitutional figure—the DPP—whose job that is.

Mr. Clarke: I understand that point, which I will consider, and I know that my hon. and learned Friend has written specifically about it. There are serious issues on both sides of the argument, but hers is a well-made point that we can discuss.

Mr. Patrick McLoughlin (West Derbyshire) (Con): The right hon. Gentleman is being very generous in giving way. He said that 701 people had been arrested and he then gave the figures for those convicted. What category did the people currently in Belmarsh fall into? Was it thought that there was insufficient evidence to prosecute them?

Mr. Clarke: I am not prepared to discuss individual cases, but what I will say is that all the individuals whom the hon. Gentleman refers to are being dealt with under powers in part 4 of the Anti-terrorism, Crime and Security Act 2001, and not under the Terrorism Act 2000, to which my statistics refer.

I said that I wanted to set out the motivating principles behind this legislation, and the first of them is getting a secure route to prosecution. The second is to protect our national security—that must be a key principle behind the resolutions—against the terrorist threat that I have set out. I argue that we need to provide control orders that give the police and the security services the means to apply control to those who are offering precisely the threat against which we have to protect ourselves.

Claire Ward (Watford) (Lab) *rose—*

Mr. Clarke: I will complete this point and then give way.

Mr. William Cash (Stone) (Con): Will the right hon. Gentleman give way?

Mr. Clarke: As I have said on a number of occasions, I like to make my speech in little chunks and then give way to a group of Members; that is what I will do, if the House will permit me. *[Interruption.]* In the past, too many people have called me a big chunk rather than a little chunk, I am afraid.

The second motivating principle is the need to protect national security, and in particular to provide the control orders that enable us to do that. They give us the means to secure our country that the security services and the police have asked for, and the Newton committee report recommended them in paragraph 251. Indeed, they are widely seen as meeting the disproportionality criticism that the Law Lords set out. I believe they are necessary for the security of this country, which is a key motivating principle, and I argue that strongly. I accept that there are people who say they are necessary but question the way in which they are put in place. That is a legitimate area for discussion, but I argue that they are necessary.

When the right hon. Member for Haltemprice and Howden (David Davis) makes his speech, will he respond to this serious point? What is the position of the main Opposition party on these matters? It is very important that we understand whether it supports control orders. I thought that the Leader of the Opposition was clear about that, but he became unclear when he met the Prime Minister last Friday, when he said that he did not want control orders at all, and he was less clear a moment ago. I gather that Andrew Marr was saying at lunchtime that he was unclear about the Conservative position, so it would be helpful if the right hon. Member for Haltemprice and Howden could make that clear.

Mr. Trimble: I am concerned about a practical matter with regard to control orders. A whole range of activities is set out in clause 1. How will they be enforced as a matter of practice, not in theory? How can they be enforced without massive use of police resources and huge disruption for local communities?

Mr. Clarke: The resources issue is serious, as the right hon. Gentleman says, and one of the reasons why there

has been a significant increase in resources for the security services in the comprehensive spending review is to try to ensure that we have those means. There is first the legal question and then the question of resources that he raises. We are making resources available to deal with the matter.

David Davis (Haltemprice and Howden) (Con): I am happy to give the Home Secretary an answer now. If he had read the *Hansard* of the debate that he was unable to attend—I think he was at the Home Affairs Committee—he would have seen that I dealt directly with the issue. We do not like the idea of control orders. We think that the method for their proposed use is flawed, but we are open-minded if they can be amended to meet our principal concerns about them. That was the point I made at the time in response to the hon. Member for Winchester (Mr. Oaten).

Mr. Clarke: I am genuinely delighted at that clarification. It is a difference from the position of the leader of the right hon. Gentleman's party, but I am very glad that, in this case, it is the right hon. Gentleman's writ that is running. It is important that that should be the case, because I seek—let me be clear about this—all-party agreement to the proposition that control orders are part of the armoury that we need to defend ourselves against the terrorist threat. I am delighted that he has signed up to that.

Claire Ward: My right hon. Friend will recall that I asked him yesterday about the impact of a home detention order on members of the household. May I give him another opportunity to clarify his position on that? Will it be the responsibility of the Home Secretary and of the judge assessing the order to take into consideration the human rights of other members of the household and the impact on them? What legal redress, within the same time scale as the legal redress that my right hon. Friend is setting out, would be available to other members of the household, including minors?

Mr. Clarke: The short answer to that question is yes. It would be the Home Secretary's obligation to take into account the factors that my hon. Friend set out. The main legal redress would be through the appeal regime established against the control orders. Others in the household, or others around, could have that recourse to appeal their situation. I well understand my hon. Friend's particular concern, but it will be dealt with under the measure.

Mr. Cash: The Home Secretary has set out his motivating principles—

Mr. Clarke: I have only just started.

Mr. Cash: No doubt there are others to come. So far, does the Home Secretary accept that the prime motivating principle should be that the legislation should stand up, on his terms, to legal challenge in future? The Attorney-General is said to have doubts about that, but as I said to the Home Secretary yesterday, all he has to do is to bring in legislation stating "notwithstanding the Human Rights Act 1998" and then legislate accordingly. If he does so, there is no doubt that he would be able to ensure that the legislation would be upheld because judges would be under a requirement to do so. What is his answer to that?

Mr. Clarke: My answer is: wait until my third motivating principle.

Mr. Simon Thomas (Ceredigion) (PC): With regard to control orders and their ultimate use for administrative detention, the Home Secretary made it clear yesterday that, under the current advice he was receiving, he would not seek to derogate from the charter of human rights and that the current security situation did not demand the imposition of such orders in this country now. So, as a consensus seems to be emerging in the House about the use of control orders below administrative detention, why is it not possible for the Bill's provisions to go up to but not include that, so that we can have a proper debate about control orders without administrative detention? That would give the Home Secretary an opportunity to reconsider and all of us would have more time to consider the exact judicial role in respect of administrative detention. Surely, that would be a much better way to approach the issue.

Mr. Clarke: There are two answers to that question—one of principle and one of practice. I think it is right in principle that, if there is to be a derogation, the subject of that derogation, in terms both of the threat and of the strict requirement for deprivation of liberty to meet that threat—the two legs of a derogation case—should be debated in this House and the other House. There should be specific discussion of that question, and every Member of this and the other House should make their decision on that issue. That is a superior way of legislating on these difficult matters, rather than the general confusion of another piece of legislation going through.

There is also an important practical question. The fact is that terrorists are moving rapidly and it may be necessary to move rapidly to deal with them. I need only cite the most recent example in Europe. The Madrid atrocity took place during the Spanish general election campaign and such things are always possibilities in this country, too. In those circumstances, we must be able to take the steps necessary to stop such things happening.

Sarah Teather (Brent, East) (LD): Does the Home Secretary accept that detention without trial was one of the most controversial and hated aspects of the troubles in Northern Ireland and consequently one of the most effective recruitment routes for terrorist organisations? What are the implications of the Bill for terrorist recruitment in this country?

Mr. Clarke: I do not accept the language that the hon. Lady used, but I accept that there are serious issues about the use of internment in the case that she mentioned. That is why such powers should not be used except in exceptional circumstances and after full consideration, which is precisely what I propose.

David Davis: I do not want to make the Home Secretary's life more difficult than it is, but on the issue of internment without trial, all the control orders proposed beneath derogation level will still be known to

[David Davis]

the communities where they are being used. Does he realise that, if the process is not known and understood and believed to be just, those orders, too, will be seen to be unfair?

Mr. Clarke: That is exactly why the Bill proposes detailed reporting procedures to the House and elsewhere, to set out exactly how the control order regime is operating, the quantity and so on. There may be myths and realities about those questions, but there should be informed and proper debate about the issues. It is exactly for that reason that the orders should be seen not as shadowy things but as something clear that people can discuss and consider in their particularity.

Ms Sally Keeble (Northampton, North) (Lab): Can my right hon. Friend give some explanation of the enormous range of provisions for types of control order set out in subsections (3)(a) to (o) of clause 1? Many of those activities look similar to things that I saw happening to friends in South Africa, which will make it extremely hard to vote for the measure. Will he also explain which of them require derogation and how that provision will work?

Mr. Clarke: I will deal with the second point first. The derogation arises either when there is an individual measure or a combination of measures that add up to a deprivation of liberty. It will arise when an individual measure or a set of measures is being considered in those circumstances. Although I respect my hon. Friend's personal experience, I do not accept her comparison, because when we reach the point of deprivation of liberty a whole set of other issues comes into play, so we need a separate legal regime.

Mr. Weir *rose—*

Mr. Clarke: I shall not give way, as I want to make progress.

The third motivating principle, which exactly meets the point made by the right hon. Member for Haltemprice and Howden, is the need to meet the Law Lords' judgment. In general, I do not regard it as a successful and positive state of affairs when the senior judiciary of this country, the Law Lords, and the Executive are in rather different places, and certainly not in terms of measures of this type. Their criticism of the regime in place was that it was disproportionate in character and discriminatory, and we should take that criticism extremely seriously. The measures that I am putting to the House in the Bill would address that question directly.

Mr. Cash *rose—*

Sir Patrick Cormack (South Staffordshire) (Con) *rose—*

Mr. Clarke: I shall give way again when I come to the end of what I am saying. The hon. Gentlemen can listen to what I am saying and then come to a view. The fact is that, from June 2002 until December 2004, when the Law Lords' judgment was passed, a judicial process was taking place, with its final step in the Law Lords' judgment, considering the legality or otherwise of the steps that had been taken. In my opinion, it was correct in relation to that process for us to await the judgment and decide exactly what we would do on the basis of receiving it. We now have that judgment. I argue very strongly that we should not ignore the judgment or flout it, but act on it and try to put in place a regime that is both proportionate and not discriminatory.

Mr. Cash: The Home Secretary is not really answering my point. It is not a question of whether or not he is complying with the Law Lords' judgment. The problem arises because the Government have got themselves into a complete mess with regard to the human rights legislation. Surely the point is simply that, to ensure that the House can legislate on its own terms, it must legislate notwithstanding the Human Rights Act 1998, and then he is in the clear. Does he not see that?

Mr. Clarke: I do not accept any of that. I simply do not accept the argument. I do not think that it is correct. What I do think is that when the Law Lords of this country make a set of criticisms about the way that we are operating that is well founded, by a vote of eight to one, it is incumbent on the Government—and, I would argue, on Parliament—to respond to that and decide how to deal with it.

Sir Patrick Cormack: I am not entirely unsympathetic to many of the points that the Home Secretary is making, but can he tell the House whether there have indeed been discussions with the Lord Chief Justice and the Law Lords on the Bill?

Mr. Clarke: Yes, I can say that. I can say that explicitly in my case in relation to the Lord Chief Justice, with whom I have informal discussions from time to time. The Law Lords are a very much more distinguished group of people and I am not sure that humble politicians can talk to them in quite that way. The answer is that we are actively discussing these questions with the judiciary. I cannot speak for them, of course, but I have certainly sought—as has the Lord Chancellor in the other place—to take account of what the senior lawyers have been saying about these questions.

Mr. Bill Wiggin (Leominster) (Con): Had the legislation already been in place, how many of the 701 people that the Home Secretary mentioned earlier have been arrested—of whom only 17 were convicted—would have been subject to a control order?

Mr. Clarke: Those people would not have been subject to control orders because they are going through the courts in the prosecution regime that we are describing, but I cannot, and will not, comment on the situation that arises for any control order in a particular situation over that whole period of time.

Mr. Weir: Several times this afternoon, the Home Secretary has mentioned the appeal procedure for control orders. Clause 7 mentions the appeal procedure by way of judicial review. In Scotland, at least, judicial review is a process whereby people challenge the process

by which a decision was made, rather than the decision itself. In considering these cases, will the courts be able to consider the evidence itself or will they be able to consider only the process by which the Home Secretary decides that the order is appropriate?

Mr. Clarke: The courts will be able to consider the material situation. As I said, I will come to the judicial review process in a moment.

The House will be glad to hear that I am now on my final and fourth motivating principle for the Bill: the need to end the uncertainty about the legal position that exists at the moment. Why is renewal of the existing powers, as proposed by the Opposition, in my view so poor an option, other than to give the Conservative party the chance to buy time and get itself sorted out? There are two main considerations, which I set out yesterday in the House.

First, if we were simply to renew the current part 4 legislation, as is proposed, it would be entirely possible for the individuals concerned, at Belmarsh or wherever, to appeal against the Act to the European Court of Human Rights at Strasbourg directly in that time scale. The very act of making that appeal would put uncertainty into the situation, which I believe would be undesirable. Moreover, in that situation, in the case of the individuals currently in Belmarsh, it would be entirely possible for SIAC, when considering their cases, to say that the position that we had taken did not allow detention in those circumstances, despite the fact that the order had been renewed.

If we were to accept the advice of the Opposition to renew the part 4 powers, in effect, we would be establishing a regime that was uncertain and not solid for a period of three, four, five or six months. That is why I urge the Conservative party to come to the view that renewal is not the route that it thinks it is to buy time, as set out by the Leader of the Opposition, but is actually a flawed route.

Those are the four motivating principles of the Bill: first, to secure prosecutions as our best way of moving forward; secondly, to protect national security by the use of control orders; thirdly, to meet the Law Lords' judgment; and, fourthly, to end damaging uncertainty. I argue that all those in the House who can support those four principles ought, in my opinion, to support the Bill on Second Reading and give it the fair wind that it deserves. Of course, none of that ignores the fact that there are issues of legitimate debate below those four principles—if I can put it like that—about the structures that the Bill puts in place. A range of issues will be debated in this House and the other place on those matters. However, it is right to say that, in my judgment, the biggest outstanding issue is the extent and form of judicial involvement in the process. That has been raised by a number of colleagues from my party as well as by other parties.

I intend to set out the judicial process that is within the legislation and then to confirm again the remarks that I made to my right hon. Friend the Member for Livingston earlier. Before I do that, I will give way to an array of talent on the Opposition Benches.

Mr. Llwyd: Given what the Home Secretary has just said—that there are legitimate disputes about the contents of the Bill—why is the debate limited to two days? That is a question that perplexes all hon. Members, on both sides of the Chamber. The Bill deserves far more consideration that it is being given.

Mr. Clarke: Of course, I hear that argument. It is one that is made by a number of colleagues and it is frequently made when matters of this kind are considered. It has legitimacy, or not. It is an issue. I believe that the time available, both in this House and the other House, is ample to consider these questions. He obviously disagrees and other Members disagree, but that is an issue to be resolved.

Malcolm Bruce (Gordon) (LD): Has the Home Secretary not just described himself as being between a rock and a hard place? If he is not prepared to extend the existing regime—he is quite right to refuse to do so—and he cannot get the legislation through both Houses in the present circumstances, is not the right thing to do to concede that it should be a judicial decision and to stop the charade of trying to pretend that he can maintain his own position?

Mr. Clarke: I think that being between a rock and a hard place is part of the job description for this particular job, but I hope that my shoulders are broad enough to push the rock or the hard place aside to try to get to a solution if I can.

Simon Hughes (Southwark, North and Bermondsey) (LD): May I pursue the constructive approach of my hon. Friends and suggest two other reasons why I hope the Home Secretary will be persuaded of the case for making the sequence of events different? The first is to do with the urgency point. He will know well that courts can be summoned and judges can be called on at any hour of the day and throughout the weekend, at any time. Secondly, it would be far better for the upholding of the authority of Government, of any party, for Ministers to have their proposal endorsed by the judiciary, rather than what has happened to many Home Secretaries, which is to have their decision overturned by the courts. It must be better for an idea of his, on advice, to be backed up by the courts at the beginning, rather than undermined a week later.

Mr. Clarke: That is part of the argument. Let me set out our proposals clearly, so that colleagues can see where we are.

Ms Keeble: This builds on my previous question. The Home Secretary indicated in his reply that any of paragraphs (a) to (o) could require a derogation. Is that true? Or is it a certain combination of them? Secondly, under the list of offences, will collusion in the breach by a controlled person be an offence as well—for example, if somebody visits someone outside the hours, employs them, and so on?

Mr. Clarke: On the first point, I did not say, because it is not the case, that any of the orders, individually themselves, would be a breach of deprivation of liberty. What I did say was that that may be the case for one or more of them. Moreover, if some of those orders were used in combination they could, combined, add up to a

[Mr. Clarke]

deprival of liberty. How that was dealt with would be a matter for legal judgment at the time. On my hon. Friend's second point, I think that the answer to the question is yes, but I will take advice on that before properly answering the point.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): The answer is yes.

Mr. Clarke: I look at the right hon. Gentleman, who is a member of the Intelligence and Security Committee, and if he says the answer is yes, I know it must be yes.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Can my right hon. Friend confirm that, given the different powers under clauses 1 and 2, if he concludes that a combination of the various measures under clause 1(3) is required which amounts to a deprivation of liberty, the test will be different in relation to whether the control order should be imposed and will be based not on reasonable suspicion but on balance of probabilities?

Mr. Clarke: My hon. Friend is correct. Just to make it absolutely clear, let me say that, if there had been a derogation and there were then a deprivation of liberty by an individual order or a combination of orders, the higher standard of proof established in the Bill would be required.

Let me conclude by setting out quickly what the judicial proposals are.

Mr. Jim Cunningham (Coventry, South) (Lab) Will the Home Secretary clarify whether the undertaking that he gave my right hon. Friend the Member for Livingston (Mr. Cook) will materialise in Committee? In other words, when will we know the conclusion that the Home Secretary has reached?

Mr. Clarke: I will stick by the commitment that I gave, so I hope that what I said will be clear when the Bill is considered in Committee.

Mr. Graham Allen (Nottingham, North) (Lab): On a point of order, Mr. Speaker. I apologise to the Home Secretary for interrupting his speech, but I seek clarification on procedure. I understand that the Committee stage of the Bill will take place on Monday. Am I right to assume that any amendments that hon. Members might wish to table as a result of the Home Secretary's open-mindedness would have to be tabled before the close of play tomorrow? We might have difficult technical questions about drafting with which we may need assistance before then.

Mr. Deputy Speaker: The hon. Gentleman will know that the Clerks of the House are well capable of giving assistance to hon. and right hon. Members. Obviously selection has not yet taken place, and the selection process will be as sympathetic as possible to hon. Members, given the circumstances and the context of the Bill.

Mr. Clarke: I am grateful for your clarification, Mr. Deputy Speaker.

As my hon. Friend the Member for Sheffield, Attercliffe (Mr. Betts) implied, different procedures are proposed for the judicial scrutiny of derogating and non-derogating control orders. Under the Bill's provisions on non-derogating control orders—those considered beneath the requirements that apply to the deprivation of liberty—an individual may appeal against the making of an order to the High Court. When considering the appeal, the Court must adopt the approach that it would use for an application for judicial review. I anticipate that, in cases that involve a consideration of human rights, the Court will apply greater scrutiny to the Secretary of State's decision and examine closely whether any interference with convention rights is proportionate. There will be a specific obligation to examine such matters carefully.

On derogating control orders, which are dealt with in clause 2 and other provisions of the Bill, there will be an automatic two-stage process for challenging the order. First, clause 2 provides that a derogating control order must be referred immediately to the High Court, which must consider within seven days whether there were reasonable prima facie grounds for making the order. If there are such grounds, the second stage will be that the judge will automatically refer the case for a full hearing by the Court, at which it will make its own decision, following a consideration of all material, about whether, on the balance of probabilities, the individual is or was involved in terrorism-related activity, and about whether the control order and each of the obligations were necessary.

Several hon. Members *rose—*

Mr. Clarke: I shall give way when I reach the end of this point, as I have done throughout my speech.

The subject of the order will also have the right of appeal against any modification of a derogating control order, or a decision not to revoke or modify such an order. Just as with an appeal against the making of an order, there will be a full hearing at which the Court will reach its decisions on the relevant matters.

Mr. Robert Marshall-Andrews (Medway) (Lab): Will the Secretary of State give way?

Mr. Clarke: If we were to derogate from article 5 of the European convention on human rights, we would keep the need for any such derogation under review. The Bill thus provides for the Secretary of State—

Mr. Marshall-Andrews: Will the Secretary of State give way?

Mr. Clarke: I heard my hon. and learned Friend, and I shall give way in due course, as I have said to everyone else. He has a very loud voice—it is often louder than the wisdom of his remarks—and I shall certainly give way to him in a moment.

The Bill thus requires the Secretary of State to lay an order, subject to affirmative resolution, before Parliament each year after the first year to state that it continues to be necessary for the Secretary of State to have the power to impose derogating obligations by reference to the derogation, and derogating control

orders shall have effect only beyond the first year of the derogation while such an order is in force. That represents the basis of the judicial engagement currently set out in the Bill.

Several hon. Members *rose—*

Mr. Clarke: I first give way to the right hon. Member for Berwick-upon-Tweed (Mr. Beith).

Mr. Beith: During yesterday's statement, the Home Secretary said that, when such proceedings come before the High Court or the Court of Session, special advocate procedures might be used. Will he bear it in mind that the Constitutional Affairs Committee yesterday received chilling evidence from nine existing special advocates about the difficulties that they face during such proceedings? Will he clarify—it is unclear in the Bill—whether it will be for the High Court and the Court of Session to decide the kind of special advocate proceedings that they will use, if any, or is there another means by which he intends to impose those proceedings on the courts?

Mr. Clarke: I take the right hon. Gentleman's point. Both the Attorney-General and Lord Carlile, in his review of the special procedures, have made similar points. I have not yet had a chance to study the evidence given yesterday in detail—I have only read reports of it. However, I confirm that we accept the need to review the procedures to try to deal with several points that have been made, and we will carry that through.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): I agree with the Home Secretary that judicial protection is important, but does he accept that that is somewhat undermined by paragraph 8 of the schedule to the Bill, which provides that, if an order is quashed, the Home Secretary may make the same order again while relying on the same evidence?

Mr. Clarke: Not at all. The role of the Court is still clearly established.

Mr. Marshall-Andrews: Following on from the point about South Africa that my hon. Friend the Member for Northampton, North (Ms Keeble) has made several times, the High Court's jurisdiction on judicial review extends only to law and procedures, as my right hon. Friend is well aware. Will he state unequivocally that the only review of all the matters to which clause 1 refers—restriction on movement, restriction on work, restriction on association and so on; they are similar to the pass laws in many ways—will be on matters of law and procedure, and that the court will be enjoined that it cannot interfere on matters of fact? Is that right, because it certainly seems to be what appears in the Bill?

Mr. Clarke: I do not think that it is right. We are setting out two different processes, depending on whether derogation applies or not—whether or not there is deprivation of liberty. My hon. and learned Friend is right about non-derogating issues, but not derogating issues.

Richard Burden (Birmingham, Northfield) (Lab): May I raise a similar point, although I am now a little confused? I think that the Secretary of State said that different procedures would apply for non-derogating and derogating orders. However, he earlier said that one or more of the non-derogated matters could become derogated if they were in a particular combination. What would be the procedure for that, and who would decide it?

Mr. Clarke: The legal power to establish a range of orders under the Bill means that an order for the deprivation of liberty will be made by the Home Secretary and confirmed by a judge. If it were argued that a combination of measures added up to a deprivation of liberty, the judge would make a judgment on that, the Court of Appeal would carry the procedure though and the situation would be dealt with. The case would trip over on to the different process.

Mr. Win Griffiths (Bridgend) (Lab): I am pleased that the Home Secretary said that his mind is still open about whether primacy should lie with him or the judiciary. What is the likelihood of his Department tabling an amendment before Monday—I know that the situation is complex because I have been trying to find a way to amend the Bill—that would make it absolutely clear that the judiciary would make a decision based on evidence provided by the Secretary of State about what he is minded to do in such extreme circumstances?

Mr. Clarke: I say again what I said earlier to my right hon. Friend the Member for Livingston. I assure hon. Members that I shall continue to give careful consideration to the issue. That means that I shall examine the appropriate language to deal with the situation.

Mr. Betts: May I return to the judicial process for non-derogated orders? Is it not correct that, when judges consider a case, they will not look at it afresh and reach their own decisions based on the evidence, but decide whether the Home Secretary has behaved reasonably by coming to the view that he has reasonable grounds for suspicion? Surely that is an extremely low-level test for taking fairly fundamental rights away from British citizens?

Mr. Clarke: My hon. Friend is right in what he says, but it is not a low-level test: it is a serious test of a serious, difficult matter. It is an important point for him to make, and I understand why he makes it, but I do not think that it is a low-level test.

Mr. John Bercow (Buckingham) (Con): Whether judicial decision is made in the first instance, as we believe it should be, or in the last instance, as the Home Secretary prefers, is surely a fairly fundamental matter of principle. Can I therefore take it, from his response to the hon. Member for Coventry, South (Mr. Cunningham), that the Government's readiness or otherwise to back down next week will depend very much on the size of the revolt this week?

Mr. Clarke: I have become accustomed over the years to admiring the hon. Gentleman's contributions to

[Mr. Clarke]

debate. However, on this occasion, I cannot respect what he says, as it is simply not correct. We will consider the matter on its merits.

Mr. Blunt: To follow up the point made by the hon. Member for Sheffield, Attercliffe (Mr. Betts), surely the test on the Home Secretary, if we are to accept the Bill, should not be that he should be satisfied on the balance of probabilities but beyond reasonable doubt. He is making a test based on no evidence from the defence at all, solely on the case being put to him by the authorities. Why is that test, in those circumstances, not beyond reasonable doubt before he seeks to deprive British citizens of their liberty under a derogating order?

Mr. Clarke: I am afraid that the hon. Gentleman confirms what he said earlier. Effectively, he is of the view that a control order regime should not be in place. He is entitled to argue that, but I do not accept that position.

I have given way a great deal in this debate and have spoken for just over an hour. I know that a lot of people want to come into the debate.

Mr. Grieve: Can I take the Home Secretary back a moment, as this issue goes to the root of some of the problems that the House faces? He expressed concern about the special advocate procedure and said that he shared such concerns, and yet if he reads paragraph 75 of Lord Carlile's report, he will see that he highlights the concerns, saying that he is slightly surprised to have to repeat unfulfilled suggestions from his report a year ago. Does not the Home Secretary understand that one might have greater faith in the Government in these matters had they already responded positively to previous suggestions?

Mr. Clarke: That is a debating point, which the hon. Gentleman is entitled to make. I want to put on record that I appreciate the work of Lord Carlile. The hon. Gentleman should examine carefully his report, as his approach in reviewing the legislation confirms precisely the need for the kind of regulation that we have now, because of the threat established.

I said at the beginning, and now conclude by saying, that on the four key principles that I have established and set out, this Bill deserves the support of the House. I hope that it will be agreed today, and I hope that, through agreeing it, we will be able to provide even stronger and more effective protections against the dire threat posed by international terrorism to this country.

2.52 pm

David Davis (Haltemprice and Howden) (Con): I beg to move, To leave out from "That" to the end of the Question, and to add instead thereof:

"this House declines to give a Second Reading to the Prevention of Terrorism Bill, because it contains excessive powers in relation to requirements on a person to remain at a particular place when such powers are not presently necessary; gives to the Executive powers that should be exercised by the judiciary; allows decisions to be made on an insufficient standard of proof; fails to address the need to bring terrorists to trial on the basis of all evidence available; and thus wrongly infringes the right to liberty of the individual."

I shall start by attempting to put this debate on a proper basis. First, the Home Secretary started with rather a good description of the state of terrorism today. I did not agree with all his five categories for differentiating al-Qaeda, but there is no doubt that it constitutes a qualitatively different set of terrorist threats than existed before. That does not mean that we should throw away all that we have learned in this country in dealing with terrorist threats in the past. It does mean, of course, that we should alter our tactics accordingly. However, we should not throw away the civilised standards of which this country has become proud over the centuries.

I want to make two other points to the Home Secretary. Yesterday, he accused his opponents on this issue of, I think, playing politics with terrorism. That accusation is neither helpful to this debate nor in any sense serious. The easy political line in this sort of debate is to tub-thump about the threats, to raise the temperature and to talk about draconian penalties for terrorists. The harder line is to raise questions of principle, liberty and the proper process of British justice. The easy but, in my view, irresponsible approach would have been to roll over and let the Government legislate in ways that reduce liberty and harm long-standing, important traditions of British justice, which might even worsen rather than improve the terrorist situation.

Secondly, the Home Secretary alleged yesterday that the alternative to what he recommends is that we do nothing. That is clearly and patently untrue. It does not reflect well on the strength of his arguments that he needs to put up such an Aunt Sally. Not only have we made alternative proposals, but I and my predecessor made a number of those proposals to his predecessor, giving the Government a great deal of time to consider them.

Let us take, for example, the proposal that has been raised several times in interventions today, and which the Home Secretary has rejected—that intercept evidence should be used in court to enable more terrorists to be brought to justice and locked up in a prison, not in their living rooms. I said to the then Home Secretary in February 2004:

"Everyone agrees that the most desirable way to deal with terrorists is to bring them before the courts. That is where the Home Secretary should be concentrating his efforts—looking at aspects of the law that make prosecution more difficult and seeing whether they can be corrected."—[*Official Report*, 25 February 2004; Vol. 418, c. 314.]

The Newton committee highlighted one aspect in particular on which we believe that the Government should act. Paragraph 208 states:

"In our view one way of making it possible to prosecute in more cases will be to remove the UK's self-imposed blanket ban on the use of intercepted communications in court".

We agreed. That conclusion was reached by Lord Lloyd in his 1996 review. It had the backing then of Lord Carlile and has been advocated in relation to terrorist cases for many years by the right hon. Member for Upper Bann (Mr. Trimble). It has had the support of successive Chief Constables in Northern Ireland and of Sir John Stevens, as well as support in the United States and in other areas.

In the United States, extensive details of intercept capacity are published and are a matter of public record.

They will therefore already be accounted for in al-Qaeda's behaviour, training and tactics. It is therefore difficult to see how knowledge of our much smaller intercept capacity in this country could make much difference to the training and tactics of al-Qaeda, especially when that is measured against the value of such information in court. That exchange was one year ago.

Mr. Kidney: I am really nervous about disclosing evidence that ends up putting at risk the lives of people who have helped us to collect the information. In relation to the right hon. Gentleman's reference to Lord Carlile, all that Lord Carlile mentions on page 215 of his review is

"the possible use as evidence in criminal trials of intercepted communications on public telephone systems".

I therefore wonder whether the right hon. Gentleman just supports Lord Carlile on public telephone systems or on the broader intercept debate.

David Davis: It is on the broader intercept debate. The line that is best thought through is that of the Newton committee, which considered the matter. It was not a committee nominated by Liberty. It included past Cabinet Ministers and all its members were, I think, Privy Councillors, one of whom had been a Minister with responsibility for security in Northern Ireland. They did not take the issue lightly and they came up with a procedure, which I shall discuss in a minute, that was designed to protect not just intercept evidence but other sensitive intelligence sources.

As an aside, the head of the FBI in the United States says explicitly that he would not have been able to bring many racketeers in the US to justice—a similar sort of problem—had he not had the opportunity to use intercept evidence.

Lembit Öpik: Although my intervention does not relate to that specific point, to avoid interrupting the right hon. Gentleman later, may I ask him the same question that I asked the Home Secretary about motive? In the north of Ireland, a great deal of progress has been made by considering the motives behind terrorism. Does he feel that the Government have paid sufficient attention to considering the motives of international terrorists? That is not to condone what they do, but perhaps we would get further with that than with having as our sole methodology the attempt to suppress the opportunity to terrorise, as the Government seem to be doing.

David Davis: To be fair to the Home Secretary, his first duty in this respect is to prevent the outcome of terrorist attempts. He cannot be held responsible for reading or misreading terrorists' motives.

To a large extent, many western Governments misread the motives of al-Qaeda. That is something that is not well understood. Of the five conditions of change or difference that the Home Secretary has laid down, I did not agree with his first one, which was about the nihilistic approach. There have been nihilists in the past, but the approach of al-Qaeda is rather more pointed than that. The Home Secretary properly says that his first job is to stop terrorists.

Mr. Allen: So that I am clear on Conservative policy, am I right in remembering from the earlier debate to which the right hon. Gentleman contributed that were he the Home Secretary, he would release all the people, in this context, now detained in Belmarsh?

David Davis: No, the hon. Gentleman is not right. I talked to the previous Home Secretary about this very issue. I said that whatever our differences and disagreements in public about the principles, I would not be calling for the release of any individuals, precisely because of the knowledge that he has. I do not think that *Hansard* would show what the hon. Gentleman describes as being my view.

Mr. Hogg: With regard to the Belmarsh detainees, it is clear that house arrest will not be employed against them in the near future. Does my right hon. Friend accept that if those people were to be released, it is fanciful to suppose that they would constitute a threat to the state, because they will be the subject of the most intense surveillance—and they will know that they are the subject of the most intense surveillance? It is implausible to argue that, in those circumstances, they will try to be involved in terrorism or to make contact with terrorists.

David Davis: My right hon. and learned Friend has shared some of his career with me in the Foreign Office. We are both fully aware of the power of intense surveillance, both in terms of controlling the operation of would-be terrorists and in providing information that is useful for prosecuting those would-be terrorists in future. I think that in substance my right hon. and learned Friend is right, although I would not have phrased the matter in quite the way that he did.

I return to the point that the Home Secretary made yesterday, which is that there is no alternative.

Sir Patrick Cormack: Will my right hon. Friend give way?

David Davis: I will give way in a moment. I want to get to the end of this section of my speech.

Sir Patrick Cormack: It is on the point that my right hon. Friend is making.

David Davis: Very well.

Sir Patrick Cormack: I am provoked by my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg). If these people had not been in Belmarsh in the first place, they would not be subject to any sort of surveillance. Does that not illustrate the necessity of having a mechanism, whether the one being proposed or another one, for putting people who are suspected of terrorist activities under proper supervision?

David Davis: I agree with the conclusion but not with my hon. Friend's premise. It does not follow that if these people were not in Belmarsh they would not be under surveillance. It is entirely likely that they would have been under surveillance if they had not been in Belmarsh. The thrust of the debate is about what the proper surveillance and control is. I hope that we can come to that in a moment.

[David Davis]

I shall finish with the issue of the Home Secretary's allegation that there is no alternative. It picks up the point that was made earlier. We recommended taking up the Newton committee proposal that we put in place a procedure using an investigating judge to sift, assess and present a balanced set of all sensitive evidence, including intercept and other intelligence-based evidence, in a way that protects our security services but that is also fair to the defendant. This is relevant to what Lord Carlile says. I cannot remember the page number, but Lord Carlile raises the problem of the Special Immigration Appeals Commission procedures and the fact that nothing has happened to respond to his own recommendations with regard to those procedures. That is one thing that would help, and we supported that idea.

We also supported also the idea of an extra charge. I think that the Home Secretary, from what he said earlier, is taking up the idea of acts preparatory to terrorism. We would also look at laws based on the American anti-racketeering laws, which are designed specifically to deal with the same problems of difficulties in obtaining evidence. We would look at any procedure that protected the traditional rights to justice and liberty of the British subject, but which would advance our ability to catch, to prosecute and to convict terrorists. As I think the Home Secretary agreed, that must be the main thrust.

That raises the issue of the way in which the Government are attacking the problem. In the area of security, the Government have a unique advantage. They have access to data about the activities of terrorists, and knowledge of what they could and could not do in bringing charges given specific problems of evidence. They should have spent the past three years analysing and identifying cases where a change in the law would allow prosecutions to be brought on the basis of available evidence. They should then have discussed those matters with the Opposition parties, and they would have undoubtedly received support for that approach. I am sure that I am right. I certainly speak for the Conservative party, and I suspect that I speak for the Liberal Democrats, too. I see the Liberal Democrat spokesman nodding.

Mr. Mark Oaten (Winchester) (LD): The right hon. Gentleman does not speak for my party.

David Davis: I agree with the hon. Gentleman. I do not speak for the Liberal Democrats. I am glad to have that clarification. I would hate that confusion to be promulgated.

We should recognise that the problem that we face arises as a result of poorly drafted legislation, drawn up in haste in the aftermath of 9/11. That mistake was, of course, understandable, but we should not repeat it now. We should take time to get things right. That is why I offered support to the Government in extending part 4 powers for a limited time. The Home Secretary has said that that will not work. That begs the question why he laid a draft statutory instrument a few weeks ago to achieve exactly that outcome. The explanatory note to that SI read:

"The House of Lords expressly stated that the Act remains a valid, enforceable and effective enactment"

If the Home Secretary has concerns—to be fair to him, he expressed them to me in private some while ago, before we had this debate—he will remember that I said that we would be willing to put in place a short piece of primary legislation to ensure that the process worked. Far from doing nothing, the Opposition have done everything in their power, not just to offer alternatives, but to create time for the Government to consider the alternatives and any other reasonable ways of finding an answer to this difficult problem.

As I have said, I agree with the Home Secretary that this is about a qualitatively different sort of terrorism that has been true, and known to have been true, for three and a half years, not three and a half weeks. What we are considering today should have been dealt with in the much longer term, as was promised by the Government, within six months of the publication of the Newton report, but they did not deliver.

Mr. Oaten: If it is the right hon. Gentleman's view that the part 4 law could be extended, what would his judgment be in those circumstances about what to do with the detainees in Belmarsh? Given that the Home Secretary has said that he does not believe that there needs to be house arrest, I am assuming that we would need part 4 to detain the people in Belmarsh. What would the right hon. Gentleman do with them?

David Davis: It is not for me to make judgments on the safety or otherwise of the individuals concerned. It is for us in this place to lay down the rules. One possible piece of primary legislation we could add would be to ensure that bail conditions amounted to the control orders that are laid out in the Bill, if need be, for the duration of three or six months, not in perpetuity and not applying to all British citizens. That is a possibility. That is as close as I will go in commenting on individual cases.

Yesterday, I asked the Home Secretary a number of questions on the substance of the Bill. I have to say that I received no answers to them. Under the proposals that are before us, for the first time in modern British history a politician will be able, by order, to constrain the liberties of a British subject. He would do that either on the balance of probabilities or merely on simple suspicion. He would do it for reasons and on evidence that may not even be known to the British subject who loses his liberty. Virtually every control order costs the subject some liberty. We should not differentiate on that basis. There is not a step change, as it were.

I repeat a quote which I used yesterday from one of the Law Lords, Lord Rodger. He said:

"The Government's assessment is . . . that it is not necessary to detain the British suspects in order to contain the threat that they pose."

That is implicit in the entire policy that the Government adopted, and it emerges in any event from paragraph 36 of the Home Office discussion paper "Counter Terrorism Powers: Reconciling Security and Liberty in an Open Society", which was issued in February 2004. The document states that

"while it would be possible to seek other powers to detain British citizens who may be involved in international terrorism it would be a very grave step. The Government believes that such draconian powers would be difficult to justify."

Mr. Charles Clarke: Does the right hon. Gentleman recognise the following remarks?

"Those who advocate transferring to the judiciary the power to authorise detention before charge need to ask themselves whether decisions based on intelligence material can really be considered appropriate for judicial consideration . . . We would be asking the judges to perform what is, in essence, an Executive function."—[*Official Report*, 9 March 1994; Vol. 256, c. 298.]

Those were the words of the Leader of the Opposition when he was Home Secretary in 1994.

David Davis: The quotation is from an exchange in which the current Prime Minister said that it was vital that when the liberty of subjects is curtailed, it should be done by the judiciary and not the Executive. The Home Secretary should check the entire exchange and fire his research assistant.

The Home Secretary told the Home Affairs Committee that the terrorist threat had not materially changed in the past year, so presumably the earlier comment about draconian powers being difficult to justify is still true. He reinforced the point with his comment that the security services do not believe that they need the full extent of the powers in this Bill at this point in time.

This question, which runs right through the debate, must be asked: what is the immediate emergency that demands that draconian powers against British subjects should be rushed through the Houses of Parliament without proper consideration, scrutiny or debate? What is the emergency that has arisen in the past 12 months that demands that we give the Home Secretary the right to fetter the liberty of British subjects—from restricting their ability to communicate right up to and including house arrest—without proper debate?

The most substantive concern about the procedure, and it is not the only concern, that the Home Secretary mentioned half a dozen times in his opening remarks is that it is proposed that a British citizen will face the loss of liberty on the decision of the Home Secretary, on suspicion alone and on evidence that the accused never sees. Why should that decision be made by a politician and not by a judge? Earlier today, the Prime Minister suggested that that will allow for speed, but in the most risky case a terrorist can be locked up for 14 days. The previous Conservative Government initiated that law and this Government have extended it. That period is far longer than is necessary for a judge to make a decision, even under the review procedure proposed by the Home Secretary.

There are good reasons why the Home Secretary should not take such decisions. Imagine the pressures on any politician, and on the Home Secretary in particular, after a terrorist outrage. Imagine the temptation to be better safe than sorry and to put away everybody, which are precisely the circumstances in which a miscarriage of justice will occur.

Yesterday, the Home Secretary unequivocally stated in his response to the hon. Member for Winchester (Mr. Oaten) that he should take those decisions rather than a judge, because of the principle of Ministers' accountability. Within minutes, another Member asked him to comment on a particular case. The Home Secretary replied that he is unable to comment on individual cases, at which point the principle of Ministers' accountability unravels. The nature of the decision is that it is taken on secret grounds, which he cannot share with the House, and that he is unable to comment on the individual case itself. His principle is one of false accountability. Real accountability requires the House to be able to question and the Minister to be able to answer, and that level of accountability cannot exist on this issue.

Mr. Beith: The matter concerns more than secrecy. It has never been a desired principle of our legal system that Ministers should come before the House to explain why they have decided that A should be locked up and that B should not. Even if secrecy were not an issue, in this country we have never sought to make such decisions in that way—we have left it to the judiciary, without attaching any kind of political process to it.

David Davis: The right hon. Gentleman is entirely right. I was simply demonstrating the ludicrous nature of the thesis of ministerial accountability in individual cases.

Mr. Desmond Swayne (New Forest, West) (Con): The Prime Minister gave a rather different answer to the leader of the Liberal party, who asked precisely the same question earlier this afternoon. He said that the argument was the need for urgency, but we all know that the police already have the power to lock up people for 14 days.

David Davis: My hon. Friend is correct. The leader of the Liberal party also asked why judges should not act quickly—they act quickly on warrants in any event. The urgency issue is a complete red herring.

David Winnick *rose—*

David Davis: I will give way to the hon. Gentleman who, although we disagree about this matter, has an outstanding record.

David Winnick: Under the previous Administration, in which the right hon. Gentleman served, one of my constituents, a Sikh, was detained and imprisoned indefinitely without any court action. He was only released because the European Court of Human Rights ruled on the case of another Sikh, who lived in Bedford, as a result of which my constituent was allowed out of prison. There was no court process whatsoever.

David Davis: I will take another intervention if I am wrong, but I believe that the hon. Gentleman is referring to the Chahal case, which occurred before a deportation. The Home Secretary got that point wrong when he discussed how the French hold people. In France, people are held prior to trial, which is different from holding someone indefinitely.

David Winnick: My constituent had lived here lawfully for many years and was the editor of a Sikh journal. He was accused of being involved with terrorism not in the UK, but abroad. However, no court process occurred and, so far as I understand it, there was no question of his being deported. He was just held in prison until the Home Secretary decided on the case. I

[David Winnick]

took a deputation to see the then Home Secretary, who is now the Leader of the Opposition, on that matter. My point is that people have been locked up previously without court action, as we know from the 18B regulation, which was introduced at the start of the 1939 war.

David Davis: If the hon. Gentleman were right—I do not think that he is because we are discussing an issue that arises prior to deportation—two wrongs do not make a right.

Mr. Allen: I thank the right hon. Gentleman for his generosity in giving way again. Returning to his point about urgency, he mentioned the 14-day period for which people currently may be detained on suspicion of terrorist offences. Does he feel that that period is sufficient to accommodate the point made by my right hon. Friend the Member for Southampton, Itchen (Mr. Denham)? Papers could be got together during that period to assess the possibility of a prosecution and the Director of Public Prosecutions could say yes or no, at which point the Home Secretary could, if it were necessary, seek a detention order from a High Court judge or an Appeal Court judge.

David Davis: I do not have an instant answer to that question, which I would have to examine in some detail before answering. Throughout the short duration of proceedings on the Bill, we intend to examine all such issues to see whether we can amend the Bill to make it acceptable. We are, after all, trying to achieve the right balance between liberty and the protection and security of the public. My argument today is effectively that the balance in the Bill is wrong.

Mr. Dalyell: In one way or another, the right hon. Gentleman has great experience of the security services. Does he share the unease felt by some Members about the information on which Ministers must base their decisions? In 1968, Harold Wilson wanted to appoint the then MP for Lanark, Judith Hart, to his Cabinet. The security services objected on the ground that Mrs. Hart had a communist background, but they had identified the wrong Mrs. Hart, who had nothing to do with the MP for Lanark and who was the wife of a distinguished professor at the university of Oxford. The Home Secretary knows that the security services did not distinguish themselves during the miners' strike—and we will leave weapons of mass destruction out of it.

David Davis: As ever, the hon. Gentleman makes his point elegantly.

That brings me to the question of the evidence on which the Home Secretary makes his decision. The Home Secretary proposes that control orders below the derogation threshold—tagging, communication restrictions and the like—should be made on the basis of reasonable suspicion, which is an even lower standard of proof than the assumption of the security services in the case of Judith Hart. Incidentally, the standard of proof is so low that it implies a large number of control orders, and I would like to hear what the Minister for Crime Reduction, Policing and Community Safety thinks will happen when she makes her winding-up speech.

Secondly, though technically capable of challenge, the evidence will not all be seen by the accused—Judith Hart would not have known what she was accused of under these circumstances. Reports coming out of SIAC indicate that, sometimes, the evidence put at the secret hearing is materially different from that put at the open hearing, so much so that the nature of the actual charge is different in the closed hearing from that at the open hearing. That means that, completely contrary to all British principles of justice, the accused will not be able to answer the charge, even if he is absolutely innocent and has a cast-iron alibi.

That brings me again to the nature of the evidence. The former Foreign Secretary, the right hon. Member for Livingston (Mr. Cook), has expressed doubts about resting such serious action on unchallenged intelligence data because of the inherently unreliable nature of the information. He has a significant point, which was made even more firmly by the Father of the House.

As the Father of the House says, in previous years I have had various dealings with the agencies. It has become apparent to me that no matter how professional the agencies are—and clearly there have been unprofessional actions on their part—they are always entirely dependent on the accuracy of their sources. These sources are not James Bond with a Minox camera. Generally, they are associates of the target and are motivated by many things—money, greed, envy, malice, hatred and, sometimes, a wish to remove a rival. We are not talking about the most impartial of sources, leaving aside the gross error that the Father of the House mentioned. It is on the basis of suspicion, based on evidence such as that, that the Home Secretary wants to take for himself the powers to constrain the liberty of British subjects.

Mr. Hogg: May I reinforce my right hon. Friend's point by asking whether he read the letter in *The Daily Telegraph* yesterday from a man whose father was interned on the corrupt evidence of an informer—a particular case of someone being falsely accused? May I also remind my right hon. Friend that the Leader of the House was prosecuted at the Old Bailey, having been framed by the South African security services?

David Davis: My right hon. and learned Friend has a brilliant record in this area and remakes a good point that he made yesterday, which reinforces my point. We are talking about taking away people's liberty on the basis of suspicion, based on that sort of evidence, and without the scope for challenge.

Mr. Marshall-Andrews: Will the right hon. Gentleman reflect on the remarkable power in paragraph 4(3)(c) of the schedule—one of the comprehensible parts of the schedule—which says, in terms, that the Secretary of State shall not be required to disclose to the court any information or material that he has but does not intend to use? In other words, by statutory precept the Secretary of State is able to conceal disclosure that might be exculpatory.

David Davis: That is an excellent point, which reinforces my concern. I am presuming in all of this a Home Secretary of impeccable motivation who is given information that he will be encouraged not to allow to

be challenged. That is simply not acceptable, because the price of mistakes in this area is very high. A miscarriage of justice is always a matter of real concern, and, even with these control orders, such miscarriages of justice can wreck lives, even at this apparently low level.

Imagine the impact on a software designer of being denied access to the internet, or on a salesman of being denied access to telephones—it would be the end of his career. In causing harm to the individual, that will give ammunition to the enemies of the state that we are trying to stop with the Bill. The chairman of the Bar Council said:

"Disproportionate measures risk radicalising the community from which a detainee comes. That may make this country less rather than more safe."

Mr. Denham: I should like to be quite clear as to where the right hon. Gentleman's argument is leading. He is making a case for saying that we should act only on the basis of evidence that can be heard in a criminal court and subject to those standards of evidence. It is a reasonable case if he wishes to make it. However, all of the arguments that he is currently making about evidence would mean that no type of control order and no measure short of a full criminal prosecution could be envisaged. Is that what he is saying to the House?

David Davis: The right hon. Gentleman—who, again, has a distinguished record in this area—is reflecting a suggestion that I made earlier, namely, a distaste for control orders. I am laying out a series of hurdles that we have to get over. One is the question of the judge. The hon. Member for Sheffield, Attercliffe (Mr. Betts) made a good point, saying that the fact that the judge only reviews the matter and judges whether the Home Secretary has acted unreasonably makes the level of proof that much lower again. We have an accumulation of effects that reduce the proposal to acting on suspicion, the dangers of which are large.

To answer the right hon. Gentleman directly, the question that we will be pressing through the course of the Bill is whether it is capable of being turned into something consistent with long-standing traditions of British justice and will help in the fight against terrorism, rather than give ammunition to our enemies.

Mr. Cash: Has my right hon. Friend noticed that the provisions relating to the repeal of sections 21 to 32 in part 4 take effect on 14 March? On the same date, of course, the Bill will be enacted or, at least, will be passed by the House. The problem is that there will then be two different rules of law applying, because the repeals that are set out specifically are kept, in effect, during the continuation of appeals. It appears, subject to discussion in Committee, that there will be two sets of laws operating at the same time, which will create even more confusion.

David Davis: I accept my hon. Friend's expertise in the matter. I had not considered the point and it is not central to the thrust of what I am saying. However, I take his point—it indicates, yet again, that this is an ill-thought-through Bill.

Mr. Denham: The right hon. Gentleman must pursue the questions that he has set out in these discussions. He has been in his job for some time and must have formed a view now as to whether there is a group of people who cannot be prosecuted in the courts, but against whom action needs to be taken. Does he accept that such a group exists, in which case could he tell the House today what action he thinks should be taken against it?

David Davis: The right hon. Gentleman has been in his job for quite a time, too, and he knows that I am paid to make decisions and not to think out loud. We are trying to ensure that the measure works as well as it can. Also, we have said, in terms, that there are other Bills or laws that ought to be enacted to give the Home Secretary greater powers and to widen his net. At the moment, there are no such powers. As the Home Secretary has said, there have been 701 arrests, approximately 400 prosecutions—a little less than half on terrorist issues, with many others on immigration and other issues—and 17 convictions so far. For three and a half years we have managed to maintain the safety of the public, and the security services have done a very good job in that regard.

What has changed in the past three and a half weeks? If the Home Secretary had been saying for six months, "Look, we are concerned about British subjects being a terrorist threat and we need to deal with this," and if we had talked the matter through in some detail and been able as a House of Commons to come to a considered balance between the threat to the public—which is never as quantifiable as the right hon. Member for Southampton, Itchen (Mr. Denham) describes, incidentally—and the ancient rights of the British people, I would be in a frame of mind much more amenable to his question.

We now have essentially two weeks to try to put together the follow-on from a Bill that itself was so ill drafted that it has fallen to pieces in the hands of the Government, and that is not a very good way to secure the future security, or indeed the future liberty, of British subjects.

I was rather sorry that the Home Secretary was not present at the previous debate, because I was going to tease him a little. He and I were at university at approximately the same time, and no doubt we both read the fashionable left-wing writers in those days.

Mr. Charles Clarke *indicated dissent.*

David Davis: The right hon. Gentleman shakes his head and claims that only I, a Conservative student leader at the time, read them when he did not. Fair enough. But one of the things that they all clearly argued was that one of the primary aims of a terrorist is to provoke a reaction from the state, which in turn will radicalise a part of the population and recruit them for the terrorist cause. There is a serious danger of that if the use of these control orders is seen to be unjust, even by a minority, and that alone should be a telling argument for the power being exercised by the judiciary, not by the Executive.

After three years in which none of these powers has been available against British citizens, at a time when the Home Secretary himself says that the security risk is the same as it was a year ago and the security services and

[David Davis]

police say that they currently do not need the most draconian powers listed here, why do we suddenly need this measure in 14 days flat in the shadow of a general election? The Prime Minister said that the security services say that they need them. Did they tell him that in the past few weeks? Did they tell him that they needed them instantly? I doubt it.

To reiterate, the Home Secretary is taking powers to curb the freedom of British subjects by order, on suspicion, based on limited and possibly doubtful evidence. He does this after his own Department said that the measure was draconian and unjustifiable less than a year ago, and he does it after no apparent change in the circumstances, in a rushed Bill with wholly inadequate scrutiny in both Houses of Parliament. That cannot be the way for a democracy that believes in the rule of law to proceed.

Lord Lloyd of Berwick, a former Law Lord who has great expertise in this area, said that the Home Secretary

"can confine British citizens for the first time in our history to house arrest. There are upwards of a thousand British citizens suspected of having links with Al-Qa'eda terrorism. Up until now, it has been possible to contain the threat without these special powers. The question is: why has it suddenly become necessary to impose these quite exceptional control orders?"

That is the question that the Home Secretary must now answer.

3.32 pm

Mr. Brian Sedgemore (Hackney, South and Shoreditch) (Lab): As this will almost certainly be my last speech in Parliament, I shall try hard not to upset anyone. However, our debate here tonight is a grim reminder of how the Prime Minister and the Home Secretary are betraying some of Labour's most cherished beliefs. Not content with tossing aside the ideas and ideals that inspire and inform ideology, they seem to be giving up on values too. Liberty, without which democracy has no meaning, and the rule of law, without which state power cannot be contained, look to Parliament for their protection, but this Parliament, sad to say, is failing the nation badly. It is not just the Government but Back-Bench Members who are to blame. It seems that in situations such as this, politics become incompatible with conscience, principle, decency and self-respect. Regrettably, in such situations, the desire for power and position predominates.

As we move towards a system of justice that found favour with the South African Government at the time of apartheid and which parallels Burmese justice today, if hon. Members will pardon the oxymoron, I am reminded that our fathers fought and died for liberty—my own father literally—believing that these things should not happen here, and we would never allow them to happen here. But now we know better. The unthinkable, the unimaginable, is happening here.

In their defence, the Prime Minister and the Home Secretary say that they are behaving tyrannically and trying to make nonsense of the House of Lords decision in A and Others as appellants *v.* the Home Secretary as respondent because they are frightened, and that the rest of us would be frightened too if only we knew what they will not tell us. They preach the politics of fear and ask us to support political incarceration on demand and punishment without trial.

Sad to say, I do not trust the judgment of either our thespian Prime Minister or our Home Secretary, especially given the latter's performance at the Dispatch Box yesterday. It did not take Home Office civil servants or the secret police long to put poison in his water, did it? Paper No. 1, entitled "International Terrorism: the Threat", which the Home Secretary produced yesterday and I have read, is a putrid document if it is intended to justify the measure. Indeed, the Home Secretary dripped out bits of it and it sounded no better as he spoke than it read. Why does he insult the House? Why cannot he produce a better argument than that?

How on earth did a Labour Government get to the point of creating what was described in the House of Lords hearing as a "gulag" at Belmarsh? I remind my hon. Friends that a gulag is a black hole into which people are forcibly directed without hope of ever getting out. Despite savage criticisms by nine Law Lords in 250 paragraphs, all of which I have read and understood, about the creation of the gulag, I have heard not one word of apology from the Prime Minister or the Home Secretary. Worse, I have heard no word of apology from those Back Benchers who voted to establish the gulag.

Have we all, individually and collectively, no shame? I suppose that once one has shown contempt for liberty by voting against it in the Lobby, it becomes easier to do it a second time and after that, a third time. Thus even Members of Parliament who claim to believe in human rights vote to destroy them.

Many Members have gone nap on the matter. They voted: first, to abolish trial by jury in less serious cases; secondly, to abolish trial by jury in more serious cases; thirdly, to approve an unlawful war; fourthly, to create a gulag at Belmarsh; and fifthly, to lock up innocent people in their homes. It is truly terrifying to imagine what those Members of Parliament will vote for next. I can describe all that only as new Labour's descent into hell, which is not a place where I want to be.

I hope that—but doubt whether—ethical principles and liberal thought will triumph tonight over the lazy minds and disengaged consciences that make Labour's Whips Office look so ridiculous and our Parliament so unprincipled.

It is a foul calumny that we do today. Not since the Act of Settlement 1701 has Parliament usurped the powers of the judiciary and allowed the Executive to lock up people without trial in times of peace. May the Government be damned for it.

3.38 pm

Mr. Mark Oaten (Winchester) (LD): I wish the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore) well in his retirement if that was indeed his last speech. Although I do not agree with all the points that he made, I admire his passion and commitment.

We are dealing with extraordinarily complex circumstances. It is easy for us to make the sort of speech that the hon. Gentleman delivered, draw on historical values and discuss the strong principles of justice that are changing. I do not intend to make such a speech. I

shall leave that to others who are more eloquent and have a stronger sense of history than me. In the next 20 minutes or so, I shall treat the subject as a practical issue, ascertain whether we can find a way forward and bluntly analyse where there is agreement and disagreement.

Let me begin with agreement. There is probably cross-party agreement that none of us underestimates the issues that we are tackling in this post-9/11 era. None of us underestimates the serious terrorist problems. The Home Secretary's analysis of how matters have changed was spot on. The global implications that he outlined are especially important. They have made the world in which we live different—not only the type of terrorists but their ability to operate globally, with all the communications systems that exist, have changed enormously.

I think there is also agreement—cross-party agreement—on the fact that we have due respect for the intelligence services, and owe them a great debt of gratitude for what they have done over the past three or four years. We want, on a cross-party basis, to give them all the tools that they need in order to do their work. There is also agreement, I believe, that we must do something about the current situation. I am uneasy about what may happen in four or five weeks. If we have no legislation we will create a vacuum, and I do not think we want that. Something must be done to deal with the difficult circumstances.

David Davis: I took the precaution of finding out before the debate what would happen if the Bill were not passed. I do not know whether it will be passed at this point, but if it falls there will still be time on the last day for part 4 to be extended by however many months are necessary. The Government can do that instantly if they need to.

Mr. Oaten: I will say later whether I think that that is the right thing to do. My starting point is that we should all agree that we must achieve something on 14 March. We cannot allow a vacuum to exist because of political differences; we absolutely must do something.

There is a fourth area of agreement. I think that the Government have been forced to reach that agreement, but in any event they now agree with us that the current measures are not acceptable. We have felt that for some time, as have the official Opposition. Because of the Law Lords' ruling, we have at least secured an acknowledgement from the Home Secretary that we cannot maintain the present situation, particularly in relation to the Belmarsh detainees.

Simon Hughes: For the past four years, while we have been arguing collectively with the Government, we have consistently said that there is an alternative to detention without trial and have consistently proposed constructive alternatives. The Government have put themselves in this position by refusing to listen during those four years.

Mr. Oaten: When my hon. Friend was doing the job that I am now doing, he was clear about our determination, whenever we had to decide what to do with a derogation, not to ignore it but to suggest alternatives. I take that approach as well. We have made such suggestions at various times, and we could have had this debate some time ago, but at least we are having it now, and I think it is agreed that we must now move on.

There is agreement on another matter—helped, I think, by what I considered to be a constructive speech by the Home Secretary. He reiterated that prosecution should be the starting point, and I think we all agree that we should seek prosecution in these cases. Nevertheless, I take the point made by a number of Members that it would be helpful to enshrine that starting principle in the Bill. At present, we have only the Home Secretary's words, and, as some of his hon. Friends have suggested, the principle does not come across strongly enough.

There is some agreement on another issue, which, although we have not discussed it yet, is relevant. Our long-term objective is an international situation in which deportation is a proper solution. I shall deal later with the respects in which we disagree with that, but there is surely consensus that we must be heading there at some point.

I am now convinced of the Home Secretary's arguments that in relation to the current detainees, intercept communication would not have been a useful tool for the purpose of achieving prosecution. I shall deal with the differences between us later, but in the context of that narrow aspect I accept that intercept communication would not have dealt with the existing problem.

There has been some interesting movement on control orders this afternoon. For some time we have argued against a black-and-white approach, suggesting that another tool is needed to deal with the complex issues and that control orders would be useful. There are differences on how they should be introduced, and I shall say something about that shortly, but at least there seems to be cross-party consensus that control orders have a role to play. The right hon. Member for Haltemprice and Howden (David Davis), who is having a little natter at the moment, implied earlier that the Conservatives were prepared to consider them in some shape or form. Let us bank that, and see if we can move on. We may not like control orders—I am not wild about them myself—but hey, we are trying to find a sensible solution to all these problems.

Mr. Grieve: I accept that one may have to swallow the extremely unpalatable, but every hon. Member should be concerned about the principle of control orders. It is a departure from our established principles and threatens our liberties greatly.

Mr. Oaten: I do not underestimate any of that, and I shall explain how we can make the control orders work and deal with our principles. One has to have other schemes to deal with this issue in addition to the possibility of jail. We have been prepared to say that we will look at control orders—subject, obviously, to the principles that I shall outline later.

Clare Short (Birmingham, Ladywood) (Lab): I am not convinced of the case for control orders. I am absolutely convinced of the case for keeping people under surveillance. In fact, I want them to be listened to

[Clare Short]

on the telephone. I want our security services to find out who they are in touch with and get the information if there is a plot. We can then use that information and arrest. The hon. Gentleman does no honour to his party by so quickly giving away the principle.

Mr. Oaten: I would not say that I have given that away quickly, or that an enormous issue of principle is involved in control orders. The issue is: how do we impose those control orders and on what standard of proof do we impose them? Those are pretty big principles and I shall fight for them, but I am prepared to throw control orders into the equation of the debate to try to find an alternative to holding detainees in the way that they are currently held.

The next area where there is some agreement, or at least where some progress has been made, is the Home Secretary's acknowledgement that there needs to be some judicial involvement in this process. We disagree about where that should be, but it is worth putting on the record that we welcome the fact that, in arguing that the judicial process should be a reviewing mechanism, he has at least moved to strengthen the reviewing mechanism. Derogating control orders will be referred automatically within seven days and judges will be able to look at the evidence independently, rather than just making an assessment following the Home Secretary's decision, which is welcome.

There remain peculiarities in the proposals. The point has been made about the powers that judges would have to redirect the Home Secretary. That raises the question whether the Home Secretary would be bound to listen or could play ping-pong back and forth between the judges.

There is agreement on a point about which I know the Home Secretary cares a lot. He argues continually that he has responsibility for national security. We agree, but we do not necessarily agree that that means he must have the power to make these decisions separate from a judge. We believe that he could keep and fulfill that responsibility while meeting the requirements. The Home Secretary has responsibility for national security, but not for reviewing individuals case by case in the way he suggests.

Mr. Marshall-Andrews: The hon. Gentleman speaks warmly of the Government's advance towards judicial review, but has not he picked up the point that there is no judicial review of a control order that deals with the restriction on movement, the restriction in respect of work, the restriction in respect of association, the restriction in respect of residence, where someone can live, whether they have a passport, whether they are to be tagged, who they talk to, and whether they can talk or not? There is no judicial review on any of those issues. Have the Liberal Democrats not picked that up yet?

Mr. Oaten: I think that the hon. and learned Gentleman is trying to be helpful, but I was going through the bits that I agree with. If he will give me time, I shall get on to the bits that I disagree with. However, let us try to be constructive and say, "Where can I, from my perspective, bank an agreement?" On derogating control orders, there has been some movement from the Government to acknowledge that the judicial review process should be strengthened. I do not think that that is the right way forward, but I acknowledge that they have made some movement in that direction.

Mr. Hogg: Will the hon. Gentleman give way?

Mr. Oaten: Before I am criticised for supporting the Government, I would like to get on to the bits that I disagree with, but I give way.

Mr. Hogg: Even if one is trying to improve judicial oversight, it is essential that the interests of the detained person are properly represented. Does the hon. Gentleman accept the critique by Lord Carlile of the role of special counsel? It is plain that the special advocate can barely discuss a case with the detained person.

Mr. Oaten: I entirely agree with the right hon. and learned Gentleman. That is indeed one of the weaknesses that we are trying to highlight.

Having acknowledged some movement on areas of agreement, let us now move on to areas of disagreement and then perhaps seek some ways forward. I want to deal quickly with deportation. We disagree because we would like much stronger reassurances on human rights issues. It is not satisfactory for Ministers to be exchanging memorandums on these issues. The orders must be binding and tested, and we must have some reassurance that, before we proceed with any deportations, proper human rights principles are in place.

We disagree about intercept communications, but the Home Secretary said that he wants to leave the door open. When he made his statement yesterday, I suggested that one way to make progress would be to re-establish the Newton committee or some other body to consider sensible ways in which we could use intercept in certain cases in six months' time.

The main area of fundamental disagreement is the point at which the judicial process kicks in. The Home Secretary believes and insists that it should be after the event; we believe that it should be at the beginning of the process. There is a big gulf between us and it is difficult to see how we can find a way forward as the Bill proceeds through Parliament. It is an important principle—not just a matter of having a timeline and deciding when things should happen—because a politician is being given the ability to restrict the liberties enjoyed in this country solely on the balance of probabilities. That represents a break with years of our history and the Liberal Democrats are extremely uncomfortable with it.

Rob Marris (Wolverhampton, South-West) (Lab): I share the hon. Gentleman's concerns, as I believe that the Home Secretary should make an application to a judge in the first instance to get the process moving. My right hon. Friend has already agreed today to have another look at the problem. If, after further reflection, it were decided that the application should first go to a judge rather than to the Home Secretary, would the Liberal Democrats support the Bill?

Mr. Oaten: I want to be as transparent and open as possible about this matter, and if we saw some real movement, we would certainly be in the business of debating some of our other concerns about the Bill.

That deals with one critical issue. I am trying to be as helpful as possible, so I shall move on to raise some further issues on which we want reassurance. My hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes) provided another compelling reason for ensuring that judges are involved at the start of the process when he referred to the continual embarrassment of the Home Secretary in having his decisions overturned by judges as time goes on. That is a strong argument.

Our next major disagreement is over standards of proof. I acknowledge that the wording has now moved a little in the right direction, but not far enough for us. As the Bill proceeds, we must carefully examine the different standards of proof that apply, particularly when we are talking about depriving individuals of their liberty. The highest standards must apply when we are contemplating house arrest or detention, but I disagree with the idea that it is acceptable to have reduced standards of proof for some lower-level control orders. Fundamental issues about liberty may still be at stake when methods other than house arrest—curfew and tagging, for example—are adopted. People are deprived of their liberty in those cases, too, so we would require a great deal of convincing that lower standards of proof were acceptable.

The same applies to the issue of whether evidence can be heard. The right hon. Member for Southampton, Itchen (Mr. Denham), the Chairman of the Home Affairs Committee, intervened on the shadow Home Secretary to ask about the effect of these issues on the operation of control orders. I accept that, in some circumstances, it is not possible to bring in all the evidence, but we want a sensible debate with the Government about ensuring that as much evidence as possible, and the highest possible standards of proof, are used in these cases.

Rob Marris: The hon. Gentleman is trying to be constructive, as I am. Would he accept the balance of probabilities as a standard of proof in clause 1 cases? Would that be acceptable?

Mr. Oaten: I am not prepared to concede that at the moment. I would want further discussions about a range of possibilities on standards of proof.

Mr. Beith: Does my hon. Friend agree that it is important to make it clear that a judge's decision relates to non-derogating as well as to derogating orders? Both are eventually subject to judicial review, contrary to what was stated earlier, but should not the initial decision in respect of both types of order be made by a judge?

Mr. Oaten: I agree with my right hon. Friend.

On derogation, we have a peculiar situation. The Home Secretary argues that he will not require derogation in respect of house arrest, but seems to want to have it available in the bottom drawer of the Bill so that he can revisit it at some point. So far, no one has made it clear why a derogation may be necessary. The relevant wording is quite powerful and makes it clear that a derogation should be imposed only when there is an

> "exceptional situation or crisis that affects the whole population and constitutes a threat to the organised life of the community of which the state is comprised."

We should be under no doubt that a derogation demands quite a high level of threat. Moreover, the House should recall that this country is the only member of the Council of Europe that requires a derogation.

Mr. Grieve: A moment ago, the hon. Gentleman raised the question of the standard of proof. It is all very well to say that we want to raise it, but the central principle of normal justice systems is that the other side is able to put its case, which means that it must be in a position to answer an allegation. Does he agree that we must be aware that buzz phrases such as "standard of proof" and "balance of probabilities" can easily become meaningless when the system being devised is unfair?

Mr. Oaten: The hon. Gentleman is right, which is why judges should make the assessments, and why we must ensure that defendants understand the evidence. For people to be able to defend themselves, they must be able to understand the charge. Preventing miscarriages of justice means that they must also be able to see the evidence.

Mr. Hogg: The hon. Gentleman is approaching the question of whether there is a threat to the life of the nation. Is he aware of what Lord Hoffmann said in the Belmarsh case? He said:

> "I do not underestimate the ability of fanatical groups of terrorists to kill and destroy, but they do not threaten the life of the nation. Whether we would survive Hitler hung in the balance, but there is no doubt but that we will survive Al-Qaeda."

Mr. Oaten: The right hon. and learned Gentleman makes an important point. The question of the derogation must be matched against the judgment of the Law Lords, to make sure that we meet the very strong demands that derogation would require when we take away people's liberty.

My second point in respect of derogation is that we are not convinced that some of the lesser issues covered by control orders would not also require some form of derogation. When the Home Secretary made his statement yesterday, I asked what legal advice he had received on that question. It would be helpful if that advice could be published within the next 48 hours, for example, so that we can see what assessment has been made as to whether the various control orders require a derogation.

David Davis: The hon. Gentleman spoke about meeting the Law Lords' requirements, but he ought to read everything that they said. Several of the Law Lords said that they did not think that this injustice could be solved by extending it to all British citizens.

Mr. Oaten: The shadow Home Secretary mentions another interesting matter. We have not probed the Home Secretary on that yet, but it will be interesting to know how far he expects the Bill to help in an area where he has previously lacked legal support. We have been

[Mr. Oaten]

talking about foreign nationals, but we have not asked how much the Home Secretary and the intelligence services believe they need the Bill to help with British nationals. When the Minister for Crime Reduction, Policing and Community Safety winds up the debate, I hope that she will say whether she envisages that about 100 or 150 control orders will be issued in the future. Conversely, is it her assumption that the proposed new system will deal with roughly the same numbers of people as is presently the case with foreign nationals?

I have set out where my party agrees with the Government in this matter, and where we disagree. I now want to float some suggestions for a possible way forward in a number of areas. We could achieve cross-party support on control orders and the point at which the Home Secretary would become involved in the process. In exchanges at Prime Minister's Question Time today and during the Home Secretary's statement yesterday, it became clear that there were two barriers to the Home Secretary's agreeing to our suggestion that he should apply to a court in the first place. First, he argues strongly that he has national responsibility for making the decision. We believe that he would not be derogating from that duty if he assessed the intelligence information himself, made a judgment and then applied to a court. I cannot see how that route would leave him open to criticism for failing to meet his responsibilities.

Secondly, objections were expressed both by the Home Secretary and strongly today by the Prime Minister about the time issue. Again, I think we can overcome them. As hon. Members have said, individuals can currently be held for 14 days. I have received legal advice that that may not be adequate to help the Home Secretary with the difficulty of dealing with terrorists. The ability to hold an individual for 14 days is based on the assumption of an investigation taking place and a charge being made. If that were the case, we would work constructively with the Home Secretary to find another way to allow him a limited emergency power for a short period on the assumption that all that was being done was that an individual was being held before the Home Secretary applied to the court for an interim order to start the judicial process. We accept that all the papers and arguments might not be forthcoming within 24 hours. However, because an interim order would be in operation, we would allow some time to elapse so that the papers and the full case for a control order could be advanced. I believe that that meets the concerns about the Home Secretary fulfilling his responsibilities for national security. It would meet the concerns that he and the Prime Minister have expressed about time scales, as he could act the minute that he had the intelligence information. It would also meet the concerns of Liberal Democrats and other hon. Members about the need for a proper judicial process. I hope that in Committee we will have a sensible dialogue about those issues.

Mr. Kidney: The hon. Gentleman and the shadow Home Secretary advanced the premise that everyone who is served with a control order is already in police custody, but that will not necessarily be the case. Would the hon. Gentleman consider making another suggestion to the Home Secretary: that he should be able to go to the judge in the absence of the individual concerned to get a control order served, then the court proceedings could carry on?

Mr. Oaten: I am happy to accept that suggestion, as it is precisely what I was arguing. I assumed that there were no control orders in place and that we were dealing with a fresh piece of intelligence. What, for example, would the Home Secretary do if he were about to have supper on a Saturday night when he received a phone call at 7 o'clock and was given fresh intelligence? I want to find a helpful way of enabling him to manage that process. We could find a further way forward if we secured a promise and a commitment to look at where and at what point different standards of proof apply. It would also be helpful if the Home Secretary gave, first, a commitment to look again at intercept communication with a proper organised structure and timetable and, secondly, an early commitment to consider seriously new laws on acts preparatory to terrorism. That is the constructive approach that we will take in the next week or so as the Bill proceeds through both Houses.

I shall conclude with the dilemma of what we do with the current detainees in Belmarsh.

Mr. Beith: I wish to raise a matter that my hon. Friend mentioned earlier. We have to do something with special advocate procedures and the disclosure rules that surround them if any process is to become viable. As these matters will not be for the Special Immigration Appeals Commission but for the High Court or the Court of Session, there must be a process—the Home Secretary has not yet explained what it is—whereby those courts have the authority to decide what those procedures will be.

Mr. Oaten: My right hon. Friend is right, and that can be added to my list of issues that we need to discuss.

Finally, on the question of what we do with the current detainees held in Belmarsh, the Home Secretary's statement yesterday that he does not intend to trigger the requirement for house arrest suggests that two things will happen. First, on 14 March, if he gets the Bill through Parliament, he would release the individuals from Belmarsh and, I assume, put them on to a tagging system or perhaps a lower level of surveillance. Secondly, he would release the individual held under house arrest with some form of tagging. It would be helpful to know what plans the Home Secretary has for those individuals and whether my assumption about what will happen is accurate.

The problem remains that, if we cannot reach agreement on the Bill and it is impossible to reach agreement on renewal of derogation along the lines suggested by the shadow Home Secretary, we have a responsibility to do something about those individuals, and certainly not to leave them in Belmarsh for an extended period because we fail to come to a decision. When the Minister winds up, I hope she will say how we can have a constructive discussion about what we should do with those people. It is a shame that they are being held in Belmarsh when the Home Secretary has stated that it is not his intention to hold them there. The sooner we can resolve that problem, the better.

The issue is all about a balance between civil liberties and ensuring the right security in this country. Our judgment is that the Government have had the wrong balance for the past three years, but we acknowledge that it is improving. It is still not right, but there is good will on our side to move that balance in a direction to enable Liberal Democrat Members to support these measures. However, we are a long way from that yet.

Several hon. Members *rose—*

Mr. Deputy Speaker: I remind the House that Mr. Speaker has imposed a 15-minute limit on all Back-Bench speeches. That applies from now on.

4.6 pm

Mr. John Denham (Southampton, Itchen) (Lab): I am prepared to make it clear—the shadow Home Secretary was not—that a group of people exists on whom the Government have evidence that they cannot bring to court and against whom it should be necessary to take action. If I have time, I shall develop my reasons for believing that, but I make that statement of my belief for the purpose of my initial comments.

I am primarily concerned in this debate to achieve the right practical outcomes in terms of human rights, civil liberties and our ability to tackle terrorism. An overly legalistic debate on such matters is not always helpful and there is a certain amount of self-flagellation in our approach to such issues in this country. Across the channel, the legal procedures are apparently different. However, the reality is that people are detained for up to four years without trial, and that a regime exists which the French authorities believe leads many people to leave France because they are worried about detention powers. Under that regime, the Government deport people to many countries to which our legal system finds it impossible to deport people. I am not giving a view on whether that is right, but it is a reality in the modern world. Some of the suggestions made during this debate—that we are putting ourselves beyond the pale with our proposals—simply do not recognise the reality of what happens in other countries.

I want to focus on an exchange that I had with the Home Secretary earlier and to move slightly away from whether the Home Secretary or judges should make the initial decision on control orders. I believe that the practical outcome of those two different approaches would not be wildly different. The issue of principle is a major difference, but the practical outcome in terms of who is detained is not likely to be so great.

We could argue that the Government should change their position or that the Opposition have no basis for bringing down the legislation here or in another place, but I want to focus on what happens at an earlier stage in the process. In either model at the moment, the intelligence services and, perhaps, the police present a case to the Home Secretary, which he decides there and then, or takes to a judge. I firmly believe that we need to focus our attention on the process between the advice from the security services and whatever action the Home Secretary then takes. That is critical to the integrity of the decision making. After all, the Home Secretary is not simply deciding in his model whether to issue a control order. He is implicitly taking several different decisions. He is deciding not to prosecute. He is deciding not to carry on looking for further evidence. He is deciding not to rely only on surveillance.

We know—at least, we are told—that the Home Secretary will consider those alternatives, and he has repeatedly said that his preference is to prosecute when possible. The problem for the Home Secretary and for the House is that under the current proposals he has no way to demonstrate that he has considered the alternatives and chosen control orders—whether he makes them himself or applies to a judge—as the best option.

Mr. Carmichael: Why does the right hon. Gentleman assume that no further investigation would take place because a control order had been made? A control order would not be a barrier to further investigation.

Mr. Denham: That is true, but in practical policing terms, once an individual had been alerted by the existence of a control order, the chances of picking up further information that might lead to prosecution would be greatly lessened. In other jurisdictions, such as the French, the process, which usually involves the investigating magistrate and the Ministry of Justice, allows a rational choice to be made between the options.

Mr. Hogg: If the ability to make a control order existed, the Home Secretary would not be under very much pressure to authorise further surveillance or make an attempt to prosecute. He could simply rely on the control order.

Mr. Denham: Indeed, and each Member of the House might have to face a constituent whose son, daughter, mother, brother or father is subject to a control order asking for an assurance that it was not only an appropriate response but the most appropriate response. The current procedure would not allow us, or the Home Secretary, to demonstrate that.

Equally, it is not appropriate to ask a judge to make the judgment between different strategies—that is a crucial point. Judges are equipped to take a yes/no decision: they are not equipped, trained or given the remit to choose between three or four different strategies. Therefore, we need to add to the system a process of choosing between the different options. That is something that we could learn from the French system, in which the procedures involving the Ministry of Justice and investigating magistrates appear to allow more proactive consideration of different options.

My right hon. Friend the Home Secretary could make that change with limited, and possibly no, additional statutory powers. He could invite the Director of Public Prosecutions to review in every case the evidence, information and files, and to certify whether a case was prosecutable, to see whether further evidence could be gathered, or to discuss with the appropriate authorities whether continued surveillance would be possible.

If we adopted a proposal from my hon. Friend the Member for Stafford (Mr. Kidney), a simple amendment could place a statutory requirement on the Home Secretary to examine those options and to make that part of whatever judicial process followed. Indeed, if one wished to be inventive and constructive, some

[Mr. Denham]

judicial skills could be involved in that process. If we did that, the Home Secretary could demonstrate, for each individual case, that the alternative approaches had been independently reviewed.

Some may argue that that option would mean a massive change in the role of the DPP in this country. However, over the past 18 months, as the Crown Prosecution Service has developed CPS charging—instead of the police always doing the charging—we have seen greater day-by-day co-operation between the CPS and the police on the question of relevant and appropriate evidence. In other words, we have moved slightly closer to the more investigatory role that other jurisdictions have. It would be no bad thing if the DPP were invited to play that role, given adequate vetting and security.

I think that my right hon. Friend would say, "Look, as Home Secretary I receive legal advice on these cases; it is not simply a case of closeting myself away with MI5 and MI6 and having a look at the files." When I was a Home Office Minister, I never dealt with the individual cases of those held in Belmarsh, for example, but I did deal with two types of decision that are at least analogous to this one. The first involved the signing of public interest immunity certificates in terrorist cases coming before the courts, and the second involved agreeing stop-and-search powers under section 44 of the Terrorism Act 2000.

The truth is that Ministers get legal advice from Home Office officials on PII certificates. I intend no criticism of those officials, but Ministers know that they have worked very closely with the security services in presenting the advice according to which Ministers are invited to sign PII certificates. In my experience, it was quite difficult to feel that the advice one received was wholly independent and objective, and I found going through the relevant files an extremely time-consuming process.

Mr. John Taylor (Solihull) (Con): When Ministers sign PII certificates, they are not making any decision beyond deciding to put matters before a judge, who will have the last word. The Minister makes the application, and the judge makes the decision in the interests of justice.

Mr. Denham: The hon. Gentleman is absolutely right, but I am simply trying to highlight the difficulty experienced by the Home Secretary in relying on internal legal advice in considering these processes, compared with having an independent body such as the DPP examine such cases. The situation was very much the same in respect of section 44 of the Terrorism Act 2000. Ministers could rely on advice telling them to rule out something illegal, but they could be much less confident that the option being offered to them was the best and most appropriate use of the power. This is a critical issue, because a control order is a very significant order. The point is not just that using one should be legal, but that it should be the most appropriate power to use in the circumstances.

There is not much time to consider this issue, but as the House has heard, my view is that introducing such a procedure would greatly strengthen my right hon. Friend the Home Secretary's proposals, which I will vote for tonight, because he has given much consideration to the question of who initiates such decisions, for example. This procedure would make the decision-making process better.

I will conclude by making two quick points. I suspect that when we confront this issue with our Muslim constituents in particular—it is they who are most likely to feel aggrieved at the new measures—we will find that the difficulty lies not so much in whether the Home Secretary takes the decision and a judge confirms it, or whether a judge takes the decision, but in whether the other options, including the possibility of prosecution, have been adequately explored. We must build in a procedure that enables us to say with absolute confidence that the latter is the case. As the shadow Home Secretary rightly said, we have to look at all such laws and measures in terms of their impact on wider community cohesion, and on our ability to get all communities in society behind us. We must prevent these issues from becoming those on which radical elements focus in order to spread their poisonous views.

My second point is that there is a big issue of principle for many of us in extending these powers to British citizens. However, we must be realistic, and in my judgment the type of terrorism that we currently face will be with us for many years to come. Nothing in our past experience of terrorism, or that we can see in the international situation, suggests that the threat is likely to diminish. We already know that some British citizens have been involved in international terrorist activities associated with al-Qaeda, and it would be astonishingly naive to believe that we will not confront that threat in years to come. It is necessary to have a legislative framework that deals with both foreign nationals and British citizens, which is why it is important that we get the legislation on the statute book and why we should not think that we do not need to tackle the problem with considerable urgency.

4.19 pm

Mr. Peter Lilley (Hitchin and Harpenden) (Con): Nearly all of us in the House accept that the Home Secretary is right when he says that we face a qualitatively different threat, so it behoves us at least to consider whether it is necessary to curtail to some degree traditional civil liberties in this country. I accept that, to some degree, that may be so, but we should try to secure the life of the people of this country with the minimum loss of their liberties.

For my part, if there is to be a loss I would try to limit it to the smallest group of people, which in the first instance seems to be foreign nationals, rather than extending the loss of liberty to British citizens as a whole. I would want to minimise the reduction in the burden of proof and the procedures for proof, which are, as my hon. Friend the Member for Beaconsfield (Mr. Grieve) rightly pointed out, equally important. Above all, I would want to minimise reliance on political decisions rather than independent judicial decisions. That is where I take a completely different line from what the Government are proposing in the Bill.

Normally, when we consider matters of this gravity, the Home Secretary, the Prime Minister and the Government seek consensus. They try to take a

balanced approach and to eschew partisan rhetoric and point scoring, to maximise support for any reduction in liberty or curtailment of our freedoms. Sadly, that has not been true on this occasion. The Government have made rather pathetic attempts to use the Bill both to burnish their own credentials and to tarnish the Opposition's credentials on the treatment of terrorism. I have to say that that makes it more difficult to give them support, because we cannot but have doubts when powers are introduced in a partisan manner that they may be used in a partisan manner. We remember all too well how the Government were prepared to summon tanks to Heathrow when that was helpful to them, but not to explain subsequently why the tanks were there.

Mr. Denham *rose—*

Mr. Lilley: I will give way in a moment, as I tend to say rather nice things about the right hon. Gentleman, who made an important and valuable contribution to the debate.

Ministers are responsible to the House for securing our lives and upholding our liberties. They should be responsible to the House for putting in place systems for securing that rather than for putting individuals away simply on the Government's say-so. Sadly, Ministers are trying to take powers that would give them personal responsibility for putting people away, while avoiding full accountability to the House by curtailing debate on the Bill in a shameful way and putting the responsibility on others who are not accountable.

At Prime Minister's questions today, the Prime Minister repeatedly invoked what he described as the unanimous recommendation of the police and all the security agencies for the measures that the House is considering. It is wrong in principle for Ministers to invoke their public servants, who are not accountable, to justify measures that those who are accountable are proposing to the House. There are a number of reasons why we should not accept the advice of the security forces without first questioning, probing and evaluating it and weighing it up against other factors. The right hon. Member for Southampton, Itchen (Mr. Denham) was right to point out that that is the responsibility of Ministers. A Minister must take decisions on the basis of the advice that he is given, but it is his decision what advice he takes. If he takes bad advice, he is responsible if he has not first probed, tested and evaluated it and made it his own. We have to question the advice that we receive from the security forces and the police, because the Government must weigh security against liberty. The security forces have to consider only one thing. They do not have to put anything else in the other scale. They just have responsibility for trying to maximise the security of this country against security threats.

Secondly, the police and secret services will always think that they know things that they cannot prove and will want to seek to avoid having to prove what they just suspect. Unfortunately, sometimes their suspicions turn out to be false, and they can turn out to be false on quite a large scale, not just on individual occasions. We should remember when taking these powers that the House granted a previous Government the power to introduce internment without trial in Northern Ireland. We should remember how that turned out. I quote from a note from the Library, which in turn quotes a book by Paul Wilkinson, which said:

"Internment or detention without trial, was introduced in 1972"

because it

"was argued that the normal judicial processes had proved incapable of providing essential protection for society. The police were hamstrung in their efforts to bring known terrorists to trial, and to have them convicted."

But, as it turned out,

"many of those netted by the security forces had little or nothing to do with involvement in IRA terrorism."

We know the consequences of that. They were threefold: it was not just, first, that individuals were wrongly interned and thereby often radicalised; it was that the guilty were left free to go on carrying out their terrorism; and the community was alienated and often shifted to supporting the very terrorists with which it had previously had no connection. That is why an early action of this Labour Government was to repeal from the statute book the power to introduce internment without trial.

What the then Minister, Lord Dubs, said at the time was:

"The Government have long held the view that internment does not represent an effective counter-terrorism measure . . . Quite apart from any judgment about its appropriateness in principle, the fact is that internment has not worked in practice. Indeed many would say that it was a disaster when last used in the 1970s. There is nothing to suggest that it would be . . . more effective in the future . . . We cannot envisage any circumstances in which we would seek to deprive an individual of his or her liberty without trial and without the normal safeguards that the law provides for the protection of suspects. Such action would surely run counter to the rule of law as it is understood internationally."—[*Official Report, House of Lords*, 12 January 1998; Vol. 584, c. 889–90.]

In fact, obliging the security forces to find convincing proof, rather than relying on suspicion, will enhance the security of the country, as well as protecting the liberty of the individual.

Mr. Trimble: I do not wish to get into an argument with the right hon. Gentleman about precisely what happened in 1971 in Northern Ireland, but I should like to point out that, even if he takes the view that such measures failed then, he must put into the balance the fact that they were used successfully in the 1920s, 1940s and 1950s in both Northern Ireland and the Republic of Ireland, and of course in England and Wales during the first and second world wars. For that reason, he should not take up an absolute position against this reserve power, which might be necessary.

Mr. Lilley: I thought that I made it clear that I was not taking up an absolute position against that power. I do accept that there may be a need for curtailment of liberties, but it is up to the Government to persuade us of that in proper and, if necessary, prolonged debate in the House, by investigating the evidence and experience of what has happened in the past and justifying, on the basis of that evidence and experience, what they propose to do in future. One thing that we cannot doubt is that many innocent people were rounded up on the say-so of the police and security authorities, who told Ministers that they knew who was doing it, that they could lock them up, but that they just could not prove it. It is important to remember that.

Sir Patrick Cormack: Is not the fundamental problem that whereas it is absolutely right to say that it is far better for a guilty person to go free than for an innocent one to be punished, when we are dealing with not only homicidal but suicidal terrorists, surely we must set the greater good and the greater safety of the greater number as the first priority?

Mr. Lilley: Indeed, but we should be cautious about doing that in ways that could tip more people into joining the very terrorist organisations that we fear. We should find ways that try to assess each individual, preferably before someone who is independent rather than political, rather than just taking the say-so of the security forces that they know best.

A third reason why we should question, yet not reject, advice from the security forces is that they always have an interest in asking for more measures than they expect to get. When I was Secretary of State for Trade and Industry, I was summoned to appear before the heads of all five agencies because they felt that something that I wished to do—even now, I cannot reveal it to the House—would impinge on methods of surveillance of which I was previously unaware and of which I hope that all hon. Members are still unaware. I wanted none the less to introduce the changes, which have gone on to have a beneficial impact on this country's prosperity, so I argued against the agency heads. It eventually emerged that they could work round my proposals, so they let me go ahead, but they asked for more measures because they wanted to find out how much they could get. In the end, however, they were happy to get nothing and to work round the situation themselves.

There are even greater reasons why the security forces ask for more than the Government can concede now. They know that if they are unable to prevent a major terrorism event—God forbid—it is better for them to be able to say that the Government refused them something than to say that the Government offered everything that had been asked for. The Government, in turn, seem to be playing much the same form of brinkmanship with the House by saying, "If you reject this, we'll label you as soft on terrorism." It is important not that we reject the proposals before us, but that we deal with them sceptically and with great deliberation and find out whether there are better ways of achieving the same result.

Fourthly, the security forces will always want to keep the processes that they use under wraps. They sometimes want to do that for the good reason that terrorists do not know about these processes and they want to keep them secret so that they can continue to be used without the terrorists realising it. It is probably a little known fact in the House that I was acting Home Secretary for one weekend when my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) was abroad.

Mr. Llwyd: Oh, that weekend!

Mr. Lilley: It was a bank holiday weekend, so it was quite a long one. I found myself being invited to sign documents and permissions to do all sorts of interesting things. It was right for some of them to be kept secret, even though some processes were quite simple, as the IRA probably did not realise that they were being carried out. However, one felt that other processes were being kept secret simply to retain the mystique of the organisations, because they like having secrets and being able to say, "We can tell you, Minister, but you mustn't tell anyone else."

Departments have an interest in emphasising the importance of what they do, so the secret services and the police likewise have no incentive to understate the threats and risks—both general and specific—that the country faces. That is not to deny that we might face an enormous risk, as I said earlier, but we should want to assess and deliberate on each individual case with scepticism and put it to an independent legal test.

Mr. Dalyell: Does the right hon. Gentleman recollect the case of Matrix Churchill and public interest immunity certificates? Does that not warn us to be extremely careful?

Mr. Lilley: I would love to go down that line on another occasion, but there are better examples of why we should be careful.

We should not ignore the advice of the security authorities either on policy or on individuals. We should take it extremely seriously. They are brave, honourable supporters of the state and the public interest. We should do what Ministers clearly failed to do in the case of weapons of mass destruction—question, probe and evaluate any evidence that we receive from them before we adopt it, and then Ministers should adopt it in their own authority and not pass off the responsibility and blame to officials.

Sadly, the Government are trying to escape responsibility for what they are doing. They are trying to escape proper debate about what they are doing. I believe that the outcome would be far healthier were the debate longer, and were we able to accept the advice from the Conservative Front Bench and prolong existing measures until we are sure that we are putting in place something that will ensure the security of the nation, which might involve some curtailment of liberties, but will, I hope, not go as far as saying that individuals can be put away on the say-so of a politician rather than an independent judicial source.

4.35 pm

Mr. Chris Smith (Islington, South and Finsbury) (Lab): As many Members from both sides of the House have observed, we must acknowledge at the outset of debates on these matters that they relate to the very difficult issue of the essential balance between public safety and individual liberty. In relation to judging where legislation should fall in order to strike the right balance, the Home Secretary has struggled with these extremely difficult and serious matters, as has the House. I spent a year of my life on the Newton committee struggling with the self-same issues in relation to the Anti-terrorism, Crime and Security Act 2001.

We must also acknowledge that the Home Secretary has listened to some of the points and criticisms that have been made by Members from all parts of the House in recent months. I welcome the fact that he intends to discuss seriously with other countries the possibility of guarantees of fair treatment if deportation is seen as the

appropriate action. I welcome the fact that he is considering a new offence of being concerned in terrorist acts. I also welcome the clear statement that he has given to the House today that prosecution with proper trial must always be the preferred choice if that option is available. The arguments put by my right hon. Friend the Member for Southampton, Itchen (Mr. Denham) in relation to that and the need to strengthen that proposition are well made.

Above all, I welcome the fact that the Home Secretary, in response to the Law Lords' Belmarsh judgment, has sought to introduce a range of charges and penalties that can be imposed so that a particular threat can be met with a proportionate response. That must be the right principle to adopt.

As is the Home Secretary's wont, he has listened to a lot of what has been said to him and he has considered carefully the points that we made in the Newton report. Because he has made progress on these matters, I do not intend to join the Opposition parties in the Lobby tonight, but I fear that I cannot join my right hon. Friend in the Lobby either, because I remain very concerned about certain aspects of the Bill. I have one overarching concern, and I want to make three more detailed points.

The fundamental point relates to that balance between public safety and individual liberty and justice. Let us never forget that the greatest victory that terrorism can have is if it forces us to abandon the very principles of liberty, democracy and the right to justice which we are all seeking to defend against terrorism. These principles should be abandoned only in the face of the utmost and urgent necessity, when the case is utterly compelling, when there is imminent proven danger and when there is absolutely no alternative to taking that action.

Mr. Cash: The right hon. Gentleman should recall that during the war, when there were emergency powers, there was regulation 18B, but habeas corpus was still available. It was only because of a disgraceful case called Liversidge v. Anderson that all the issues relating to proper due trial and justice were overruled. That case has been effectively binned by subsequent decisions in the House of Lords. Habeas corpus still applied during the war in the extreme circumstances that the right hon. Gentleman has mentioned.

Mr. Smith: The hon. Gentleman makes a valid point. He also reminds us usefully of the experience of the first and second world wars, the use of internment powers during those conflicts and the problems which arose for many individuals because of wrongful internment. Those are issues that we must always bear at the back of our minds.

I accept the point made by my right hon. Friend the Home Secretary about the qualitative difference of present-day terrorism. However, I am not entirely convinced that such absolute circumstances in favour of extreme action exist here and now and require a decision to be taken, apparently, in the next five days. Deciding to take such a step because the security services say that it will be useful is not a sufficient reason for doing so. Of course they will say that the power will be useful. Of course they will say that they would like to have it. It is the job of Government and Parliament to test rigorously whether it is absolutely necessary.

Mr. John Redwood (Wokingham) (Con): The right hon. Gentleman is making a powerful speech. Does he agree with me that, as a way forward, the Government could frame an amendment to the law against terrorism to capture and to meet their worries about people whom they are detaining or wish to detain? In that way a case could be brought in court against those people for whatever it is that they have done that has led the security forces to have such fears about them. I would have thought that everybody would then be happy that due process was being followed and that people who were likely to commit terrorist attacks could be captured by the law.

Mr. Smith: I am not sure that I follow the right hon. Gentleman entirely in that. I accept that there may be a relatively small number of cases in which evidence is available to the security and police services that cannot be advanced in open court because of the source of that evidence, and that there must be some procedure to take account of those particular cases. It is because I accept that there is a possibility that that is an issue that I believe something along the lines of what my right hon. Friend the Home Secretary is struggling to achieve may be necessary, but I do not think that he has got it completely right.

Mr. Mark Fisher (Stoke-on-Trent, Central) (Lab): Does my right hon. Friend agree that exactly the same situation arose in Northern Ireland in relation to admissible evidence, and that that was dealt with over a number of years? Indeed, the right hon. Member for Wokingham (Mr. Redwood) will know better than anyone in this place that it was dealt with without recourse to the powers that we are considering today.

Mr. Smith: My hon. Friend is, of course, right. One can observe that the situation in Northern Ireland was dealt with rather successfully because a range of different approaches were taken to the issue, which, taken as a whole, provided an appropriate response.

I said earlier that I have three detailed points of concern. First, I cannot understand the rush. In the Newton committee, we examined the Anti-terrorism, Crime and Security Act 2001 in detail and looked at how it was brought on to the statute book. Our unanimous conclusion was that it never makes sense to legislate in haste on matters of such gravity. In response to the failures and flaws of the 2001 Act, which was introduced in haste, I fear that we are introducing further legislation in haste.

There are ways of getting round the problem of urgency, to which both the Prime Minister and the Home Secretary have alluded. It would be possible to extend the existing powers for a strictly limited period of time by agreement across the parties in this House. Especially in view of the fact that the Home Secretary has specifically said that he does not want to trigger the derogation powers that he is giving himself in the Bill, it is surely possible to leave that element out of the Bill entirely, rapidly to process the remainder of the Bill through the legislative procedures and to return to the

[Mr. Smith]

derogation proposals and examine them at greater leisure. It is surely better to try to get it right than to get it quickly.

Secondly, I fail to understand why the Home Secretary continues to refuse to consider the use of intercept evidence in court. I know that the security services are against such a proposal, but pretty well everyone else is in favour of it.

Lynne Jones: I am not sure whether my right hon. Friend is right to say that the security services are opposed to the use of intercept evidence. Stephen Lander, the former head of MI5, used to be in favour of it—he only changed his tune when he got his new job in the Serious Organised Crime Agency—and Stella Rimington and a range of other people from the security services support it.

Mr. Smith: My hon. Friend is, of course, right to identify the fact that many authoritative voices are putting forward that particular view.

Using intercept evidence in court is not a wholesale solution to the problems that we face, but it would help. It is used widely in other countries, including countries such as the United States that face similarly severe terrorist threats. In the Newton committee, we received evidence that evidence derived by the UK security services through intercept in the UK has already been used as evidence in open court in other countries. Legislation permitting the use of intercept evidence could protect the use of evidence that might genuinely endanger national security. Such evidence could be used on an optional rather than mandatory basis, but the blanket ban can and should be lifted.

Thirdly, I remain concerned by the nature and process of judicial authorisation for control orders. I welcome the Home Secretary's acceptance that some judicial participation in the process is required, although what he is proposing in the Bill is limited and would occur only after the event. Imposing a control order first by political decree, and then only subsequently giving limited judicial consideration to it, runs the risk of unbalancing the whole process, because once an order is in place it is much more difficult to overturn and the burden of proof shifts with the status quo. The decision should be justified properly to a judge, even in some summary form, from the outset. I accept, of course, the issues that might arise over the speed of decision making, but I hope that, with a serious willingness to find a consensual way forward, it would be possible to derive a better system, perhaps by having a system of accredited judges on call for initial and rapid interim consideration of proposals made by the Home Secretary.

These are difficult issues: they arise because we live in difficult times. But sometimes the apparently easiest answers are not necessarily the right ones. I hope that the Home Secretary will continue to give careful consideration to the genuine and serious concerns that many on the Labour Benches still have about the precise proposals that he has brought to the House today.

4.50 pm

Mr. Boris Johnson (Henley) (Con): I hope that the House will forgive me if I begin by repeating some of the powers that the Home Secretary is about to take under this Bill: the power to lock someone up in their own house; the power to stop other people visiting that person; the power to remove any item of property from that person's house; the power to tag that person; the power to ask that person to surrender his or her passport, to report to a police station and to produce any information demanded of him—in other words, the power to incarcerate that person.

These powers are to be exercised against anyone whom the Home Secretary deems to be involved in a terrorism-related activity. Such a person is defined in the broadest possible terms as, for instance, someone engaged in conduct that gives support or assistance to individuals who are known or believed to be engaged in terrorism-related activities. It is the intention to detain such people without trial for an unlimited period, contrary to the most basic principles of English law.

Why have we come to this position? These extraordinary control orders are made necessary because of the House of Lords ruling in December that rightly threw out part 4 of the Anti-terrorism, Crime and Security Act 2001. The Lords pointed out that it was absurd and discriminatory to detain a foreigner and not a UK national, since many of the suspects associated with al-Qaeda are known to be British. The Lords pointed out, furthermore, that it was nonsense to say that someone could present such a threat to the life of this country that he could be detained without trial and yet could be told that he was at all times free to leave this country and go and plot against this country abroad.

Mr. Hogg: Does my hon. Friend share my sense of astonishment that we have come to the point at which we are imposing such controls on British citizens as a consequence of an interpretation of the convention on human rights that was designed to protect the human rights of British citizens?

Mr. Johnson: My right hon. and learned Friend adverts to a relevant paradox in the whole business. It is a sign of the Government's incompetence that they have been brought to this pass, because they had a choice. At the moment of reversal at the hands of the Lords, the Home Secretary could have ceased to derogate from article 5 of the convention on human rights and ceased to detain without trial, or he could have chosen to widen detention without trial so that all UK citizens could be banged up on his say-so.

Mr. Cash: Will my hon. Friend note that, in Lord Newton's judgment, he prescribed that the new legislation should deal with all terrorism whatever its origin or the nationality of its suspected perpetrators, and should not require a derogation from the European convention on human rights? In other words, relying heavily on the European Commissioner for Human Rights' opinion of August 2002, the Government found themselves effectively boxed in by the prescriptive arrangements provided by the European convention and by the Human Rights Act 1998.

Mr. Johnson: My hon. Friend is learned beyond my wildest dreams in matters connected with the European

Union, and he makes an entirely valid point. I do not object so much to the fact of derogation from the European convention on human rights; what I object to in this widening of the principle of detention without trial to apply to all UK citizens is that what we are talking about is nothing less than the suspension of habeas corpus. It should be a fundamental principle of our system that when the state detains a person, they have the right to trial. To remove that basic right is a step that has been taken very few times in our history. It was taken in 1793, when William Pitt removed it following the execution of the King of France and in the revolutionary terror that swept Europe, and it was removed in 1817, opportunistically, by Lord Liverpool. As the Law Lords rightly said, habeas corpus, the right to trial, is a fundamental part of our liberties.

We do not have that right by virtue simply of this European convention; we have it by virtue of 800 years of history and it is enshrined in the Habeas Corpus Act 1679. In order to take it away, the House must genuinely believe that there is a threat to our way of life—in other words, that we are at war. I accept what has been said from both sides of the House about the qualitative difference posed by the threat of al-Qaeda, but I do not believe that that threat is so extreme as to justify such an extension of the power of the state.

It is a great shame that we cannot be told more about the al-Qaeda plots that have been foiled over the past few years. But it is worth pointing out that we have all lived through decades of IRA terrorism, and more British people died annually at the hands of the IRA in the '80s and during much of the '90s than have died since 11 September 2001 at the hands of al-Qaeda. We abandoned detention without trial in 1972 because Operation Motorman, in its attempt to suppress the IRA, proved to be such a failure. Why, therefore, are we reintroducing it now, when I do not believe that we face anything like a warlike threat?

The Government say that our ancient liberty will be protected by the role of the judge who must review the demand of the Home Secretary for certification. On the face of it, as has already been said, that is a flimsy protection. The judge merely has to decide whether the Home Secretary has information capable of constituting reasonable grounds for the Home Secretary to make a control order. I think that you, Mr. Deputy Speaker, will agree that information capable of constituting reasonable grounds is a million miles away from properly satisfying a court that a man should be locked up.

Jeremy Corbyn: Does the hon. Gentleman agree that one of the problems with that test is that the Home Secretary might indeed have reasonable grounds for believing somebody to be dangerous on the basis of security services evidence but he would have no way of challenging that, and no one else would either, even if it was proved at a later date to be completely inaccurate, and that a grotesque miscarriage of justice may have taken place in the meantime?

Mr. Johnson: I am grateful to the hon. Gentleman for so lucidly anticipating the very point that I was about to make. It may be relatively simple to satisfy a judge that the matters relied upon are capable of constituting grounds for a control order, but that is very different from properly testing, in the adversarial context of a court, whether the information is any good, or whether it has been laid before the Home Secretary by security services that may be either inaccurate or have an axe to grind.

The Father of the House has already made an apposite point about our recent disappointments over weapons of mass destruction. Doubtless, it would have been possible to satisfy a judge that the matters relied upon in respect of the Belmarsh detainees constituted the ground for a control order. Yet several detainees are to be released following the Lords ruling and the Government tell us that, upon their release, they will not be suitable candidates for house arrest. In other words, they have been inside for three years, with the approval of the Special Immigration Appeals Commission, yet now that they are to be released, the Home Secretary says that they are not candidates for derogating or non-derogating control orders. How can we have any confidence that the Bill will protect the innocent when years are already being taken out of people's lives, we do not put them on trial and, when they come out, we implicitly declare that their incarceration was pointless?

I simply do not accept the Government's argument that allowing suspects the right to trial would prejudice sensitive wire-tapping techniques deployed by the intelligence services. As my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) and my right hon. Friend the shadow Home Secretary have said, it is perfectly possible to have a system whereby a pre-trial judge could decide whether details of wire taps should be made available to the full court, and how to be fair to both the defence and the prosecution. That point was made by the right hon. Member for Islington, South and Finsbury (Mr. Smith), who is my Member of Parliament.

Mr. Chris Smith: It is a burden that I wear lightly.

Mr. Johnson: I am most grateful and I am glad that we are united on the subject of the debate. The right hon. Gentleman constructively outlined what the Government should do. He said that wire-tapping evidence should be admissible in court. It is a mystery to me that the Government reject his wise counsel. I should like to know why. I believe that they do so because, as my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley) said, the Bill is a classic secret policeman's measure.

I do not doubt the security services' good intentions. I am sure that all hon. Members agree that they have done a magnificent job in protecting us thus far from the undoubted threats that terrorists pose. However, I cannot for the life of me understand why the state feels it necessary to take new powers now. The control orders would be instantly recognisable not only to the old BOSS security services in South Africa, but to every secret police force, including the Cheka, OGPU, the NKVD and the Securitate.

I cannot believe that Labour Members of Parliament entered politics to take away habeas corpus. I hope that the impassioned denunciation by the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore) will ring in the Home Secretary's capacious ears when he formulates the climbdown that so many of us, from all parties, hope that he will propose in the next few days.

[Mr. Johnson]

In a hotly contested field, the Bill is one of the worst Government measures that has been produced in my time in the House. No responsible Opposition could conceivably let it through unamended. It is reminiscent of the actions of some tottering Belgian coalition Government of the early 1970s, using the threat of terror as an excuse to enact repressive emergency measures that are never removed from the statute book. I hope that there will be a significant revolt in the Lobby tonight, and that it will be joined by the right hon. Member for Holborn and St. Pancras (Mr. Dobson), who is about to speak.

5.4 pm

Mr. Frank Dobson (Holborn and St. Pancras) (Lab): I should perhaps declare an interest: the offices of *The Spectator* are in my constituency.

No one can deny that the scale and, more particularly, the nature of terrorism have changed in recent times and that we must respond to that change. Up to now, our criminal justice system has been geared to the idea of detecting criminals after they have committed their crimes, and then punishing them. The threat from suicide bombers has changed that because, for them, the prospect of punishment is clearly no deterrent. We must therefore change some aspects of our system, the better to prevent terrorist crimes from being committed in the first place.

That is why I supported the earlier prevention of terrorism legislation as a stopgap, and why I have argued for some time that detention in Belmarsh should be replaced by a measure such as control orders to cover some people suspected of involvement in terrorism. So I support, in general, the Government's proposals to introduce control orders that might, for example, restrict suspects' freedom of association, use of communications or access to particular venues or neighbourhoods. However, I cannot and will not support any law that would allow a British citizen to be imprisoned without trial on the say-so of the Home Secretary. There is nothing personal about that: the present Home Secretary is a decent man. But no Home Secretary should have the power to deprive a fellow citizen of his or her liberty without having to lay convincing evidence before a court, and letting the court decide.

The Home Secretary has said that he is responsible for the safety of the country, and that that is why it is constitutionally right for him to initiate the control order process. I have no problem with that, but the power that he seeks from us today is not just to initiate control orders but to implement them. That is why I cannot support what he is proposing. There is a greater constitutional principle at stake here than the duties of the Home Secretary: the fundamental constitutional principle that Ministers cannot lock up fellow citizens. Only courts can do that.

It has been suggested that having to bring each case to court would put innocent lives at risk by preventing the Home Secretary from acting promptly if he believed that there was an immediate threat. That is simply not true. Suspects can be arrested immediately, kept for 14 days, and then possibly remanded in custody until evidence is submitted to a court. I use the word "court" deliberately. That may mean a judge sitting as a court, but the judge and his judgment would be subject to court rules and procedures designed to ensure consideration of the facts as well as the law, and to balance security with justice in what we must all admit are difficult and perplexing circumstances. The right for our case to be heard before a court is the bedrock of our system of justice.

That brings me to my final point. No mature democracy has ever been overthrown by terrorism. The terrorist bosses know that as well as we do. Their aim is not to overthrow our system of government but to provoke responses from us that damage us in the eyes of the people whom they wish to impress. In the case of this country, one of the things that they want to do is get us to abandon our long-standing and honourable claim to be a society that rejects arbitrary imprisonment and rests instead on the demanding and constraining concepts of natural justice and the rule of law.

That is why I cannot accept the Home Secretary's proposals on house arrest. They undermine the timeless rights of British citizens, and would undermine our standing in the world.

5.9 pm

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): We have just heard a very important speech. Following on from my hon. Friend the Member for Henley (Mr. Johnson), I place it with the speech by the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore), who is to retire at the next election. That was a moving speech because it recounted the very purpose why we are here and the traditions with which the Labour party was most closely associated: the beliefs, rights and freedoms of the individual. Collectively, this Parliament should be asserting what is our constitutional and legal history.

The interesting thing about the Bill is that it draws us together on two themes: our own rights—the tradition from Magna Carta, through habeas corpus to the age of universal democracy in this country—and the protection of our rights through the quasi-separation of powers between the judiciary, the Executive and Parliament itself. In fact, the Government have stumbled not because of the traditions of this country but because of their own flagship legislation, the Human Rights Act 1998. My purpose, in the few minutes that I have, is to try to draw to the attention of the House why I think all this will founder yet again on the basis of that Act.

The Bill gives the Secretary of State powers to place an individual under house arrest or place such restrictions on their movements as amount to a deprivation of their liberty. The Bill refers to those powers as "derogating control orders". They are dealt with in clause 1(3)(g) and 1(4) and clause 2(1). In light of the Home Secretary's announcement that there is currently no need to derogate from article 5 because there are no individuals in respect of whom deprivation of liberty could be said to be strictly required, there would seem to be no need for the Government to take in this legislation the power to make derogating control orders depriving individuals of their liberty by, for example, placing them under house arrest.

Since it is now the Government's position that the intelligence relating to the current detainees cannot justify the deprivation of their liberty, all the

Government need to do to meet the concerns expressed by the Law Lords is to provide themselves with the legal basis on which to deal with the current detainees in a way that is proportionate and non-discriminatory. If that can be done, as the Government now say, by measures short of deprivation of liberty, there is no need, in order to deal with the current threat to the nation, to take much wider powers that, by the Government's own admission, are not at present strictly required.

At the very least, there can be no justification for including such wide and unprecedented powers of Executive detention in legislation that is being rushed through Parliament at a speed and on a guillotine that prevents proper scrutiny, in order to get it on the statute book in time to deal with those detained under provisions that are shortly to expire. Legislation passed at such speed should be confined to that which is essential to deal with the problem about to arise. The problem for the Government is what to do with the detainees if the law under which they are currently detained lapses. The Bill should be confined to that, which means that all the provisions concerning derogating control orders should be taken out of the Bill, if necessary to be returned to when there is more opportunity for careful parliamentary scrutiny.

In any event, it also appears questionable as a matter of law whether creating a domestic legal framework that provides in advance for derogating control orders can itself be done without derogating from the European convention on human rights at the time of creating the framework itself, which would require the Government to demonstrate the necessity for having such a framework at the level of threat that currently exists.

The Bill provides for control orders to be made by the Secretary of State that have the effect of depriving individuals of their liberty without any prior judicial involvement and without any intention of bringing them before a court on a criminal charge. The Bill does provide for automatic consideration of such derogating control orders by the High Court within seven days and requires the court to quash the order if not satisfied that the matters relied on by the Secretary of State were capable of constituting reasonable grounds for him to make a control order against that person, or for imposing an obligation amounting to a deprivation of liberty. It also provides, in all other cases, for there to be a hearing by the court. The court must conduct its own hearing and make its own determination of each of the matters determined by the Secretary of State. All that is after the event and not prior to judicial involvement in the decision to deprive someone of liberty.

Mr. Hogg: What is more, the process is imperfect because a detained person does not have access to the documents or the evidence and will not have a chance to defend himself or herself against the accusations.

Mr. Shepherd: I am grateful to my right hon. and learned Friend, who anticipates me.

The degree of judicial involvement provided for in the Bill in relation to derogating control orders is unlikely, in my view, to be compatible with the requirements of the European convention on human rights—in particular, with the requirement in article 5 that any deprivations of liberty must be

"in accordance with a procedure prescribed by law".

Other than in the exceptional circumstances enumerated in article 5(1)(a) to (f), deprivations of an individual's liberty require prior judicial authorisation if they are to be in accordance with a procedure prescribed by law. Such prior judicial authorisation is regarded by the European Court of Human Rights as an inherent feature of the rule of law, which requires safeguards against arbitrary detention. The House is familiar with all that, because it has watched over these practices through the centuries.

The Home Secretary's reason for refusing to countenance prior judicial authorisation of the deprivation of liberty is that that would be to abdicate to the judiciary the Executive's responsibility for national security, for which it is rightly accountable to Parliament. With due respect to the Home Secretary, that is an eccentric interpretation of the constitutional doctrine of the separation of powers. It is a long-established principle of the British constitution that, outside the field of immigration, the Executive have no power to detain individuals without prior judicial authorisation, or in circumstances where it is intended to bring the individual before a court as soon as possible for further detention to be authorised.

Both Parliament and the Executive have long accepted and respected the judiciary's responsibility for the liberty of the individual. To invoke national security to deny that role is to subvert our traditional constitutional division of powers. The Home Secretary's argument would, absurdly, apply equally to criminal justice. The Home Secretary is undoubtedly responsible to the public for protecting them against crime, but nobody would suggest that it is an abdication of that role for the Executive to accept that the courts are the appropriate constitutional branch to decide whether particular individuals should be deprived of their liberty. I hope that we will not hear any more such nonsense from the Home Secretary.

Even if there were room for argument about the proper separation of powers in the British constitution, it is unlikely—this is where the arguments will founder—that the European Court of Human Rights would regard the exclusion of prior judicial involvement in deprivations of liberty as compatible with the convention.

I shall leave the legal points there, but I reaffirm that this House is also a custodian of our freedoms. Everyone who votes tonight should be mindful of breaking a great trust and mindful of the fact that the Government—the Executive and a Secretary of State—will effectively be able to detain us. It goes against the spirit of this country, which has a powerful belief in liberty and freedom. The Government and this Home Secretary are striking against it.

5.19 pm

Mr. Graham Allen (Nottingham, North) (Lab): This debate is about the continuing and one-sided battle between Executive power and democracy, rather than about legalisms. The power of the Government has massively increased in recent decades and parliamentary power has diminished almost to the point of being

[Mr. Graham Allen]

extinguished. Judicial power has often made itself distant and irrelevant, so our system of checks and balances, such as it was, has grown weaker and weaker. That is why we have come to this pass today.

The Government are right to take measures to safeguard us from international terrorism, but Parliament is also right to insist on measures to preserve, especially in difficult times as well as easy times, the balance between security and liberty. If there is the will, in the House and in the Government, to achieve that balance, then further work is necessary on the Bill.

Like many colleagues on all sides of the House, I start from the premise that no Executive authority or Government Minister—even one whom I know and trust—should ever be given the ability to commit an individual to indefinite detention. The right to a fair trial and proper judicial process is a sacred part of our democracy. In a democracy, that right must only ever be suspended with the consent of the judicial process.

There are a number of ways forward on this issue. My right hon. Friend the Member for Southampton, Itchen (Mr. Denham) spoke about the Director of Public Prosecutions and about the need to make sure that evidence is presented in a way that allows a case to go forward. He also said that, if there were no case to answer, there must be a fall-back position, and I hope that the Government will explore that detail.

In addition, my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) and many other hon. Members made the point that, at present, the police have the ability to detain an arrested terrorist suspect for 14 days. If the Home Secretary wants that person to be detained longer because he has evidence that leads him to believe that that person is highly dangerous, he can within that period apply to a judge in the Appeal Court or the High Court, or whatever level is appropriate, for a time-limited detention order. We need to look at that aspect in more detail as we scrutinise this Bill. Once the order has expired, the Home Secretary must go back to the judge to seek a renewal.

Therefore, to make this bit of the Bill work, the Government have only to move from judicial review to judicial application. The difference is a fine one, but it is the difference between democracy and arbitrary power. It is a difference that Members of Parliament must be the first to recognise and advocate. If we do not do that, why on earth do we need a Parliament at all? It is our duty, and nothing less than our personal responsibility, to make sure that we ask these questions.

As long as the Government incubus controls Parliament, they can force such matters through. No doubt that will happen again today, but some of us in the House of Commons will insist on making our death-rattle heard.

Mr. Hogg: The hon. Gentleman is making a very serious point, but does he agree that another matter needs to be taken into account? That is the question of whether an individual should be subject to what amount to penal sanctions even though he or she has not been convicted of any offence. Will he consider that as well?

Mr. Allen: We all face a terrible dilemma in that respect, and none more so than the Home Secretary. Many hon. Members might indulge in flights of rhetoric that would disappear the first time a serious terrorist incident occurred. I certainly would not want to be one of them. The threat is immense: we can barely comprehend its nature, but it is very different from any threat that we have faced in the past. These are extraordinary times, and they require extraordinary measures. My point is that democracy must also respond in an extraordinary way.

David Davis: I hear what the hon. Gentleman says about concerns disappearing as soon as a terrorist event occurs, but does he accept that the main miscarriages of justice over the last couple of decades have happened in precisely the circumstances he describes—that is, after a terrorist event?

Mr. Allen: Indeed, and the pressure on the Government would be even greater if this House did not draw a line now. Hon. Members must try to imagine what a Government of any political complexion would be forced into if there were to be an atrocity on the scale of 9/11 in the UK. However, that is not to excuse any Member of this House from seeking to help Government find a way to resolve this very difficult and thorny problem. I hope that colleagues, and above all the electorate, will never forgive any hon. Member who makes political capital out of this problem.

We have witnessed today the extraordinary constitutional innovation of do-it-yourself pre-legislative scrutiny, which I welcome. If the House has any role whatsoever, it is to examine legislation before it is passed by the House—recently that has been very much in evidence in the area of criminal justice. I worked with the Home Secretary on student fees, and it is in his character to be open to ideas and influences and to seek to create better law. He deserves every credit for that, but would we not all have benefited if pre-legislative scrutiny were more protracted and considered than has been the case with our deliberations on the Floor of the House today?

Mr. Dalyell: My hon. Friend referred to the extraordinary times in which we live. In the interests of candour, is not one partial contributory cause the habit of America and Britain of indulging in illegal wars in the middle east?

Mr. Allen: If my hon. Friend will forgive me, I will not be drawn into the areas into which he is trying to divert me. None the less, questions about intelligence have some resonance in this area.

We could learn a lesson from the openness of the Home Secretary. I am delighted that he has met the shadow Home Secretary and the Liberal Democrat spokesman, and I congratulate the Prime Minister and others on their open-mindedness. That is the approach of the Executive and the putative Executive, but Parliament also has a responsibility. It must seize the opportunity to ensure that, in future, matters of this importance—and, indeed, the normal legislation that proceeds through the House—receive proper and early scrutiny, because that leads to better law that sticks and does the job that we would all wish it to do.

Mr. Grieve: Perhaps the hon. Gentleman would use his influence to pass that on to his colleagues on the

Front Bench. I was grateful for the opportunity to meet the Home Secretary and I am pleased that dialogue can take place. Nevertheless, it is not helpful when other people's reservations, if they go beyond a certain point, are immediately characterised as mere party political advantage and posturing. There are a wide range of views in the House, all of which are legitimate. I heartily endorse the hon. Gentleman's belief that we need to deal with this issue seriously. We are happy to do so, but at times we have been left with the impression that others are not.

Mr. Allen: If the hon. Gentleman waits for me to exert my influence on my Front-Bench team, he may be in for a very long wait, but I commend it for its open-minded approach to the issue and for listening. That may not have been the case previously, and I congratulate the Home Secretary on the way in which he has conducted the informal pre-legislative scrutiny. It is welcome and I look forward to a slightly more formal approach after future Queen's Speeches.

The power that the Government seek to arrogate is necessarily extraordinary, given the threat that we face. Our democratic response must be equally extraordinary. A one-club policy of containment of international terrorism will not suffice any longer. We need not only the proper involvement of the rule of law, which I hope can be achieved by hon. Members contributing to the progress of the legislation, but also the involvement of the legislature both pre-legislatively and post-legislatively. Given the relatively small number of cases—13 people, I understand, have been taken to Belmarsh in a three-year period—it is within the wit even of this demoralised and dragooned place to organise some parliamentary oversight. It is a shame that we have to fawn and beg the Government to do what is the rightful duty of most other democratic legislatures in the world.

Hoping for favours from a benign Government or personality, or for obstruction from an illegitimate second Chamber, is not, frankly, a substitute for a sustainable strategy to defend our liberties in these difficult times. I hope that people who aspire to lead their parties and our country will not only talk about rights and responsibilities but have the confidence to share them with all our people by putting them down in a written constitution for all to see. What is good enough for the European Union and what Iraqis in their hundreds have been prepared to die for in recent weeks must, surely, find a place in our own country. Today demonstrates again, for those who need it, how flimsy and pathetic are the defences of unentrenched rights in the United Kingdom. A written constitution would define our historic rights and social responsibilities and, incidentally, make clear the emergency powers necessary to defend those liberties from the extraordinary threats that we face today.

I hope that all parties can see that crisis management of Parliament and the media must give way to a more thoughtful and inclusive strategy. I hope that this is the day that we start to realise that British democracy and politics cannot be defined as what happens between No. 10 and the media, but must involve an independent Parliament, a separate judiciary, a legitimate second Chamber and, above all, citizens who understand their rights and responsibilities—in other words, an effective, active and healthy democracy, which is what terrorists and fundamentalists fear the most.

The issue has again highlighted some of the starkest failings of our political system. Just when strong, independent legislative scrutiny of a Government extending their powers at the expense of our liberties is most needed, it is missing. Just when a clear, written constitution should be providing the parameters for resolving the terrible dilemmas between the safeguarding of our rights and our security, it is absent. Just when we need separation of powers so that those who exercise governmental power are not the same people who should be holding them to account, it cannot be found. None of those fundamental flaws in our political system has been addressed by my Government during the past seven years. None has been considered important and may not be considered important today.

I hope that the lessons of today are not lost when the crisis blows over. We are entering an era when such dilemmas will become more common and acute for all of us. Without checks and balances, what could come next, not from this Government but from a future one under the auspices of other people? What action might be contemplated by a future Government in a British 9/11 scenario? There cannot be more serious problems to be faced by all of us in this Chamber. We need to prepare our democratic structures and democratic response now for such eventualities. We should not make them up as we go along, although I have appreciated the flexibility from Ministers today.

David Winnick: My hon. Friend emphasised that there is an acute terrorist danger and few would disagree. Will he bear it in mind that, during the vulgar outburst from my hon. Friend the Member for Hackney, South and Shoreditch (Mr. Sedgemore), not once did he speak about the terrorist danger facing our country?

Mr. Allen: I shall leave it to my hon. Friend to take that up with my hon. Friend the Member for Hackney, South and Shoreditch.

I hope that the few pips that have squeaked today will help those in No. 10 and those who aspire to be there to understand that in Britain we cannot choose between vigorously fighting terrorism or deepening and strengthening our democracy. Both are essential and inseparable partners if we are to prevail in an ever more dangerous world.

5.34 pm

Malcolm Bruce (Gordon) (LD): As we have heard in all speeches from both sides of the House, and as I said in my intervention, the Home Secretary is between a rock and a hard place. It seems that the only way in which he can resolve that is to accept the principle of judicial decision. Listening to this debate, knowing that it will be taken to another place, and with the time constraints on the Government, it is difficult to see how we can fail to get from that point to where we want to be. The question is: why are the Government making it so difficult and painful to get to a point that can unite both sides? My hon. Friend the Member for Winchester

[Malcolm Bruce]

(Mr. Oaten) made a constructive speech and indicated a willingness to try to ensure that the legislation works, but that fundamental principle must be conceded before anything can flow to an all-party agreement.

I speak as a member of the Parliamentary Assembly of the Council of Europe and of the Legal Affairs and Human Rights Committee; I am also the rapporteur on political prisoners, about which I might say something more shortly. I am left with the question of why the United Kingdom, alone among the 46 members of the Council of Europe, seeks a derogation from article 5 of the European convention on human rights and wants the right to lock up people indefinitely without trial. Why do not other Governments wish to do that, and especially the Spanish Government, given the atrocities that their country has suffered? My first question is: why do we alone feel the need to do that?

In fact, the Home Secretary has suggested that he does not want to do that. He has told us that he is trying to divide his Bill into two sections: derogation and non-derogation. To derogate or not to derogate, that is the question. But he also acknowledged that even non-derogation powers could be challenged, and they probably will be. They certainly will be if they are combined cumulatively under the European convention on human rights. In reality, there are not two categories but one. That said, one category will definitely be challenged, and one will probably be challenged.

It is also important that we do not become too narrowly concerned about the Human Rights Act 1998. It served British citizens well because it dealt with the remoteness of the European convention on human rights and the Strasbourg Court by bringing them closer to us and by making them accessible through our own judicial process. Those who did not like the Law Lords' decision—that might include the Government—know perfectly well that it was based on their interpretation of what the Strasbourg Court would have decided, had the matter gone before it. That was what they were obliged to do.

Mr. Shepherd: The hon. Gentleman is making an extraordinarily good case. On the comparators, we are a common-law country; that is what our law is founded on. The observation that so many make is, "How is it that the other common-law societies that we respect—the United States, Canada, Australia—have not found it necessary to take these extraordinary measures?"

Malcolm Bruce: I am very happy to accept that intervention because, in a sense, it complements the point I am making. We were, after all, co-authors and founder-signatories of the European convention on human rights, and we put some of our principles at the heart of it. I do not want to go down this road, but it worries me that people say, "Let's repeal the Human Rights Act." They fail to recognise that that would not change anything other than the practice of accessibility; it would not change the law itself. However, that is by the bye.

As I said, I am the rapporteur on political prisoners in Europe, and there is a point at issue that we should recognise. We are rightly concerned about what we are doing for British citizens and residents, and obviously that is what this Parliament is fundamentally about. However, we are also part of an international community and we should consider how this Bill looks from outside. In keeping with the intervention of the hon. Member for Aldridge-Brownhills (Mr. Shepherd), how does it look when a country such as the UK feels the need to take these powers when other countries do not? What kind of example does that set?

I have twice had to visit Azerbaijan—I will visit it again next month—to try to secure the release of political prisoners whose imprisonment has been identified by the Council of Europe as incompatible with its obligations. I have also reported on the developing situation of political prisoners in Russia, and I refer to the case of Svetlana Bakhmina to highlight the abuse of power. She is a lawyer and Russian citizen who left this country after a meeting in London and was arrested within 24 hours of returning to Moscow. She was taken into custody, while her young children were left abandoned, and she was subjected to physical force that put her in hospital. Two months later, she is still being detained by the security forces without any charge or evidence being brought. We must remonstrate with the Russians and point out that that is not the way for countries that are signatories to the European convention on human rights to behave. How will it look if we pass this Bill and lock up people without providing the proper process of judicial balance and evidence and the right to have their case tested? I do not believe that we will have the authority or credibility to argue that case. Such behaviour will seriously undermine what we stand for.

When the Home Secretary indicated that he had no intention of seeking an extension of the existing powers, I wondered whether that was because he knows that they will be challenged. That the derogation is an absolute right is not the case; it is subject to certain tests and can be challenged. However, if the Home Secretary is saying that he has no intention of seeking an extension, although the Conservatives suggest that he should, he is putting himself in a position where the time scale within which we have to operate will be extremely short.

I hope that Ministers will take note of the tone of the debate. I notice that only one Member on the Government Benches has so far indicated the intention of voting for the Bill. Of course, people come to these debates to express their views, but there seems to be a paucity of Labour Back Benchers queuing up to give the Government their support.

None of us underestimates the need to address international terrorism. I do not think that we want to challenge the integrity either of Ministers or of the security services—who have access to information that they cannot share—on the need to take such action. I hope, however, that they will accept that this is a mature Parliament and that even if the information cannot be shared with us, we must be satisfied that the process is fair and objective. People have the right to hear the charge against them and to defend themselves. The decision must be taken by an independent, impartial court. I want to make a provocative point, but it is real.

If somebody is put into detention without trial by a Minister, we cannot avoid that person being described as a political prisoner.

Mr. Grieve: I agree entirely with the hon. Gentleman on the point about the Home Secretary not exercising the powers, but may I press him a little further? I suggest that it must be accepted that the nature of the process we shall set up, even if it is carried out by a judge, will have inherent capacity for injustice. That will not be the fault of the judge; it will be because he cannot hear the other side of the case without the necessary information. I urge the hon. Gentleman and everyone else in the House to focus on that issue. We cannot let that point go by the board simply by saying that we shall hand the taking of the decision to the judge.

Malcolm Bruce: I completely agree with the hon. Gentleman. I return to the European convention—the right to trial requires that information be put into the court, so we shall have a problem if we think that we can have a process where that is not the case. We shall be on the wrong side of the convention in spirit and, probably, in letter.

I do not for a minute want to give people who are detained on suspicion of being terrorists the comfort of claiming that they are political prisoners. I want us to be able to say that they have been put through a process and determined by an independent judicial system to be subject to the orders on the basis of evidence, with an agreed test of judgment. In that situation, they would not have the right to describe themselves as political prisoners and, more to the point in terms of the integrity of the British state, we would not be subjected to the accusation that we were creating a body of political prisoners. I do not want to be told that I have to investigate the United Kingdom's political prisoners. It is difficult enough doing that in Azerbaijan and Russia, without having to do it at home. I am not being facetious. Questions will be asked if we alone, among the 46 members of the Council of Europe, go down that path and the decision is taken by a Minister subject only to judicial review. We could be accused of creating political prisoners.

It is in everybody's interest to ensure that the process is robust and strong and protects the integrity of the state, the security of the system and the principles of British justice. As my hon. Friend the Member for Southwark, North and Bermondsey (Simon Hughes) said in his potent intervention, it is amazing that the Home Secretary actually wants the powers on those terms. If judges review cases properly, there will be the maximum capacity for embarrassment to him. Of course, if there are no means for the proper testing of evidence there may be questions as to how the process could apply.

We need a robust system on which we can agree, which gives us security and control and ensures that we can show that people have been given a proper test and have received proper judgment. That will serve the interests of democracy, about which the hon. Member for Nottingham, North (Mr. Allen) was rightly concerned, and of justice and the security of the state.

These are difficult issues and the debate demonstrates that we all recognise that, but I urge the Government to acknowledge that in this context, when we have only a short time, the sooner they concede the principle that judges make the decision and the Government make the case, the sooner we can go on to have a real debate about how to test that case, how to put it through the system and ensure that there is genuine support so that we can defeat terrorism and maintain the integrity of British justice. That is surely what we are all trying to achieve.

5.45 pm

Barbara Follett (Stevenage) (Lab): It is a pleasure to follow the hon. Member for Gordon (Malcolm Bruce). I, too, feel that the example that we set is very important and I intend to cover that in my speech.

Like most other Members who have spoken today, I recognise that we have a problem. I recognise, too, like my hon. Friend the Member for Nottingham, North (Mr. Allen), that very real attempts have been made by the Home Secretary to solve that problem. I salute him for the work that he has been doing and I value it. I also recognise that, in today's world, control orders are sadly necessary, but I do not see why those control orders have to be initiated and implemented by a single politician. Nor do I see why that politician needs to have only reasonable grounds for suspecting that the individual concerned is, or has been, involved in terrorism-related activity. That seriously worries me.

Those reasonable grounds could be based on intelligence evidence. It is the nature of intelligence gathering that it is unreliable. It is difficult. We have no guarantee that that intelligence will be correct. I know, because I have known the Home Secretary for many years and worked with him for many years, that he is an honourable and fair man. He is acting from the very best of motives and in the public interest, but, with the deepest respect, I think that the end does not justify these means. In fact, I fear that if we use undemocratic means such as these, we may unintentionally will new and awful ends. That is why I will not support the Bill tonight and why I ask my right hon. Friend to think again.

There are better ways of doing this—quite a few have been mentioned in the Chamber tonight. I will not go over them because other hon. Members want to speak, but we should involve a judge from the outset, use the Crown Prosecution Service procedure and have a look at how the Canadians use intercept evidence in court. In other words, look at it again and think again about the kind of example that this sets, as the hon. Member for Gordon said. My right hon. Friend the Member for Southampton, Itchen (Mr. Denham) was right when he said that people can be detained without trial for as long as four years on the continent, but does that mean that we should emulate them? Does that mean that that is something that we should even consider?

I lived for many years in South Africa, during the dark days of apartheid. During that time, Britain's legal system was held up as a beacon of light and hope, as the prison bars of the apartheid state closed around us. In 1961, the South African Government introduced the General Law Amendment Act, which allowed people to be detained for 12 days without trial. By 1963, that had been extended to 90 days. By 1965, it was 180 days. Two years later, it became indefinite. At the same time, the apartheid regime was issuing control orders that restricted the right of some citizens to congregate, to

[Barbara Follett]

work and, in some cases, to leave the confines of their own homes. Those orders had a devastating effect on the life of the suspect and his or her family. I should know—my first husband was served with one of them in 1971. He lived under it for five years, and it was only thanks to the generosity of the university at which he taught that he did not starve. He could not work, leave his home or travel to Cape Town to see his mother, and he barely saw his children.

I know that this is Britain and not South Africa or Burma, but we must not underestimate the importance of what we are doing today and the message that it sends to countries where we are talking about good governance. The example that we set will stay with us for many years. Removing the hope that we give, as we could tonight, might have a deleterious effect.

Mr. Marshall-Andrews: I have been listening to my hon. Friend with considerable admiration and respect. Will she apply her deep knowledge of the matters about which she speaks to clause 1, and especially the provisions in paragraphs (a) to (o) of subsection (3), which set out in detail the restrictions that could be put on people through a non-derogation order? Does she agree that they bear an extraordinary and chilling resemblance to the pass laws in South Africa?

Barbara Follett: I wish that I did not have to agree with my hon. and learned Friend, but the provisions do bear an extraordinary resemblance to those laws. We must beware of going down that road. Again, I say that this country is not South Africa, but we have an example to set.

My first husband was put under house arrest because the apartheid state believed that he was a threat to its security. He probably was; he was campaigning to give black people the right to vote and join trade unions. Given the structure of the South African state, he probably was threatening it because it believed that only whites could vote and join trade unions. House arrest hampered him, but did not stop him, which was probably why, just before his five-year order was due to expire, he was shot dead in front of our two young daughters in their bedroom. I tried to comfort them in the days that followed by telling them that we were going to go to Britain, where people were not detained without trial or put under house arrest. When one tries to tell a 13-year-old and a nine-year-old that not all parts of the world are as bad as others, one looks for examples, and we in Britain were that example. I am glad that I am here today so that my now 40-year-old and 36-year-old daughters can hear that we are still fighting to uphold that.

I understand that control orders are necessary in some circumstances, which is why, like my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson), I supported the Anti-terrorism, Crime and Security Act 2001. However, that Act was a stop-gap measure. It is due to be reviewed in five years and is subject to continual review. The Bill, however, is not a stop-gap measure. It will embed an undemocratic principle in our law. It will remove rights that are guaranteed under the Magna Carta, which says that no free man—I add the word "woman" to that—shall be arrested or detained except by the lawful judgment of his or her peers. If that was good enough for 1215, surely it is good enough for 2005.

I ask the Home Secretary to think again, please. He should get a judge to implement the orders and consider how to use intelligence evidence in court. He should consider putting a time period on the Bill and review it in five years, rather than committing us to it for ever. Above all, he should take time and care. These principles are the very basis of our democracy and our party. If we destroy them, it destroys us.

5.53 pm

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): The House has listened with respect and great interest to the speech made by the hon. Member for Stevenage (Barbara Follett). She brings to the debate a knowledge of the affairs of South Africa while she was living there, and I have no doubt that that has influenced her judgment and what she said. Incidentally, although I shall return to this point later, I suspect that such knowledge influenced the view of Lord Hoffmann when he made his important speech in the Belmarsh judgment, which I commend to the House.

In one sense, this is an extraordinary debate. To start off with, the House proposes to give Ministers the power of administrative detention, which we have condemned in every other country where it is exercised: for example, Zimbabwe, Burma and Israel. We are proposing to abandon principles that have governed our constitution and legal practices at least since the days of the Stuart kings. We propose to do so in a debate that will last two days. Incidentally, there is one other curious aspect—we are addressing this matter in this way because of the judicial interpretation of the European convention on human rights, which was incorporated into British law to protect human rights in this country. Bizarrely, it is having a contrary effect.

Another extraordinary thing about this debate is the high degree of agreement between the Back Benches on both sides of the House. May I say to the Government that when there is such unity it behoves them to listen carefully to what has been said, notwithstanding their majority?

I am conscious that other Members want to speak. Furthermore, many of the points have been made with great eloquence. I shall therefore focus briefly on four issues: first, the principle of what is involved; secondly, whether there is a need; thirdly, the purported safeguards; and lastly, process.

First, on principle, at the most extreme we are talking about administrative detention—a form of indefinite imprisonment. In relation to the less extreme form of judicial control orders, we are talking about something less. None the less, as the hon. and learned Member for Medway (Mr. Marshall-Andrews) said, it is a process that will destroy people's livelihoods because they will be denied the ability to work, to associate and to have access to their friends. All of that is at the say-so of a Minister. I find that wholly offensive. Ministers should not have those powers. On that point, I am wholly immovable.

Another question of principle arises as to whether such sanctions should be imposed otherwise than after a conviction for a substantive offence. My strong

presumption is that such things should be done only after a conviction for a substantive offence. Yes, I will listen to the arguments, and it is possible that I could be moved on that point, but only were there to be a full judicial process. I shall return shortly to a point made by my hon. Friend the Member for Beaconsfield (Mr. Grieve).

The truth is that the powers that we are conferring on the Government are sought in a democratic state only in the direst and darkest days of war. That is not today, whatever other perils we face. Otherwise, they are the kind of powers that are usually sought by dictators to practise tyranny.

Secondly, on the question of need, I do not come blind to this debate. I have practised at the Bar—and still do so—for nearly 40 years, now almost exclusively at the criminal Bar. I also have some relevant experience in government. For two years, I was an Under-Secretary at the Home Office, with responsibility for the terrorism legislation then carried through, and I necessarily had some dealings with the security services. For five years, I was a Foreign Office Minister with a close relationship with the intelligence services and GCHQ, and was very familiar with the kind of considerations that underpin the anxieties now being expressed by the Government. I very much doubt whether there is a justification for what the Government are asking us to do.

To start with—this is a bizarre fact—we are considering the Bill not because the security services have told us that there is a security need, but because the House of Lords, in the Belmarsh judgment, told us that we could not make a distinction between citizens and non-citizens, and that is a very different matter.

Mr. Dalyell: On the security services, how is it possible to establish the universal agreement of all security services that such and such should be true?

Mr. Hogg: I do not believe that it is possible. The Father of the House makes a serious point. What is more, the security services seldom express themselves in really robust ways. We have only to consider the Butler committee report—I shall not go into great detail—to find that when the security services assessed the existence or otherwise of weapons of mass destruction in Iraq, they qualified that assessment to a high degree, so I think that the Father of the House is right.

I return to the question of need. My right hon. Friend the Member for Haltemprice and Howden (David Davis) has advanced other approaches—for example, the creation of alternative offences, whether it is possible to admit classes of evidence not presently admitted and to safeguard that evidence, and whether perhaps there should be some form of special court. I would contemplate, though I find it difficult to believe that I would accept, that maybe some limited form of control order made by a judge, falling short of house arrest, might be acceptable. I shrink from that but I am prepared to consider it.

There are these alternatives, but there is another alternative that we should not overlook, and that is surveillance. My right hon. Friend the Member for Haltemprice and Howden and I spent a long time in the Foreign Office, and we know quite a lot about surveillance methods. I had responsibility—the House will forgive me if I do not go into too much detail—for ensuring that individual citizens were safe. We relied on surveillance to achieve that. Surveillance can be extremely effective and I doubt whether there is a need for the draconian measures that are proposed.

David Davis: Will my right hon. and learned Friend confirm what I believe is his experience and mine, that when major surveillance is mounted on targets, one of the side effects is that it generates vast quantities of evidence that can be used in court?

Mr. Hogg: Yes. It is an important point. If surveillance is maintained, we see the identity of those associated with the suspected person and we learn a great deal about what they are saying and about their financial records, for example. In some cases, it leads to admissible evidence and a prosecution.

I move on to my two final points. The Home Secretary referred to the safeguards in the Bill. Like the hon. and learned Member for Medway (Mr. Marshall-Andrews), I do not believe that they are in any way adequate. I draw very much on what the hon. and learned Gentleman said. He made a distinction between the safeguards regarding non-derogating powers and those regarding derogating powers. On the non-derogating powers, the hon. and learned Gentleman was entirely right when he said that this is but judicial review—not irrelevant, but it does not go to the question of fact. It merely seeks to determine whether the Home Secretary has acted reasonably within the law. That is very different from examining the known facts.

I concede at once that in respect of the derogating powers the court has a greater role to play. It examines the merits, but it is a partial examination because, of course, the evidence is not disclosed to the detained person. The detained person does not have an opportunity to read the documents and may not know the nature and identity of the accuser. They are not necessarily represented by a person of their own choice. The special advocate cannot take from the detained person what we lawyers call instructions. The process is very imperfect—the Father of the House reminded us of the case of Judith Hart, whom the security services falsely identified. I commend to the House a letter in *The Daily Telegraph* yesterday from one Edward Greene, who tells readers how his father was interned under the then internment procedures because of a false allegation that was deliberately made to MI5, which had paid a man to produce the names of suspects. That sort of thing is bound to happen.

To take up the point made by my hon. Friend the Member for Beaconsfield, the problem is not only the nature of the process, but the fact that the person facing the allegation does not know the allegation and cannot test it. That is true whether the control order is initiated by a Minister or by a judge, so the objection is not to this form of control order, but to control orders themselves.

Drawing on my personal experience as well as my knowledge of the law as a member of the Bar, let us not forget that many miscarriages of justice have occurred within the context of a judicial process. If one does not have a judicial process, one can be certain that yet more miscarriages will occur, which is the inevitable consequence of the legislation that the House is being asked to approve.

[Mr. Hogg]

My final point is a word on the process by which the Bill is being hurried through, which is a scandal. The Bill was published for the first time yesterday and today is its Second Reading. Inevitably, the public have not had the opportunity to communicate to us, their representatives, what they think about it, which surely undermines the constitutional practices that we value. The Bill will leave this House on Monday under the tightest of guillotines and after the barest of scrutiny, which is an outrageous way to treat a matter of this importance.

The Home Secretary has said that the Bill is necessary. When we asked him why it is necessary, he asked, "What about the detainees in Belmarsh?" The detainees in Belmarsh can be released tomorrow, because they present no danger to the state. Why do they present no danger to the state? Because we know and they know that they will be under the very closest supervision and surveillance. It is fanciful to suggest that they would do anything to make contact with terrorist organisations in those circumstances, which, if they are guilty, would provide admissible evidence against them and expose their terrorist network. They will not do such things, and if they walked the streets tomorrow, they would do no harm to this state. I say this with regret, but this Bill has a great deal more to do with general elections than it has to do with the security of the state.

I remind the House of the words of Lord Hoffmann, whose background is South African. Perhaps he overstated the case, but this is the conclusion to his judgment on Belmarsh:

"The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these. That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory."

We face that question tonight, and I urge the House to reject the Bill.

6.9 pm

Mr. Andrew Dismore (Hendon) (Lab): Returning to the remarks of the hon. Member for Gordon (Malcolm Bruce), I am here to support the Bill, although I cannot say that I welcome it. None of us welcomes the Bill, because of the circumstances in which it has arisen, but I accept the necessity of its introduction.

We need to recognise the Law Lords' decision, recognise its basis and act on it. Those who advocate kicking the Bill into touch and extending the part 4 powers while we come up with something else to replace them are effectively condemning those people who are currently detained in Belmarsh to many more months of detention while the House grinds on and makes its mind up. I do not want those people, who have been found to be unlawfully detained, to be detained any longer than is absolutely necessary.

I do not agree with the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg) that these people do not necessarily pose a threat to our society. We must recognise the nature of the threat that we face, which is different from the terrorism that we have experienced in this country in the past. The Home Secretary ably set out the different nature of the terrorism we now face: the terrorism of mass murder that is aimed not against specific high-profile targets but at soft targets and the general public wherever they can be murdered in their thousands.

Let us be realistic. Those who advocate the criminal law must recognise that it provides no deterrent to suicide terrorism. If people are prepared to die in the commission of those offences, the criminal law will hold no fears or terror for them. The fear of a lengthy jail sentence to them is an irrelevance. We must recognise the sort of people we are dealing with. It is difficult discussing those in Belmarsh because they have not been identified, but from the information that is publicly available, we can see that they are very dangerous indeed.

The one who has been named, Abu Qatada—even from the information that is in the public domain—can be seen to be an extremely dangerous individual and a close associate of al-Qaeda. He is believed to be al-Qaeda's leading operative in Europe, someone in whom security services throughout Europe are interested. To suggest that simple surveillance is the answer to such people is clearly wrong. Abu Qatada was under surveillance before the power to detain came into effect. The night before—one does not know whether he had a tip-off—he gave the security services the slip and went on the run. It took nine months to track him down again. That is the sort of person we are dealing with, and simple surveillance would not be the answer.

I believe that we are dealing with a relatively small number of people. There are less than a dozen in Belmarsh, and the security services have an interest in perhaps a similar number of UK nationals. We are not looking at a huge round-up of UK or foreign nationals, or at the sort of round-up that happened during the second world war. We are not looking at a "Casablanca"-style round-up of the usual suspects. We are looking at a relatively small number of people who are perceived to be a threat to our society.

Mr. Llwyd: The hon. Gentleman understates, or mistakes, his case. The Home Secretary said that there were 1,000 people in the UK who were connected in some way with al-Qaeda. The hon. Gentleman refers to a dozen: a slight difference.

Mr. Dismore: There may be people who are supporters or advocates of al-Qaeda, but that does not necessarily mean that they are directly associated with or involved in terrorism such that they would fall within the powers in the Bill. From my discussions with people in Scotland Yard and elsewhere, I believe that that is the sort of number they are looking at.

The preference is to try to put people on trial in court. There have been 701 arrests, 119 people have been charged under the Terrorism Act 2000 and 135 have been charged under the general criminal law with murder, grievous bodily harm and firearms, explosives and other offences. There are trials under way, but one of the problems is the reporting restrictions, which mean that nobody really knows what is going on.

One trial has been going on for six months and is expected to last for some time yet, but most people in the House today would not even know of its existence. I understand that another trial is to start on Monday, and again we will hear little about it; further trials are due to

take place throughout the year. I think that the Metropolitan Police Commissioner was right to criticise the extent of the reporting restrictions imposed by the courts and the Attorney-General on some of these trials. Yes, of course we have to ensure that those involved have a fair trial, but some of the blanket restrictions that have been imposed are counter-productive. We need to be able to explain to the public what is going on to remind people of the particular problems that we are trying to deal with. If, for example, the Muslim community were aware that people are not simply being locked away and forgotten about, but are being put on trial within the correct process, they would be reassured that people do have the benefit of due process through the courts.

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): I have no legal training of any kind, but is my hon. Friend not undermining his own case? He says that these actions are taking place, so any change in the law is not necessary. We cannot have it both ways. Is he really saying that we should hand to terrorists the one absolute victory of knowing that they have destroyed the most important thing, which is the freedom that they so bitterly resent?

Mr. Dismore: No, I am not saying that. I am illustrating the fact that the system has gone out of its way to put as many people as possible on trial, with correct charges under the criminal law, but inevitably there will be some people against whom there is a strong case but where the evidence is not admissible in court, or can be put into court only in circumstances that would severely compromise its source, so they simply cannot be put on trial.

For example, I agree with the Opposition that we need a new offence of acts preparatory to terrorist activities. That is essential, because at present the prosecution authorities face a real problem in trying to bring some of those activities within a conspiracy charge. Shoehorning into conspiracy charges some of the activities that we are talking about gives rise to the defence that the agreement to commit the criminal act has not been sufficiently formalised. Not having the kind of law that we need opens up a line of defence for potentially quite serious acts. If we were to amend the criminal law, that would give greater opportunity to bring more proceedings.

I also do not agree on the question of intercepts. I fully understand what the Home Secretary has said about that, and he makes a powerful case, but to say that intercepts would be of no use whatever in any case, or would compromise the methodology in every case, is wrong. It would be appropriate to allow intercept evidence to be used, but only if it can be used safely. It is not the panacea that many people think it is. It cannot be used in every case, and there is the problem of interpreting the intercept evidence to the jury—for example, proving the context—and what was actually said usually means something quite different. But intercept evidence that is in the public domain in relation to the cases arising from the kidnapping of tourists in Yemen, which has been printed in the newspapers, would have been quite powerful in dealing with one or two of the individuals involved.

I was impressed by what my right hon. Friend the Member for Southampton, Itchen (Mr. Denham) said about whether the judges or the Home Secretary should make the decision. I would question whether the judges would feel comfortable about making those decisions in the first place. Their role has always, rightly, been to consider the interests of the individual. It is for the Home Secretary to consider the interests of us all collectively. The risk of this approach would in many ways be letting the Home Secretary off the hook. The blame would be passed to somebody else if a particular control order was not imposed by a judge, but the person concerned went on to commit serious terrorist acts. The judges are good at judicial review of administrative decisions; I do not believe that they are very good at making them.

There are risks of miscarriages of justice. Whether there is a miscarriage of justice or a miscarriage of administrative decision may be a semantic argument, but the consequences in these circumstances of a miscarriage are far less than the prospect of someone, as we saw in the Guildford case, being imprisoned for 10 or 15 years. The risk of wearing a tag for months or years is far less.

To move on to some of the practicalities of control orders, of course they will not be as effective as detention has been in dealing with some of those individuals. There is the risk of absconding, as I mentioned in the case of Abu Qatada. There is the risk of breach of the orders and trying to enforce the prosecution that would follow from that, to which I will return. There is also the risk of what might be called mission creep, and wider use of the control orders than has been seen in the use of the powers to detain. The powers of detention are the nuclear option of dealing with terrorism. They are so severe and draconian that they have been used sparingly. However, lesser powers carry the risk of being used more frequently. I should like assurances about that.

There is a major question about resources for operating the new system, which will be harder for the police to manage. I question whether conventional surveillance is a practical proposition, given the number of people involved. The balance between technology and manpower for surveillance will have to be examined. We must also consider the extent to which monitoring is covert or overt, and the extent of tagging. I would be worried if an outsourced company monitored tagging, as has happened with some tagging of ordinary criminals. I should like an assurance that if tagging is to be used, it will not be outsourced. We must guard against that.

Clearly, all subjects of control orders must have their own case officer. An individual risk assessment will be required and resources will also have to be assessed. I should like an assurance that the Home Office, not council tax payers, will provide the additional resources that the police services involved need to carry out the extra duties. For example, the provisions could place a large burden on the Metropolitan police, who have borne the lion's share of anti-terrorism law so far. That will apply especially in the case of an alleged breach of a control order, which will be resource-intensive to investigate. The criminal standard of proof will apply and there will be a need to ensure that the evidence brought is admissible.

[Mr. Dismore]

We must recognise that the sort of people with whom we are dealing have been well advised in the past. They sail close to the wind in some of their activities. It is fair to say that they have run rings around the authorities in many respects—one has only to consider the activities of Abu Hamza and Omar Bakri Mohammed to understand how they have brought the authorities into disrepute. There is little doubt that they will push orders to the limit and possibly beyond. I want to be satisfied that the Home Secretary believes the orders to be sufficient to ensure that those involved cannot incite and foment extreme views, as has happened in the past.

We should consider the impact of control orders on community cohesion. The police could be operating in a difficult environment if the local community is either supportive or afraid of the subjects of the control orders or their followers. That could affect co-operation with the police, especially in relation to the subject of the control order, or more widely, in the fight against terrorism. There could be a much wider impact on local policing and its relations with minority communities.

The police will also have to protect the subject of the control order from possible victimisation. There have been examples of that in cases involving paedophiles, who have been subject to appalling victimisation. I suspect that those subject to control orders in their homes may face similar problems. There may be an impact on policing levels in local boroughs in London and operational command units elsewhere if the local police service is called on to provide part of the service. I hope that the Home Office will go out of its way to ensure that proper resources are provided for that.

Mr. Grieve: People need not be detained in their homes. The place of detention could be specified as cell 16, wing D, Belmarsh. The point is that they commit an offence if they walk out through the door.

Mr. Dismore: I hope that anyone who walked out through the door when in lawful detention would be deemed to have committed a separate criminal offence. I am dealing with people who are placed under a control order of a rather lesser nature—those who are tagged in their homes, as happens, for example, to sex offenders. They are put under various forms of control and reporting arrangements. We are considering not only the extreme end of the scale, but further down.

There is a need for a consistent approach to control orders. There is a genuine role for Scotland Yard in co-ordinating the approach nationally.

I have not gone into detail about some of the more principled issues, which have been explored fully in the debate. When we consider those issues, it is important not to take our eye off the ball of some of the practicalities that are involved in control orders. I have tried to tackle some of them. I should like reassurance from the Home Office on the practical problems that might arise should the Bill make further progress.

6.24 pm

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): I speak on behalf of Plaid Cymru and the Scottish National party.

Yesterday's exchanges revealed that the Government's perception of the level of terrorist threats is, according to the Home Secretary, relatively unchanged, as it has been over the past two or three months. The impetus for the Bill is, I think, either the Belmarsh judgment or political necessity. I believe that its timing owes as much to the political calendar as to the scathing, and correct, judgment handed down by the Judicial Committee recently.

I have read Lord Carlile's report and its conclusions. Conclusion 8, on page 37, states:

"Lessons can be learned from the Anti-terrorism, Crime and Security Act 2001 detention provisions to enable new laws to be *subject to a fair and acceptable system of law* . . . including a more developed special advocate procedure and tribunals with a lay element."

Those of us who do not sign up to the Government's perception of threat from terrorism, or at least the degree of that threat, none the less accept that there is a level of threat, and therefore endorse what Lord Carlile says in his considered and balanced report. I believe that the Bill conflicts directly with that conclusion. Far from attempting to introduce a fair and acceptable system, the Bill will do the opposite.

Briefing notes from Liberty—produced, obviously, quite rapidly—refer, in paragraph 8, to restrictions on liberty being permissible only with a view to some form of criminal disposal at the end of the day. It goes on:

"To be lawful they can only be used to detain or restrict someone with a view to bringing them to trial, to stop them committing an offence or from absconding after committing an offence."

That refers to article 5 of the European convention on human rights.

"Once detained they must be brought to trial within a reasonable time or released."

That is in article 5(3) of the convention.

"Restrictions such as tagging and curfew are established practices in criminal law. They are imposed as bail conditions by police or courts to ensure that, for example, a defendant attends court".

Obviously what is meant is that such restrictions are part of a larger judicial process, and are not an end in themselves.

The Bill gives the Executive, through the Home Secretary, powers that have always resided with the judiciary, and with good cause. The whole issue of the constitution and the separation of powers is involved in this debate. Everyone accepts that there is a need for the separation of powers. A few weeks ago, in a debate in this place, many Labour Members argued that that was a sacrosanct notion, to be applied even to prevent Members from sitting in a judicial capacity. It was, I suppose, a good argument, but none of those siren voices are here today. The new Labour ranks are pretty thin on the ground. The loyalists who argued that case a fortnight ago have gone to earth.

Today, though, we are dealing with a far more serious matter—a far-reaching matter. The Bill will enable the Home Secretary to impose sweeping and far-reaching infringements of liberty on the basis of mere suspicion—albeit reasonable—that an individual is or has been involved in terrorism or terrorism-related activity. What evidence will the Home Secretary have to present to prove that suspicion? It will be evidence produced by the intelligence services.

One of the salutary lessons of the Iraq war is that intelligence briefing alone, and its subsequent interpretation by politicians, often lead us to very wrong conclusions. Mere suspicion has never had any standing in any legal proceedings hitherto. The interpretation of the word "reasonable" will be subjective, and will hardly constitute a safeguard in the circumstances.

Clause 2 allows the Home Secretary to derogate from article 5 of the human rights convention if he is satisfied, merely

"on the balance of probabilities",

that a person has been involved in such activity. In other words, the civil burden yet again makes it easier for the Executive to ride roughshod over the individual. If it were ever justified to deprive an individual of his or her liberty in that way, the standard of proof should be far higher. In this instance, the Executive are exercising powers hitherto exclusive to the judiciary, who have always in criminal cases been subject to the higher and safer standard of "beyond reasonable doubt". That is a major concern.

Clause 8 deals with appeals relating to derogating control orders. Subsection (1) refers to where there has been a modification of an order

"without the consent of the controlled person".

Perhaps in due course the Minister can tell the House where she sees actual consent being given by the controlled person. In what circumstances will that happen? I also ask for confirmation that, in the appeal process, the person will be entitled to legal representation of his or her choice and that legal aid should be available.

Clause 9, which relates to appeals in respect of control order decisions, states that no appeal shall lie against the decision of the court

"except on a question of law."

That again is problematic, because, under paragraph 4 of the schedule, the Executive can make up their own rules of court and can

"make provision about the mode and burden of proof in control order proceedings and about evidence in such proceedings"

and

"enable or require such proceedings to be determined without a hearing".

Mr. Carmichael: The hon. Gentleman will be aware that in Scotland, the subject of rules of court is properly the domain of the Scottish Parliament and the Lord President, who is normally the senior judge responsible for their construction. Does he share my concern that there has been no opportunity for the Scottish Parliament to express a view on that matter and that, at the very best, the Government are blundering into a constitutional grey area?

Mr. Llwyd: I most definitely share the hon. Gentleman's concern. Rules of court have been formulated over the years with the assistance of the Lord Chief Justice and other members of the judiciary. They have developed over the years. These may blow up in everyone's face. I agree with the hon. Gentleman about the constitutional question as well.

The court can decide an issue without a hearing. The evidence cannot be tested at all and only one avenue of appeal is open—that is, on a question of law.

An appeal on a question of law is normally about whether a reasonable authority would have come to the conclusion on the evidence before it—the Wednesbury principles. How can a proposed appellant mount an appeal when there has been no hearing of the evidence and no chance to test the evidence? Indeed under this Bill the Executive would be entitled to withhold all the evidence from the controlled person or the appellant. Therefore, that avenue of appeal is an utter sham and in practice means nothing. It does not add up to a row of beans.

I am desperately unhappy that the rules of court may make provision allowing control order proceedings or relevant appeal proceedings to take place without the full particulars of the reasons being given, and allowing proceedings to be conducted in the absence of the person being controlled. Those are anathema to anyone who knows anything about the judicial system under which we live and operate.

Mr. Dalyell: To grasshopper back to the position in Scotland, I think that we should take account of clause 12 of the Bill, which states that

"in relation to proceedings relating to a control order in the case of which the controlled person is a person whose principal place of residence is in Scotland",

the court

"means the Outer House of the Court of Session".

It is my understanding that the Scottish authorities agreed to this. Whether there was a Sewel motion or not I do not know, but I understand that it was agreed.

Mr. Llwyd: I am grateful to the Father of the House for enlightening us on that point, which is extremely important in the circumstances.

In reality, the proposed appellant could not mount an appeal. That right is illusory.

Paragraph 4(2)(d) of the schedule refers to a provision to enable the relevant court to supply a controlled person with

"a summary of the evidence taken"

in his or her absence.

Who decides whether that summary is accurate and full? How can we ever know that? That is a crucial point, as it was when taped interview summaries were first brought in through the Police and Criminal Evidence Act 1984. It is vital that full and accurate summaries are produced in these circumstances. Who can test whether the summary is right? I am afraid that the provisions seem designed to introduce courts only of the marsupial variety—the ultimate example of kangaroo justice.

Tucked away in paragraph 4 of the schedule is the right of the Home Secretary to prohibit disclosure of evidence to the party concerned and his or her representative. There may be circumstances, I suppose, where that could be necessary, but I am worried that it will become a standard and widespread practice. Paragraph 6 gives the Executive the right to prevent a person from being legally represented. Once again, that is contrary to anything that anyone would consider as fair jurisdiction and, indeed, it breaches the equality of arms principle in the convention on human rights. That is most worrying, and no doubt the so-called rules of court will be framed in order to make life very difficult for the individual.

[Mr. Lloyd]

Reference is also made to special representation in control order proceedings. Paragraph 7 states:

"The relevant law officer may appoint a person to represent the interests of a relevant party to relevant proceedings in any of those proceedings from which that party and his legal representative (if he has one) are excluded."

What on earth does that mean? A representative is appointed to act on someone's behalf, but that representative has no contact and no dialogue whatever with the controlled person. How can such a lawyer do a reasonable job on behalf of the controlled person? It is an absolute disgrace.

Following the resignation of Ian Macdonald, QC, and Rick Scannell as special advocates, Lord Carlile, QC, said in paragraph 78, page 30 of his report:

"There must be factual issues, about where the detainee was and when, or about the reasons for association with certain persons, on which direct discussion with the detainee or his private lawyers would assist in the doing of justice. I believe that such contact, on a careful basis, would meet many of the concerns expressed by Mr. McDonald and others."

That bears heavily on this particular point, but what have the Government done? They have flown completely in the face of that wise counsel. I do not believe that the Government have given any weight whatever to Lord Carlile's advice, even though he is a pre-eminent legal practitioner. That is most unfortunate. He is trusted, after all, with the oversight of terrorism legislation.

I referred earlier to the Liberty brief, which I cite again:

"In February 2004 six special advocates wrote an open letter to the Home Secretary expressing concerns at plans then circulating".

The issue of reforming the current Special Immigration Appeals Commission trials was mentioned. The brief continues:

"We are convinced that both basic principles of fair trial in the criminal context and our experience of the system to date make such a course untenable. It would contradict three of the cardinal principles of criminal justice: a public trial by an impartial judge and jury of one's peers, proof of guilt beyond reasonable doubt, and a right to know, comment on and respond to the case made against the accused. The special advocate system is utterly incapable of replacing these essential fundamentals of a fair trial."

Those essential fundamentals of a fair trial are all missing from this Bill. It is a bad Bill and a dangerous one. It has no place in our democracy or in our constitution. It will make bad law and I am afraid that it may well make matters worse and fuel the flames that it attempts to extinguish.

I do not know whether the Bill is part of a political game, but I believe that good sense in the other place will dispatch it as it deserves. It is incapable of amendment, and we in Plaid Cymru and the Scottish National party will vote against it without hesitation.

6.39 pm

Mr. Robert Marshall-Andrews (Medway) (Lab): As with everything in life, this Bill has both form and substance, and I shall deal first with the form. The Bill is small but deeply imperfectly formed.

In part, the Bill is incomprehensible. I have been reviewing statutes—many of them criminal statutes—for 35 years, and this Bill is one of the worst, despite its brevity. I spent one hour and 20 minutes attempting to understand clause 4 alone. That clause deals with the duration for which people can be detained under the control orders and is therefore not unimportant, but I completely failed to understand it, even though I was reading my own language. If it had been translated into Arabic, Hindi or Gujarati, the problem would be even worse. We in this Chamber will no doubt argue about the effect that the Bill will have on al-Qaeda, but one thing is certain—they will not understand it.

So much for the Bill's form; I now move to its substance. If its form is bad, its substance is truly dreadful. It is almost certainly one of the worst pieces of legislation that any Government have attempted to put through this House for 200 years. It offends against the cardinal and root principle of our democracy—the separation of powers and the independence of the judiciary.

That principle is not a tributary of democracy, or a bit or part of it. It is what democracy is, and it is fundamental to our system, as it is to all systems of democracy that ultimately derive from revolutions of the people. The constitutional liberties in the US, France and this country are all based on that principle, which was first enunciated by Montesquieu and subsequently taken up by Paine and Jefferson. Their names will resound through the annals of political democracy and liberty when the names of those who are trying to take democracy away from us will be no more than dusty footnotes in the unpleasant history of this era of Parliament.

The principle of judicial independence is under attack in this country, but it is interesting to note that there is an attempt to introduce it into the Russian constitution. I was recently in Russia to give a lecture on the principle and I have given four such lectures in the past year. The Russians approach the notion of judicial independence much as they would approach a yeti or an abominable snowman—they understand that some people have seen such a thing, but they do not really believe that it exists.

The Russians with whom I had dealings listened to me with respect and longing, but on my most recent visit I told them about this Bill. For some time afterwards, the wonderful people with whom I was sitting had their arms around me in commiseration—admittedly, after a few vodkas—for the loss of liberty and the mistakes being made in my country.

The weakness of the Bill is made even greater when a legislature is as supine and ineffectual as this one is. In the brief time that I have been in this House, Parliament has gradually given up any hope of carrying out its major role of acting as a control and check on the Executive. That inability was brilliantly set out earlier by my good and hon. Friend the Member for Hackney, South and Shoreditch (Mr. Sedgemore). That will be his last speech in this place, and he could not have made a greater one. This may be my last speech too, and if it is not, it will not be for want of trying. If it is, I echo what my hon. Friend said: one of the great sadnesses that I will take away from the Chamber is that I have watched it become a Lilliputian assembly. In my time here, it has manifestly failed to act as a check on an over-mighty and increasingly arrogant Executive. There is no greater example of that than what we have witnessed in the course of this debate. For the Home Secretary to say that it is his responsibility to put people in prison and

that he will arrogate that responsibility, and then to say that he will take a judicial function that will be subject to a judicial overview is not simply constitutionally illiterate but parliamentary drivel, and it should be treated as such by everyone who had the misfortune to hear it.

May I say three things in the brief time available, provided that no one is decent enough to intervene? Much adulation has been heaped on the present Home Secretary, some of which is richly deserved. However, even if he were the most wonderful, beautiful, benign and wise judicial body, even if he had a reputation for Solomonic justice and Brechtian wisdom, it would not matter a fig. It would be a terrible mistake to hand judicial powers to the Administration, given that there are at least three examples of the dereliction of those powers.

The first, of course, is Belmarsh itself. We are told that, after three years, the 13 people who have been held in that ghastly prison, with its 30 ft walls and razor wire—I know, because I have been there on many occasions myself—are to be released, not into house arrest but on to the streets with tagging or non-derogated orders.

Mr. Hogg: Does the hon. and learned Gentleman agree that the necessary implication of the release of those people is that they should not have been held for three years in the first place?

Mr. Marshall-Andrews: It is wonderful how the right hon. and learned Gentleman manages to anticipate almost the precise words that are about to fall from my mouth. In the past three years, successive Home Secretaries—well, mainly one Home Secretary—have repeatedly told SIAC that those people are so dangerous that they cannot possibly be released from the misery and solitary confinement in which they have been interred. Now, they are all to be let out, because repentance is a wonderful and beautiful thing. Perhaps they have repented, but the idea that they have done so simultaneously would represent the greatest collective apostasy since St. Paul's letter to the Corinthians. It is clear that SIAC has been misled for the past three years about those people in Belmarsh. The new Home Secretary, however, has taken a different view, which demonstrates the arbitrary nature of the power that the Government are attempting to achieve.

Secondly, much adulation has been heaped on our security services and I am certain that some of it is deserved. However, the Iraq war is fresh in our minds, along with the duplicity, lies, twisting and distortion of the security services' manifesto. We all know what happened: the information that the security services gave the Government was manipulated before it was placed before the people. The second dossier created on the basis of that intelligence destroyed forever people's faith in this and probably any Government's purveying information accurately and using it in a judicial or any other capacity. That is why Home Office briefings have been received with such contempt both inside and outside Parliament. They are perceived as worthless documents because no one believes the construction placed upon them.

Thirdly, we have every reason to distrust the measure because British subjects will be placed under its aegis as a result of the rulings, speeches and opinions of the House of Lords. Is it coincidental that, when the Law Lords provide an opinion, there are suddenly risks from British subjects? Were there were no risks from them before that? If there were, why were we not told about them? If there were grave risks before that, why did someone not come to Parliament and say so? The Bill is a gross manipulation and distortion of the Law Lords' ruling.

I struggled to find a harmless analogy for what the Government are doing. The best I could come up with is that of a boy who is viciously bullying some people at school, all of them girls. He is hauled up before nine school governors who tell him that he must stop it. He says, "Fine, I'll stop it. I'll cut out the vicious bit and bully everyone." That is precisely the way in which the Government have reacted to the House of Lords judgment. The analogy is harmless and I hope that the point is not lost, even on the Home Secretary.

The substance of the Bill is the supposed effect of judicial overview. I shall say slowly, clearly and distinctly, in case anyone on the Front Bench is listening to what is being said in this House, that there will be no judicial overview as to the fact of the vast majority of the control orders that are envisaged in this Bill. That should be repeated. There will be no factual judicial overview of any of the control orders that affect the right to work, the right to travel, the right to associate, the right to be seen in a specific place, the right to move, the right to have a passport, the right to be with specified people, the right not to be tagged, and the right not to be electronically monitored. For all those control orders, there will be no judicial overview as to fact. If people in this country realised that, their reaction would be very different from what we are told is the popular reaction at the moment.

There will be greater judicial overview of house arrest, but, as has repeatedly been said, those who seek to challenge it in the courts will be bereft of and denied by statute all the information, disclosure and discovery that they need to put before a judge, because the Government have decreed—I pointed the relevant clause out to the Home Secretary—that they do not have to disclose that material to anyone. What is more, even if someone achieved their aim and the court decided that the decision was flawed, they could be re-arrested on another control order the minute they walked out of the door. That process was refined in South Africa time and again under the 108-day rule.

While referring to South Africa, I pay tribute to the wonderful speech of my hon. Friend the Member for Stevenage (Barbara Follett). I shall remember it for a long time after I leave this place.

The procedures that the Government propose to put into effect can be found at the end of the Bill. The Government have arrogated to themselves the right to create rules covering evidence, the burden of proof, lack of evidence, and the amount of disclosure. Those completely new rules of court will be introduced by statutory instrument and without proper consultation or scrutiny in this House.

Mr. Dalyell: Can my hon. Friend explain to a non-lawyer what is involved in the rules of disclosure in obviously delicate circumstances?

Mr. Marshall-Andrews: I can, but it would take me a couple of hours. Very briefly, let me tell my good and

[Mr. Marshall-Andrews]

hon. Friend that under the present criminal justice system, it is implicit that the prosecution, if in possession of any factual, documentary or other material that might assist the defence, must disclose it to the defence.

Mr. Cash: I want to ask a simple question. In light of what the hon. and learned Gentleman has said in his compelling speech, does he think that there is a cat in hell's chance that this legislation will not be overturned by the Law Lords again?

Mr. Marshall-Andrews: I know nothing about the other place. I still live in the forlorn hope that the Bill might be overturned here—if not now, then on Monday.

It cannot be repeated often enough that we will never decrease the sum total of human wickedness by decreasing the sum total of human liberty. If we act in that way, we run the extreme risk of increasing the sum total of human wickedness by denying these very liberties to those who deserve them. Looking back over the past seven years, I am very sorry to reflect on the number of occasions when I have had boringly to repeat that phrase.

6.55 pm

Mr. David Trimble (Upper Bann) (UUP): The hon. and learned Member for Medway (Mr. Marshall-Andrews) referred to the vigour with which the Home Secretary introduced this debate, and I think that he meant that critically. We would normally refer to the Home Secretary's vigour, which was very much on display today and yesterday, with approbation. We can contrast that with the manner in which Northern Ireland affairs are dealt with; indeed, that contrast was very apparent yesterday. However, having said that, I am not entirely happy with the Bill for a number of reasons.

As several Members have said, there is no need to rush through the Bill in this way. The Prime Minister said this afternoon that that was necessary because the Government had to act after the House of Lords judicial ruling. No, they did not. The Human Rights Act 1998 was drafted in such a way as to enable Parliament to disregard rulings made under that Act if it so wished, and that could be done in this case. Furthermore, as was pointed out, given that the Home Secretary said that he would not introduce derogation control orders, other parts of the legislation could have been proceeded with and we could have left consideration of this matter in greater detail for another day. There was no need to rush through this legislation.

I am also not happy about the content of the Bill. First, I am unhappy about the breadth of the control orders. Other Members have already referred to issues relating to paragraphs (a) to (o) in clause 1, and reference has also been made to the moving speech of the hon. Member for Stevenage (Barbara Follett). Her experiences in South Africa demonstrate the impact that orders of this nature can have. There is also a practical point that I raised in an intervention on the Home Secretary. I am unclear how these orders will be enforced. Reference has been made to tagging, but tagging merely helps to identify where a person is; it does not identify his activities.

It will not be possible to enforce these control orders without a massive operation by the police and the security services. There will have to be surveillance of people who are subject to such orders and that will take up a tremendous amount of time. That will not be surveillance of people who are active in terrorist organisations, because once the control orders are imposed, that will reveal to the organisation that the authorities are aware of that person and they will probably cease to be active within that organisation. Therefore, we will be devoting a great deal of resources to monitoring someone who is no longer the threat that they once were. The terrorist organisation will then recruit someone else, whereas if we merely maintain surveillance, we would be watching someone who was active, so we would be using our resources much more efficiently. Unless there is more to this provision, I continue to have great difficulty with its breadth and with the question of enforcement.

Much reference has been made to judicial procedures, and in the early part of the debate we discussed the question of when judicial proceedings should take place. As the debate went on, it became clear that that was not the real point. The real point about judicial proceedings was made by the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg) and the hon. and learned Member for Medway—that the judicial proceedings provided for under the Bill are not judicial proceedings as we understand them, but only a shadow of a judicial proceeding, because material is not disclosed and because the defendant, if we can use that term, is not told what the case against them is.

It being Seven o'clock, the debate stood adjourned.

BUSINESS OF THE HOUSE

Motion made, and Question put forthwith, pursuant to Standing Order No. 15 (Exempted business),

That, at this day's sitting, the Second Reading of the Prevention of Terrorism Bill may be proceeded with, though opposed, until Eight o'clock.—*[Mr. Heppell.]*

Question agreed to.

Question again proposed, That the Bill be now read a Second time.

Mr. Trimble: I am glad that we have the extra hour to consider the matter, but as I am conscious that other Members want to speak I shall not relax my pace too much.

I was pointing out that these are not judicial proceedings in the normal way. I was concerned by the line being taken by the Liberal Democrat spokesman as I had the impression from what he was saying that the Liberal Democrats would be happy to compromise with the Government if a little more were added, especially on the question of judicial proceedings. If the Liberal Democrats are minded to do that, it would be a mistake. There may be other ways to compromise, but that is not one of them.

Mr. Heath: I want to make it absolutely plain that there is no question of our compromising with the Government about the process being put in the hands of the judiciary, not an elected Minister of the Crown.

Mr. Trimble: That reinforces my concern. The judicial proceedings that you will be settling for will be a sham and will be dangerous for the legal process of this country. You will be settling for a judicial process that is not a true one. That is the problem. Judges are there to make decisions based on legally admissible evidence; they are not there to make decisions on intelligence. Judges cannot be expected to assess intelligence, but the orders will operate only on the basis of intelligence, so it is foolish to think—*[Interruption.]* You would do better to adopt a position of outright opposition to the orders rather than taking the route that you are following at the moment—*[Interruption]*—I am sorry, Madam Deputy Speaker, I should address my remarks to the Liberal Democrats through you, but I was slightly irritated at that point.

Mr. Heath *rose—*

Mr. Trimble: I shall not take another intervention. I have made my point and I want to reinforce it by saying that I am surprised that the judges appear to have accepted, or agreed to, those proceedings.

The form of judicial proceedings that we shall have as a result of the Bill will bring the courts into disrepute, will lower public esteem for the courts and will create huge difficulties for judges. I am surprised that they have agreed to such provisions and I suspect that when they come to operate them they will have second thoughts. The question then is: what should be done? The Home Secretary was quite right—there is a huge problem and we have to tackle it.

Reference has been made to the use of intercept evidence, a matter I brought to the House about a dozen years ago and to which I have returned on several occasions. I have never found the Government's arguments against it convincing. The right hon. Member for Islington, South and Finsbury (Mr. Smith) made the point in his speech that changing the law would not compel the introduction of intercept evidence, but would give a discretion that may or may not be exercised and, indeed, could be exercised in such a way as to protect sources.

Another reason given is that the use of such evidence would let terrorists and other criminals realise the extent of surveillance. I have always thought that argument stupid. It assumes that terrorists and criminals do not already know that there is surveillance. They do know about surveillance and they also have a fairly clear idea of its extent. The authorities may have some technical edges of which terrorists are not yet aware, but I suspect that any technical advantage will be temporary and may shift from time to time. What that argument reveals, however, is that the heads of the intelligence services—if they hold that view—assume that they are dealing with rather stupid people in terrorist organisations, and that concerns me because those people are not stupid. If the authorities and the intelligence agencies assume that they are dealing with stupid people who do not know what is going on, they are more likely to make mistakes in their approach to them, so I go back to the question and continue to endorse the use of intercept evidence.

There is also the question—I believe that Lord Carlile picks it up in his report as well—of whether to use non-jury courts, along the lines of those used in Northern Ireland. That is a good idea. The so-called Diplock courts in Northern Ireland were a success, although they were not perfect—I was involved in one case where there was a clear miscarriage of justice. However, I think that there have been fewer miscarriages of justice in Diplock courts than in jury trials in this jurisdiction. Therefore, I recommend that, although I have to say that I think that Lord Carlile made a mistake by suggesting that there would be three-judge courts rather than single-judge courts. That is too extensive a point to deal with now, but there is an awful lot to be said for placing the clear, undivided responsibility on a person who then has to produce his reasons for scrutiny. Once there is more than one person, there is the opportunity to hide behind, and rely on, other people's judgment. Moving beyond one judge is a mistake.

The other thing that can and should be done is surveillance, which has been mentioned in the debate. That can be done. If that is not sufficient and we are dealing with a real emergency, there is something left in reserve that can be used, but only in dire circumstances—namely, a return to Executive detention, as applied in wartime and on a number of occasions in Northern Ireland and the Republic of Ireland. That is not a matter to be dealt with lightly, but it is not matter to be discarded. Those who spoke of it in terms of something that could never, ever be done are making a very serious mistake. There may be circumstances in which it is necessary, but it should be done only in extreme circumstances. If it is done, it is indeed a draconian measure, but the fact that it is so draconian means that it will be used only sparingly.

What bothers me about control orders is that they will become an easy option and people will slip into using of them because they will think, "It's only a control order. It's not the same as putting a person in prison. It's limiting what they can do." Over the years, the number of control orders will gradually accumulate and the problems that arise will grow as a result.

I have reached a conclusion that the legislation has been brought forward too soon. It will not be subject to proper scrutiny and it is fundamentally flawed. Consequently, I would be opposed to it. I have a little concern about the reasoned amendment that has been tabled by the Conservative and Liberal Democrat parties because it could be interpreted as ruling out the reserve power of Executive detention, which I believe must be available. Consequently, I do not regard that part of the reasoned amendment with favour, but, of course, one takes a balanced look at the matter and, on the whole at the end of the day, it is question of one's view on the Bill, and that is what will be expressed. I will not regard myself as being in any way bound by some of the persiflage that I find in the Liberal Democrat and Conservative amendment.

7.8 pm

Vera Baird (Redcar) (Lab): I was glad to hear the Home Secretary once again reiterate his commitment to prosecution as his first choice. The problem is that we have been saying that for about three years now and there is no real evidence that anybody has tried to prosecute such people. I accept readily what he said about 700 people being arrested in the past year under

[Vera Baird]

the prevention of terrorism Acts. Many have been charged, some have been convicted and, no doubt, some have trials pending. I know that that is true because quite a lot of my former colleagues are making a lot of money out of those trials. The point is not that terrorists are not being prosecuted; it is that there is nothing to add reality to the Home Office assertion that prosecution is the first choice for those people.

The Home Secretary has told the Select Committee on Home Affairs that the prosecution issues are very fully considered, but, frankly, it is not the job of the Home Office to decide whether people who are suspected of offences should be prosecuted. It is the specific constitutional job of the Director of Public Prosecutions, and the files should be sent to him now.

It is implicit when applying for a control order that a decision has already been taken that a person cannot be prosecuted. That decision must be taken independently, so the Bill should set out explicitly that that must be done. The constitution sets out that the clear way of ascertaining whether a person can be prosecuted is through the Director of Public Prosecutions, so there is no reason not to make use of him.

The Home Secretary said both today and yesterday that he was considering new offences, such as being involved in preparation for acts of terrorism. He will of course consult the DPP about such offences. However, if the DPP were asked to look at the files in great detail and found that he could not make such a prosecution, he would be in pole position to advise on the additional offences, or the widening of admissibility, that might facilitate a prosecution in specific cases. We all sit in the Chamber guessing that intercept evidence, other offences or hearsay might help, but we have no idea. We should get the expert prosecutor to examine the problem now.

Such a procedure would above all prove to the public that an independent eye was being cast over the matter. If the consequence of being unable to prosecute is a control order, it is imperative that it does not look as though the Home Secretary is sitting in a huddle with the intelligence services to decide who will be locked up. It must be plain that the constitutionally charged official has made an independent decision.

I do not know whether the Government fear that it would be politically difficult to put a control order on a person who was prosecuted yet acquitted, and thus "an innocent man". If that is in their mind, it should not be. We put restraint orders on people who are acquitted of domestic violence and harassment, and for centuries we have bound over acquitted people to be on good behaviour if something about their conduct has caused the court to be worried about what they might do in the future. Mentioning the court brings me on to control orders.

I congratulate my right hon. Friend the Home Secretary on grasping the need for proportionality and setting out a list of the possible levels of control that he intends to use only to meet the threat as necessary. Of course such measures will be used sparingly, but they are immensely strong. Hon. Members have cited them, so I will not repeat them all, but instead only mention several.

It will be possible to put a restriction on people's work or business, presumably by telling them that they cannot carry out their business or go to work. It will be possible to put a restriction on people's association or communication with specified persons, presumably including any member of their families, such as children and parents. It will be possible to put a restriction on people in respect of their place of residence and the people to whom they give access to their place of residence. Presumably people could be told to move house, or told that they could not move to where they wanted. Another person will be able to restrict someone's movements under the aegis of the measures, and it will be possible for restrictions to be put on where people can go in the UK or outside it. It will even be possible to specify a small part of the UK to be restricted to. That measure could presumably ban people from the streets outside their houses, so it would effectively cause people to be locked up in their own houses. The measures will allow people to be tagged and provide that they must agree to allow people into their houses so that they can be searched. People will also be required to give advance information about their movements, if requested.

I have only cited examples. It is quite clear from clause 1 that the Home Office has complete latitude to impose any condition that it sees fit as long as that is necessary to restrict people about whom there are reasonable grounds to suspect involvement in terrorism-related activity. Just about anything can be done under a control order under clause 1 short of house arrest, but that power exists in clause 2, so I guess that the clause covers everything falling short of that.

The Home Secretary has been rightly praised in the round for upping the judicial scrutiny of the powers, but that will not apply to such control orders. This has been said once, but let me say it again pretty clearly, rather than in lawyers' code, so that people can understand it. Unlike the situation under clause 2 for a derogation control order—a locking-up order—when there will be an automatic reference to the court by the Home Secretary within seven days, a control order under clause 1 will be subject to appeal only as and when an individual chooses to make one. The appeal will be based on whether the decision to impose a control order, or find a person to be a terrorist, is flawed. The court is scrutinising not whether the order should have been made, but whether it has been made in the right way.

Therefore, no court will consider whether there are reasonable grounds to suspect that the person is or has been involved with terrorism-related activity. The question of whether the control order is necessary will not be considered. The questions that will be considered are whether the Home Secretary took the right things into account, left nothing out or did not consider something that he should have done when he made his decision. If the decision is quashed, all the Home Secretary must do is take into account what he left out, or leave out what he should not have put in, and make the same decision again, and there is no appeal—it is finished.

My right hon. Friend the Home Secretary said that if the extent of the control order is so stringent that it would take away liberty, it will tip over into the appeal procedure for clause 2. In my view, however, that is not correct at all. The clause 2 derogation-based house

arrest orders can be made only if there is a derogation. When he makes an order for house arrest, he must refer that fact to the High Court, and the Court must hear it within seven days. Making a house arrest order under derogation triggers the appeal to the High Court, which must confirm or quash the order within seven days. That is the only way that one can get any order into the High Court. One cannot get a control order into it. Only when there is a derogation, which there is not, and there is no intention of having one, and only when there is a clause 2 house arrest order, which there will not be in the case of a clause 1 order, can that appeal follow. There will be no scrutiny of the facts at all, and while I accept that there is better scrutiny for house arrest orders, it is incorrect to suggest that that will be applicable to control orders. The only appeal against the control order will be scrutiny of the decision, which is insufficient, poor calibre and adds enormous weight to the argument that the judiciary must be involved from the outset and not later.

In making that argument, I rely on the fact that the Home Secretary has brought judicial scrutiny much closer with regard to derogation-based lock-up orders. He has accepted that on that case. My argument to him is that if one has the power to make a lock-up order under a derogation, but one must refer it to the High Court, which must confirm it or quash it within seven days, that is only a provisional order and the Court is really making the order.

It is not clear to me—this is probably an unpopular argument in the House, given the atmosphere tonight—that there is truly a great erosion of human rights as between a court ordering a control order and, on the other hand, the Secretary of State ordering a control order with the duty to refer it for quashing or confirmation within seven days, in which case it could be quashed or confirmed within as little as a day. I cannot see a massive erosion of human rights as between those two. Obviously, however, it is of the utmost importance; although technically not necessarily massively important, it has a huge impact on the public's view of exactly what we are doing with such people.

If the true position is that because the Home Secretary must get the control order confirmed or quashed within seven days he has really only made a provisional order, how far away is that from him making up his mind that he wants an order, making an application to the court ex parte and asking the court to make a decision within seven days? It is about two penny worth away, as my mother would have put it, is it not?

Mr. Marshall-Andrews: Is not the answer to the hypothetical question that my hon. and learned Friend postulates that if I were to go to the court, I would require the material that the court will require, and I would need to be shown the documents on which the Home Secretary had based his decision in order for the court to exercise a proper jurisdiction? This Bill contains no provision for me to get that disclosure.

Vera Baird: As between making an order and having an appeal within seven days, for which the Home Office has to furnish material, the furnishing of material at the outset when the application is made and requiring the matter to be determined within seven days means that there is not spitting distance between the two. Once we accept, as my right hon. Friend the Home Secretary has for the high-level orders, the principle of close judicial scrutiny, there is little difference to be found. There is therefore every argument for taking the extra step and bringing the judiciary in at the beginning.

That would not end all the problems. I accept what many Members have said about the problems of evidence, special advocates putting the case and the opportunity of challenge. All these matters can be solved with a good deal of effort and cross-party will, if only we can come up with a framework with which all of us are comfortable and within which we could work.

That extra step would end all of the outcry about Executive detention. It would end all of the backlash of the civil liberties groups. It would put away much of the fear of exciting community unrest because of eroding trial rights and replacing that process with Executive detention. It would quiet the public and it would restore our constitution.

I shall vote tonight with my right hon. Friend the Home Secretary because he has clearly said that he understands the issue and that he will consider it extremely seriously. I see no alternative, with 14 March looming large, but to try to get this proposed legislation right in time. I say to my right hon. Friend that I hope that between tonight, when I give him my vote, and the next opportunity for us all to vote, he takes the extra step.

7.21 pm

Mr. Crispin Blunt (Reigate) (Con): It is 740 years since Reigate first returned a Member of Parliament, so I have the opportunity to make a truncated contribution to the debate. Some Members will not have the opportunity to make any contribution to this extremely important debate. As the debate comes to a conclusion, it is opportune to weigh in the balance what we are discussing and to look back at the rights that have been acquired by Britons over the centuries.

I turn first to the Magna Carta, 790 years ago. Chapter 29 stated that no freeman shall be taken or imprisoned or seized of his freehold or liberties or

"free customs, or be outlawed, or exiled, or any other wise destroyed; nor will we not pass upon him, nor condemn him but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right."

These statements and judgments echo down the years.

In 1615, a Chief Justice, Lord Coke, said:

"By the law of God, none ought to be imprisoned but with the cause expressed in the return of his imprisonment, as appeareth in the Acts of the Apostles."

I do not think that I would have expressed the matter quite like that, but this Parliament expressed it in the Petition of Right. In the fifth clause it set out the grievance that

"divers of your subjects have of late been imprisoned without any cause shewed; and when for their deliverance they were brought before your justices, by your majesty's Writs of Habeas Corpus, there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your majesty's special command, signified by the lords of your privy-council, and yet were returned back to several prisons, without being charged with any thing to which they might make answer according to the law."

[Mr. Crispin Blunt]

In 1770, when a Mr. Stewart brought his slave, Somerset, to England, Lord Justice Mansfield said:

"Every man who comes into England is entitled to the protection of English law, whatever oppression he may heretofore have suffered and whatever may be the colour of his skin. The air of England is too pure for any slave to breathe. Let the black go free."

Then, 140 years later, in a judgment already referred to by my hon. Friend the Member for Stone (Mr. Cash)—the Liversidge *v.* Anderson case, a wartime internment case—Lord Atkin said that

"one of the pillars of liberty is that in English law every imprisonment is prime facie unlawful and that it is for the person directing the imprisonment to justify his act."

That is what is at stake in the passage of this Bill, and I wish that more hon. Members were aware of the enormity of what the Government are inviting us to do this evening.

Why now? On Monday, the Leader of the House announced in the business statement that the Bill is necessary because the existing powers will expire on 14 March. When the Home Secretary made his statement on the following day, however, he said that he does not need all the powers in the Bill. Which is it? We know that my hon. Friends have proposed an alternative to enable the Government to keep those powers on the statute book.

The Bill rests on an assumption about the threat faced by the United Kingdom. In a previous incarnation, I was a soldier, working on the assumption that I could trust the integrity of the chain of command when I was given orders and that I could believe that those orders were beneficial and well intentioned. There is a difference between a soldier making those judgments and Parliament imposing the proper restrictions on the Executive, which is a test not necessarily for this Home Secretary but for any Home Secretary in any Executive. That is the standard that we should apply.

My experience in this House in the past seven and a half years leads me to believe that I cannot trust this Executive. I regret to say that I voted for the war in Iraq. I heard the final speech by the hon. Member for Hackney, South and Shoreditch (Mr. Sedgemore), and I felt rebuked by the fact that I had allowed myself to make what I believe was a misjudgment on the basis of the case that the Prime Minister presented to the House and set out to the country in a television broadcast. I believed what he said about the nature of the threat to the United Kingdom, and I feel that I was wilfully misled.

In my eyes, the Prime Minister and the Executive no longer enjoy the benefit of the doubt.

Madam Deputy Speaker (Sylvia Heal): Order. Will the hon. Gentleman reconsider and withdraw that remark about the Prime Minister?

Mr. Blunt: I will, of course, observe parliamentary convention and withdraw the remark.

The Government no longer enjoy the benefit of the doubt when they come to the House of the Commons or make their case to the wider public on the threat that the United Kingdom faces. That is one of the reasons why we urgently need a change of Prime Minister. If the Prime Minister has to come to this House again and say that the UK faces a threat that necessitates the UK going to war in order to deal with it, I for one will not give him the benefit of the doubt, which is a huge handicap for any Prime Minister to carry. That point applies directly to the measures that we are being invited to endorse this evening.

The Home Secretary laid out what he sees as the qualitatively different threat from al-Qaeda, which he says is different from anything that has gone before, and set out five of its elements—its ideology, its lack of restraint, the suicidal readiness of its followers, the different order of its capability and resources and its global reach. Some of those propositions are contestable. In terms of taking on the ideology of the French revolution, as it would have appeared to this Parliament in 1792 or 1793, or taking on the ideology of communism for most of the 20th century, the threat is not qualitatively different.

Yesterday, the Government published a paper to support the Bill, listing all the different actions taken by international terrorists. We must be slightly more sophisticated in assessing the threat, and it can be argued that we do not understand al-Qaeda terribly well. If we examine the individual examples of international terrorist attacks since 9/11, a number of different attacks can be explained because they relate to national struggles, such as the struggle between the Israelis and the Palestinians. Al-Qaeda is a predominantly Saudi organisation that is conducting a battle that concerns the control of Saudi Arabia, which is its primary objective. I do not know whether my instincts are correct, but I have a duty to examine the case that the Government are putting forward. In the modern era, the state, in taking on al-Qaeda, has a number of significant advantages that were not available to states taking on threats to the UK before.

The first is that since the war in Afghanistan—undertaken, quite properly, to ensure that al-Qaeda had no place to hide—there is no state within which al-Qaeda can hide. There is international uniformity on bearing down on al-Qaeda—it has no friends. Surveillance techniques have improved significantly in the past seven years, as has information technology, giving the Government enormous powers to gather information about people. Therefore, I believe that taking these powers now is counter-productive. The Bill is a victory for al-Qaeda, and al-Qaeda should not be given this victory.

7.31 pm

Mr. Mark Fisher (Stoke-on-Trent, Central) (Lab): Consideration of the Bill this afternoon has demonstrated profound weaknesses in this Parliament. We have been debating the central elements of our democracy and of our human and judicial rights: habeas corpus, the independence of the judiciary, and the separation of the powers that distinguish our political system between the judiciary, the legislature and the Executive. Apart from the heroic small group of hon. Members who have been here throughout and contributed to an outstanding debate, where have our colleagues been on these issues? If we are not sent to this Parliament to debate the future of these issues, for what are we sent here?

I fear that in spite of the excellent speech of my hon. Friend the Member for Nottingham, North (Mr. Allen) we are going to fail a test in terms of the scrutiny that we have been sent here to apply to Government business. We have done so in the rigour of the debate and in the argument, but I fear that in a few minutes' time, those who were absent and have not heard this excellent debate are going to push the measure through. We will fail in our responsibility to be a check and a balance on the Executive on this most vital issue.

We are making bad law today, or are risking doing so. If so, we are failing as a Parliament. We have to start reasserting the right and the duty of this Parliament to carry out independent scrutiny of the Executive.

Mr. Frank Field: Will my hon. Friend give way?

Mr. Fisher: Another hon. Gentleman wants to get in and I want to give him a minute or two.

We should make a start here today. In particular, those hon. Members who have not been able to be in the Chamber today should read this very good debate and consider it over the weekend. I hope that on Monday, this Chamber will be full for the consideration of issues that are right at the centre of our democracy.

7.33 pm

Mr. Alistair Carmichael (Orkney and Shetland) (LD): This has been, without hesitation, the best debate in which I have had the privilege to take part since I came to this place, and the contribution of the hon. Member for Stoke-on-Trent, Central (Mr. Fisher) was one of the best in it so far.

I wish to make a few brief remarks about the operation of the schedule to the Bill, particularly as it pertains to Scotland. As I have made clear, this is a matter in which the Government seek to intrude upon the proper operation of the devolution settlement. The question of rules of court in Scotland is, quite properly, within the remit of the Scottish Parliament. I should like the Minister to tell us what consultation there has been with the Scottish Executive in relation to this, and what opportunity there will be not just for the Scottish Executive but for the Scottish Parliament to express a view. If—as would be constitutionally, or at least morally, proper, in my view—a Sewel motion were to be presented, I cannot envisage the circumstances in which my colleagues in the Scottish Parliament would be supportive of it. The way in which the measure seeks to graft alien principles such as the SIAC procedures on to the judicial process in Scotland is, in my view, absolutely unacceptable. The position of special advocates strikes at the heart of the lawyer-client relationship and leaves it impossible for any lawyer properly to execute their duties and ethics. It is a corrupt and corrupting system, it is bereft of integrity and I cannot countenance its ever being part of the Scottish legal system.

7.35 pm

Mr. Dominic Grieve (Beaconsfield) (Con): This has indeed been an extraordinary debate, and I apologise to hon. Members if, because of the short time for the winding-up speeches, I cannot do justice to all the contributions that have been made.

A sensible place to start is with the three hon. Members—just three—who said that they would support the Government tonight. All three—the right hon. Member for Southampton, Itchen (Mr. Denham), the hon. and learned Member for Redcar (Vera Baird) and the hon. Member for Hendon (Mr. Dismore)—made speeches which, I am bound to say having listened to them, presented some of the most cogent arguments as to why the legislation is fundamentally flawed.

The hon. Member for Hendon effectively said that the operation of control orders would be so unwieldy as to be almost unworkable. The right hon. Member for Southampton, Itchen made the important point that the decisions that will be taken to impose control orders will effectively block off the possibility of prosecution and reduce the likelihood of that taking place. The hon. and learned Member for Redcar raised a huge number of issues and I fully appreciate that her support was out of loyalty and conditional upon changes being brought about.

There were a large number of other contributions. They ranged from those that sought to look in great detail at some of the legal issues based on experience and knowledge—from my hon. Friend the Member for Aldridge-Brownhills (Mr. Shepherd), my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg) and the hon. and learned Member for Medway (Mr. Marshall-Andrews)—to the visceral. There is nothing wrong with visceral contributions on an issue that ought to affect us all viscerally.

Whatever else one can say, whether one is coming to the House to argue in favour of the Bill or against it, the enormity of what we are debating tonight cannot be overlooked. Nothing has worried me more in the course of the debate than the impression given by those on the Treasury Bench that while this is a difficult issue, all is for the best in the best of all possible worlds, and that subject to some tweaking and discussion on the detail, there really can be no objection, in view of the security situation, to suddenly embarking upon this piece of revolutionary legislation that places in the hands of the Executive power over the liberty of the subject. I could not disagree more with the glibness of that approach, and I very much regret it.

I say to the Minister for Crime Reduction, Policing and Community Safety, who I understand will reply to the debate, that she and the Government face a difficult task. One of the problems is that they are privy to lots of information that they cannot share with us, and I appreciate that. But equally, they are privy to lots of information that they can share with us. If the Minister, having been asked yesterday by a journalist on "Newsnight", I think seven times, whether she could explain when the Government decided that the memorandum on the back of the renewal notice that said that it was possible and legal to renew the existing powers was no longer their view, refuses to answer, how can we start out with a sensible debate on important issues?

For the avoidance of doubt, I will now tell the Home Secretary exactly where we stand. A huge number of issues relating to this legislation need to be looked at separately. First, the powers that the Bill creates should be exercised not by the Home Secretary but by a judge. I get the impression that the Government may be

[Mr. Dominic Grieve]

beginning to shift on that point. If they are, I wish to heaven that the Minister for Crime Reduction, Policing and Community Safety would state the logical and obvious: judges will have to make the decisions. However, the problem goes much further. It is not simply a matter of the decision, but of the entire process.

I must make a confession. When Conservative Members first informally discussed whether judges should make the decision, I felt an almost visceral—to use that word again—revulsion at the prospect of our asking judges to do that. We are not considering a judicial process at all. It is important that every Member who intends to vote at 8 pm understands that this is not and cannot be a judicial process.

In our constitution, judicial processes involve fairness and hearing the other side's arguments. That means a level playing field on which people can answer the serious allegations that are made against them before they are deprived of their freedom. However, whether a decision is made by judges, or by the Home Secretary and subsequently judicially reviewed, we will establish a system where none of those things apply. I accept that that is a problem for the Government and that they did not intend such a consequence. However, the proceedings will be secret and large quantities of the evidence will, of necessity, be concealed from the defendant, who will not be able to answer the allegations made against him or obtain full representation even through the mechanism of the special advocate procedure.

The Government have had more than a year to examine Lord Carlile's critique of the operation of the special advocate procedure. I appreciate that the Home Secretary has not been in his post for long and that he has inherited an unfortunate legacy from someone who rode roughshod over liberties in this country in a breathtaking manner. Nevertheless, a year on from Lord Carlile's critique, we have not received a Government response about the way in which the special advocate procedure can be improved. Such details must be addressed. They cannot simply be brushed under the carpet. If we embark on the course of action that the Government propose and introduce control orders, we must consider carefully every line of the Bill to understand the way in which we can improve it to the best of our ability.

Today, great play was made of questions, especially to my right hon. and learned Friend the Leader of the Opposition, such as, "Well, you're against control orders, aren't you?" Of course we should be against control orders. As a principle, control orders should be anathema to every democrat. However, that is not to say that there may not be occasions when we have to swallow the unpalatable. I have told the Home Secretary—I repeat it today—that, although control orders may be unpalatable, we may have to consider them. However, we must ask ourselves to what extent they serve a useful purpose.

An extraordinary state of affairs already pertains. The Home Secretary is rushing the Bill through because the Belmarsh deadline is imminent. However, when the deadline arrives, even with the control orders in place, the people will be released into the community. The Home Secretary has told us that he does not see the necessity of introducing house arrest provisions at the moment. I repeat that the Bill does not only provide for house arrest. The order could be, "Go and live in a cottage on Benbecula," or "Go and live in the Bicester asylum seekers' accommodation." That is possible under the powers that we are creating.

Do the control orders serve a purpose? If we do not intend to provide for house arrest now, why should we give the Home Secretary the power to do something, which would almost certainly breach the European convention on human rights on a challenge, and could not be maintained if it went back to the House of Lords? I believe that he has received legal advice to that effect. If that is the inevitable outcome, there is no point in our including it in the legislation now—and that leaves us with control orders which fall short of home detention.

As we go through the Bill on Monday, the Home Secretary will have to explain how each of the measures that he has spelt out line by line will have a useful function in preventing people from coming along and blowing themselves up either here or outside Parliament, or killing other people. At the moment, I still need some convincing. I can see how control orders might help a little, but the idea that they will prevent determined individuals who are suicide bombers from escaping the clutches of supervision and committing atrocities is one that I do not entirely accept. The point was well made today that surveillance might be more effective, although I am mindful of the fact that surveillance has its problems as well.

I want to give the Minister ample time to respond, because I think she has much to answer. Let me simply say this. The more the debate has gone on, the more we have asked ourselves whether the Bill is curable by amendment. That question may seem very relevant to many Members who are considering how they will vote at 8 pm. I accept that if Members think the Bill is indeed curable by amendment, that may be a reason for giving the Government the benefit of the doubt and, on Monday, going to work to see what can be done about it—but we need only look at the extent of the problems in the document to see that it is unamendable.

Is the Home Secretary seriously considering the possibility that the House should allow rules of court to be prepared by statutory instrument when those rules will be entirely unlike any others that have ever been put together in this country? As I said earlier, the measure requires a system of justice entirely different from any under which we currently operate. That in itself ought to give every hon. Member pause for thought before he or she goes into the Lobby to support the Bill.

What if the Bill is defeated? What if the amendment is carried? I encourage hon. Members to vote for it. We will help the Government if they come back with a proposal quickly. We told the Home Secretary that we would help to extend the existing powers for a short period. I have no desire to extend the existing powers. I accept that they are flawed, and the House of Lords has said that they do not comply with the Human Rights Act. Those are good reasons for getting rid of them. I am bound to say that if that is the small measure we must give the Government to enable them to go away and be sensible, and engage in a proper dialogue we will do it, but until we are given some sign from the Government, the best thing that hon. Members who are true to the oath that they took when they came here, and to our

duties to our constituents, can do is to get rid of a Bill which is one of the most horrible things I have seen since I came to the House.

7.47 pm

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): We have had a tremendous debate over the past four or five hours, certainly the most important in which I have taken part during my time here. I am grateful to Members of all parties for their contributions. I shall make a few preliminary remarks before dealing with as many comments as I can.

First, let me make it clear that, in my view, it is essential to the prevention of terrorism for us to remain above the party political fray. There is no issue more pressing, more salient or more difficult to resolve than the balance between the rights of the individual and the rights of wider society, and where to strike that balance is the very stuff of politics. Today's debate, however, is not theoretical. We have heard a lot of theory today, but the debate is real, it is here and it is now. All the evidence and the experience in Bali, Madrid, Iraq and elsewhere shows that terror cells do exist, they are active and they are plotting new atrocities.

So what should Government do? The theories of rights look pretty feeble in the face of the suicide bomber or the suicide hijacker. Edmund Burke and Tom Paine had no concept of the threat that we face from terrorist foes, so our deliberations must reflect the realities, not the theories. No Government faced with the scale of threat that we currently face could fail to act and still expect the support of the public. We must defend the freedoms of the overwhelming majority, who want to live in peace and security, and tackle the tiny minority who are prepared to kill themselves in order to destroy our way of life. I remain convinced that on this fundamental issue we have struck the right balance.

I will now try to deal with the issues that have been raised. I welcome the willingness of the right hon. Member for Haltemprice and Howden (David Davis) at least to engage with the legislation. He said that he does not particularly like the idea of control orders but he is willing to see whether the Bill can be improved. We certainly all share that aim.

The right hon. Gentleman raised specific issues and wanted other measures to be considered. He asked whether other offences such as acts preparatory to the commission of terrorism could be considered. We are actively looking at that. The Home Secretary said that we will look at that and possibly bring forward further legislation.

The right hon. Gentleman talked about intercept evidence. Many hon. Members have mentioned that again—I think that this is the third or fourth occasion in recent weeks that we have talked about it. He said that, since al-Qaeda knows about US intercept, how would our use of it mean that its practices were altered? Although simple forms of intercept such as wire and phone tapping may well be general knowledge, some of our more sophisticated capabilities, using intercept in different ways, are not necessarily known to those terrorists. If those capabilities become widely known, the terrorists will change the way in which they operate and our ability to disrupt them and to thwart their attacks will be severely compromised.

The right hon. Gentleman asked why it is suddenly necessary to impose these control orders. That issue has been raised more generally. It is necessary now not only because we have to respond to the Law Lords' judgment, but because, as we have done more and more operations to disrupt terrorists, we have found that the threat from British citizens has been developing in a way that was not clear to us immediately following 9/11. Therefore, there is a need now to have powers that respond to the threat not just from foreign nationals but from British citizens.

I say a genuine thank you to the hon. Member for Winchester (Mr. Oaten) for his constructive approach to the problem. He is right to say that there is common ground between us and he laid that out in a genuine way. We need to have a regime in place by 14 March to protect the public. He does not want the part 4 powers to be renewed. He wants to see whether we can put something in place. I agree entirely that we need to do more on deportation, getting memorandums of understanding with those third countries, provided that they are robust in human rights terms, to see whether we can return people to where they have come from.

The hon. Gentleman said that control orders could be a useful tool in the variety of mechanisms available to us, and he has generously acknowledged the considerable movement we have made in having a high level of judicial scrutiny, involvement and oversight in the process. However, he is also right to say that there is disagreement between us. There remains the issue of the point at which the judiciary get involved. My hon. and learned Friend the Member for Redcar (Vera Baird) said that there was perhaps tuppence between us in terms of when the judiciary should get involved. The Home Secretary has said that we will consider the matter further. No doubt we will debate it in detail on Monday in Committee. We are happy to do that but that is an area where there remains disagreement between us.

Mr. Win Griffiths: I thank the Home Secretary for his commitment to look again at the issue of the primacy of the judiciary in this process. I hope that on Monday we will have a full and successful debate, so a vote for Second Reading will mean a vote for Third Reading. I hope that we do not have to vote against Third Reading because we have not made any progress.

Ms Blears: I can give my hon. Friend the assurance that we will continue to engage in detail on this issue when we look at the Bill line by line. We certainly will be doing that on Monday.

The hon. Member for Winchester raised issues about the standard of proof, reasonable suspicion and the balance of probabilities. Another issue he raised was about the fact that there are already police powers to hold people in detention for 14 days. He asked why we should not use those police powers, rather than seeking a seven-day period for the control order. I think that he acknowledged that the current police powers relate to an ongoing investigation and therefore may not be appropriate, but I am sure that we can explore that in greater detail next week, too.

I was grateful to my hon. Friend the Member for Stafford (Mr. Kidney), who raised the possibility of exploring the idea of an interim application. We went on

[Ms Blears]

to discuss whether such an application would be ex parte in those circumstances. Those are the sort of detailed matters that we can genuinely discuss on Monday.

I was saddened by the contribution of my hon. Friend the Member for Hackney, South and Shoreditch (Mr. Sedgemore). I acknowledge his strength of feeling, but if that was his last speech in the House, it is a shame that he could not have spoken about a more constructive subject and offered something more positive. I really felt that his contribution was very sad indeed—*[Interruption.]*

I was grateful for the contribution of my right hon. Friend the Member for Southampton, Itchen (Mr. Denham), who adopted a very practical approach to the issues. He said that there was too much theoretical legalistic language in tonight's debate and that we needed to get the balance right. He raised some serious issues about what happens when a control order is decided on. He asked whether a decision is taken then about prosecution and on whose advice. I can tell him that every single time that a control order is considered, advice will be sought from the Crown Prosecution Service, as it is now, about whether a prosecution is possible. Prosecution is always our preferred option.

Several hon. Members asked about sending the papers to the Director of Public Prosecutions. I can confirm that the CPS is engaged, but we will look to see whether we can do anything further on this matter. I want to tell the House that a decision to make a control order does not mean that investigation stops. Indeed, investigations have continued into some of the current detainees and further charges have been brought. It is not the case that, once an order is made, all the work on investigation and prosecution comes to a full stop.

The right hon. Member for Hitchin and Harpenden (Mr. Lilley) questioned the advice of the security services and said that it was the job of Ministers to probe, test and evaluate that advice and reach their own decisions. I can give him the assurance that that is exactly what Ministers do: we receive the advice of the security services, but then test it in order to reach our own viewpoint. He said that we should not pass off responsibility to officials, and we are certainly not doing so. Interestingly, the same argument could be applied to passing off our responsibility to the judiciary. That was one of the matters raised by the right hon. Member for Upper Bann (Mr. Trimble), but I can reassure him about that.

My right hon. Friend the Member for Islington, South and Finsbury (Mr. Smith), who unfortunately cannot be with us now, did not accept the need for control orders and argued that it was the job of the Government to test whether such powers were necessary. He served on the Newton committee, for which I am grateful, and he also raised the matter of using intercept evidence. I remind the House again that much of the intercept evidence used in other countries is the product of law enforcement agencies. They do not use intelligence product to anything like the extent that we do in this country. I have a genuine fear that, if intelligence product were used, we would see the sources drying up significantly in the future.

As to the contribution of the hon. Member for Henley (Mr. Johnson), does he accept that there is a serious threat, which I thought was fairly common ground? Does he accept that some people cannot be prosecuted through a conventional legal system? Does he accept that detention in prison under part 4 is not sustainable in the light of the Law Lords' judgment? Frankly, in those circumstances, what would he do? We received no answer to that question whatever.

My right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) made a short and powerful speech in which he said that he would support control orders up to derogation. I hope to persuade him of the need for the extra powers in our later line-by-line examination of the Bill. My hon. Friend the Member for Nottingham, North (Mr. Allen), who has a proud record on constitutional issues, asked for further change, but recognised that extraordinary times need extraordinary measures. I was grateful to him for that.

The hon. Member for Gordon (Malcolm Bruce) asked about European issues and invited us to take serious note of the tone of the debate. I can certainly give him the assurance that we will do so. My hon. Friend the Member for Stevenage (Barbara Follett) made a powerful and moving speech, in which she recounted her personal experience. She said that she could not support the Government on control orders this evening. I hope that she will remain engaged in the debate over the next few days, as she raised some serious and important points.

I am grateful to my hon. Friend the Member for Hendon (Mr. Dismore) and to all those hon. Members who offered support. I end by placing on record my appreciation of the work of the security services. They have helped protect this country over the past three and a half years, but have no forum in which they can explain themselves. We owe them a huge debt of gratitude for keeping us safe.

It being Eight o'clock, MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [this day].*

Question put, That the amendment be made.

The House divided: Ayes 216, Noes 316.

Division No. 93] **[7.59 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William

Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cran, James *(Beverley)*
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Galloway, George
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Laws, David *(Yeovil)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Mahon, Mrs Alice
Malins, Humfrey
Maples, John
Marshall-Andrews, Robert
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Norman, Archie
Oaten, Mark *(Winchester)*
Opik, Lembit
Ottaway, Richard
Page, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Tonge, Dr. Jenny
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waneing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. Roger Williams and Gregory Barker

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel

Gapes, Mike *(Ilford S)*
Gardiner, Barry
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Maliaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Oliner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

Tellers for the Noes: James Purnell and Joan Ryan

Question accordingly negatived.

Main Question put forthwith, pursuant to Standing Order No. 62 (Amendment on Second or Third Reading):—

The House divided: Ayes 309, Noes 233.

Division No. 94] **[8.13 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*

Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hunt, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Sawford, Phil
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stenberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

Tellers for the Ayes: Joan Ryan and James Purnell

NOES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Allen, Graham
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Best, Harold
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*

Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooks, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burden, Richard
Burnett, John
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Cran, James *(Beverley)*
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Etherington, Bill
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Galloway, George
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Killoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Laws, David *(Yeovil)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McWalter, Tony
Mahon, Mrs Alice
Malins, Humfrey
Maples, John
Marshall-Andrews, Robert
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Norman, Archie
Oaten, Mark *(Winchester)*
Öpik, Lembit
Ottaway, Richard
Page, Richard
Paterson, Owen
Pickles, Eric
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Tonge, Dr. Jenny
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, rh Alan *(Swansea W)*
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Bob Russell and
Mr. Peter Atkinson

Question accordingly agreed to.

Bill accordingly read a Second time.

PREVENTION OF TERRORISM BILL (PROGRAMME)

Motion made, and Question put forthwith, pursuant to Standing Order No. 83(A),

That the following provisions shall apply to the Prevention of Terrorism Bill:

Committal

1. The Bill shall be committed to a Committee of the whole House.

Proceedings

2. Proceedings in Committee of the whole House, any proceedings on consideration and proceedings on Third Reading shall be completed at one day's sitting.

3. On that day, proceedings in Committee of the whole House and any proceedings on consideration shall (so far as not previously concluded) be brought to a conclusion five hours after the commencement of those proceedings or one hour before the moment of interruption, whichever is the later.

4. On that day, proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion six hours after the commencement of proceedings in Committee of the whole House or at the moment of interruption, whichever is the later.

Programming Committee

5. Standing Order No.83B (programming committees) shall not apply to proceedings in Committee of the whole House, any proceedings on consideration or proceedings on Third Reading.

Programming of other proceedings

6. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.—*[Mr. Heppell.]*

The House divided: Ayes 305, Noes 196.

Division No. 95] **[8.25 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Boateng, rh Paul
Borrorzi, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Etherington, Bill
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Oliver, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul

Stoate, Dr. Howard
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watson, Tom
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

Tellers for the Ayes:
Joan Ryan and
James Purnell

NOES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Best, Harold
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burnside, David
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Laws, David *(Yeovil)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
Malins, Humfrey
Marshall-Andrews, Robert
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Norman, Archie
Oaten, Mark *(Winchester)*
Opik, Lembit
Ottaway, Richard
Page, Richard
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Steen, Anthony
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Tonge, Dr. Jenny
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Young, rh Sir George

Tellers for the Noes:
Bob Russell and
Gregory Barker

Question accordingly agreed to.

Mr. Dominic Grieve (Beaconsfield) (Con): On a point of order, Mr. Deputy Speaker. The House may be aware that a variety of allegations and revelations have appeared today concerning the circumstances in which the Attorney-General's advice to the Government prior to the war in Iraq was made. Those include an assertion, with some supporting documentation, that the final advice that was placed in front of the Cabinet had not in fact been prepared by the Attorney-General, but by Lord Falconer and Baroness Morgan. In those circumstances, and in view of the highly unusual nature of those allegations, have you received any notice from the Solicitor-General that she will come to make a statement to the House?

Mr. Deputy Speaker (Sir Alan Haselhurst): First, perhaps I should say that I know nothing of these things. In answer to the hon. Gentleman's specific question, however, no such request has been received to my knowledge.

PREVENTION OF TERRORISM BILL *[MONEY]*

Queen's recommendation having been signified—

Motion made, and Question put forthwith, pursuant to Standing Order No. 52 (Money resolutions and ways and means resolutions in connection with bills),

That, for the purposes of any Act resulting from the Prevention of Terrorism Bill, it is expedient to authorise the payment out of money provided by Parliament of—

(1) any expenditure incurred by a Minister of the Crown by virtue of the Act, and

(2) any increase attributable to the Act in the sums payable out of such money under any other Act.—*[Mr. Heppell.]*

Question agreed to.

Animal Experimentation

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Heppell.]*

8.38 pm

Mr. David Drew (Stroud) (Lab/Co-op): I am delighted to have the opportunity to speak in this Adjournment debate after all the excitement that went previously. This is an important topic. It is good to see the Under-Secretary of State for the Home Department, my hon. Friend the Member for Don Valley (Caroline Flint), on the Front Bench. May I start by thanking her for accepting a delegation from Naturewatch, on whose behalf I will largely speak? That charity is not based in my constituency, but in that of my friend, even though he is of a different party, the hon. Member for Cheltenham (Mr. Jones).

I want to thank particularly Richard Tweedy, who helped me to compile the information on this debate. He, along with the hon. Members for Lewes (Norman Baker) and for Southend, West (Mr. Amess) were able to come to a meeting in December 2003 at which John Ruane, the chief executive of Naturewatch, drew attention to the important issue of the use of animals in experimentation.

I make no apology for the fact that I shall talk about the use of primates and what has happened over the past few years. There are accountable procedures through the Animal Procedures Committee's reports, and more recently we have had the Boyd group report . The Boyd group is influential in combining both scientists and welfarists but unfortunately it seems not to have much power. The APC, which was set up by the Home Office to advise on the use of animal scientific procedures, based on the 1986 legislation, apparently has more authority. It is fair to say that the APC has been quite good at producing impressive reports, but it is for us to question what happens on the back of those reports. I shall be asking my hon. Friend the Minister to provide greater clarification and some assurances that we shall be given more information that is meaningful. There seems to be a greater use of primates, which some of us find reprehensible

I am trying to ascertain what has happened since the last APC report. What actions were taken on the back of that report? Do we need further to clarify the Government's attitude towards it? I will sign up to the three Rs—no doubt my hon. Friend will talk about them—which are the Government's stated policy on animal experimentation, but we want to see actions as well as words.

Most primate use is in toxicology—drug testing. About 70 per cent. of the primates are used in that way. The main species are marmosets and macaques. Baboons have not been used since 1998, largely because housing and husbandry costs are too high. Great apes have not been used since 1988, and thankfully their use has been banned since 1995.

Seventy per cent. of the use of primates is in toxicology. Most toxicology testing is done on rodents, but there is a regulatory requirement to test drugs in two species, one of which must be a non-rodent. The second species is usually dogs, unless they are unsuitable. For example, there is the drug class known as NSAIDS,

[Mr. David Drew]

which includes aspirin, to which dogs tend to have an adverse reaction. If dogs are not used, primates tend to be the usual alternative.

A major concern is that primates are used by convention and not of necessity. In other words, primates are used as an alternative to dogs because primates have always been used. The scientific rationale is that because of this there is more background data relating to primates than to other species. Should this be questioned, given the ethical dimension?

The APC notes that the regulations have considerable power, such as those that apply to the US Food and Drug Administration. It comments that

"this is alarming given that there is a lack of transparency in their function. It is extremely hard to ascertain exactly how they operate."

My hon. Friend the Minister may wish to respond to that statement.

Current practice acts to undermine the operation of the Animals (Scientific Procedures) Act 1986. For example, commercial pressures may lead to rodent and primate studies being undertaken simultaneously, when the primate studies should be carried out only after the first studies on rodents have been successful. Also, generic licences for large toxicology projects do not provide sufficient justification for the use of primates, so insufficient detail is given in licence applications for justifying their use.

The developing areas of alternatives are micro-dose studies in humans and non-invasive scanning techniques such as NMR—nuclear magnetic resonance—and PET—positron emission tomography. It is not clear whether enough resources have been allocated to moving towards those technologies and away from the use of primates.

I have two key questions. First, is a secondary, non-rodent species always necessary under the current testing regime? Secondly, when primates are used, are they really the only suitable species? There are other important issues, but I will not discuss them at this point because I want to bring those two issues to the Minister's attention tonight.

The future use of primates concerns Naturewatch, in particular, and those of us who take a keen interest in the future use of animal experimentation. The number of tests declined slightly in the 1990s, and one might have expected that trend to continue. Drugs are increasingly likely to be targeted at human receptors, so they cannot be tested on rodents, which do not have those receptors, but they may be tested on primates. The graphs show a significant recent increase in the number of primates used.

Research is increasingly focused on diseases of old age in the brain such as Parkinson's, Alzheimer's and strokes, which has resulted in an increased call for the use of primates. Finally, the human genome project is likely to lead to an increased emphasis on primates in order to determine the function of the 10 per cent. of human genes that are unique to primates and are not found in rodents. Pressures seem to exist to bring forward the greater use of primates, at least in unison with testing on rodents. Given the nature of new drugs and how the genome project is being taken forward, people who work in that area always say that they want more licences to use primates.

My conclusions concern the role of the APC, which has stated:

"The drive to produce pharmaceuticals for human benefit, and the associated primate use that this currently entails, clearly creates a conflict with the desire to minimise and eliminate the use of primates in experiments. If the predictions of an increased demand for primate use are realised then this conflict becomes more intense. The Subcommittee believes that it is extremely important to recognise this conflict, and absolutely essential to more determinedly and actively seek ways of resolving it. However, it must be recognised that this is a global issue, which needs to be tackled on an international basis."

The APC is aware of the dilemma. If it were asked to examine what is happening in the world of research, it would conclude that primates are more rather than less likely to be brought forward for experimentation, despite that being against the nature of what many of us would like to see.

What steps have the Government taken to address the use of primates as a second species in toxicology testing? In particular, have they tackled the automatic assumption that a non-rodent species is necessary in the testing of all drugs? Secondly, what conversations have the Government had with the regulators on those issues? Thirdly, what progress has been made in developing and promoting human micro-dose studies as an alternative to the use of primates in toxicology? Lastly, what work has been done on assessing the predicted value of primate studies by comparing pre-clinical and clinical studies of drugs that have progressed to the clinical trial stage and beyond?

If I had time, I would go into a number of related issues. I would certainly examine the severe experimentation on cats, dogs and horses as well as primates. The APC has also agreed to review procedures of substantial severity involving xenotransplantation. I am particularly interested in that subject because some have said that redefinition—the third R—is allowable because we will see greater use of xenotransplantation. It would be reasonable at this stage to ask the Government whether that is acceptable and whether it will reduce the use of primates, but also whether there are problems. For example, when there has been xenotransplantation of pig livers into primates, there has been evidence of chronic pain and of a real impact on the central nervous system. That is something my hon. Friend might wish to talk about.

Finally, the main contribution of the Boyd group report on primates in experiments was to summarise scientific knowledge in areas such as the sentience of primates. There was a good discussion of the moral status of apes and whether an ape is a person, but much of it was not germane to this debate so I will not go into it at this time. However, it showed that when we talk about the use of primates, we have to be clear where we are drawing the line in terms of what is currently banned and what is allowable. It would be helpful if my hon. Friend clarified which of the primate family were allowable for testing and which were not.

Monkeys are less sophisticated than great apes, but increasingly show signs of intelligence. Given that their social lives are important, that they express reconciliation and that they show signs of understanding consolation, we ought to be reducing the use of these animals, rather than encouraging it.

In conclusion, I ask my hon. Friend to put on the record that the APC and the Boyd group report have done some valuable work in highlighting the issues, but it is up to the Government now to state categorically that they will seek to find alternative ways in which animal experimentation, if necessary, can be taken forward other than with the use of primates.

8.51 pm

The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint): I congratulate my hon. Friend the Member for Stroud (Mr. Drew) on securing the debate and I thank him for his comments about our meeting in my office. I say to him and to other hon. Members that I have an open door to future delegations. This area is kept under constant scrutiny by hon. Members, organisations such as Naturewatch, our Department and by the APC.

There are some issues on which I will have to come back to my hon. Friend, if that does not cause him too many problems, but I wish to point out a few issues regarding Government policy on the use of animals. We believe that animal experiments continue to be necessary if improvements in health care are to be developed with the minimum of delay and to protect the public and the environment from other hazards.

The NHS would be unable to function effectively were it not for the availability of medicines and treatments developed or validated through research using animals. It is no exaggeration to say that almost every form of conventional medical treatment has relied in part on the study of animals. Asthma treatments, medicines for peptic ulcers, schizophrenia and depression, polio vaccine, kidney dialysis and transplants are just a few examples.

While we accept that animal experimentation is both effective and necessary, we believe that it should also be kept under review and its use should be challenged. That is why we need to weigh up the benefits to the public against the cost to the animals. We must look at whether there are any other ways of achieving the desired results. We must also look at the procedures that are applied to animals and at how we can make sure that they cause the least suffering and use the minimum number of animals to achieve the outcome. Of course, in all cases, we must ensure that the highest standards of animal welfare are applied.

We believe that this approach reflects closely what the public want. Opinion polls carried out in 1999 and 2002 reported that more than eight out of 10 of those surveyed felt that animal experimentation was justified for medical research, provided that all necessary steps were taken to minimise any resulting animal suffering. Basically, people want to be healthy and safe, but they also want to make sure that, where animals are used, welfare considerations are taken into account.

Norman Baker (Lewes) (LD): The Minister is right, but does she accept that the majority of the public are unhappy about the use of primates in animal experimentation, and hundreds of Members of Parliament have signed early-day motions expressing such concern?

Caroline Flint: I accept that when it comes to primates there are additional concerns, which is why we must ensure that when we license procedures involving the use of primates we can satisfy ourselves, Members of the House and those outside as to the reasons for that.

The Government's job is to find a way of balancing public aspirations for cures for the health problems and diseases that reduce the quality of life of millions of people and condemn many to an early death, with the extent to which we can allow science and technologies to use animals.

We believe that legislation provides a highly effective means of doing that. The Animals (Scientific Procedures) Act 1986 is rightly described by many as the toughest legislation of its kind in the world—something of which we should be proud—and we should try to ensure that those standards are applied elsewhere, through our engagement in Europe and globally. At the same time, it is not a straitjacket. It is flexible enough to allow the latest ideas and technologies to be taken into account when decisions are made about animal use and to ensure that animal welfare costs are minimised.

In some areas primate use remains essential. I accept the points that my hon. Friend and the hon. Gentleman made on public concern about the use of primates, and in recognition of that, primates are given special protection under the 1986 Act and may be used only where no other species is suitable, where the likely welfare cost to them has been carefully weighed against the expected benefits of the research, and where everything possible has been done to minimise their numbers and suffering.

Unfortunately, we cannot end the use of primates without halting important areas of medical and scientific research, or jeopardising human safety. At present, primates are mainly used to ensure the safety of medicines and certain vaccines. They are also used in research on Parkinson's disease, Alzheimer's disease, visual impairment, stroke and reproduction disorders.

Neuroscience research on non-human primates has produced, and continues to produce, significant advances in the management of a number of devastating and prevalent human conditions that are not otherwise amenable to long-term treatment by other means, such as the management of Parkinson's disease and the treatment of intractable movement disorders.

My hon. Friend referred in particular to the increase in primate use in 2003. I understand that there is concern about the reported 20 per cent. increase in scientific procedures using primates in 2003, and I understand the concern about whether that may show a long-term upward trend in their use. I can reassure the House that that is not the case. When we saw the figures, officials looked deeply into the reasons for the increase.

I can report to the House that the great majority of the additional procedures recorded in 2003 stemmed from a single cause—blood sampling for the development of in vitro tests. This work, for which no other species was suitable, has continued in 2004, but I am pleased to say that early indications are that significantly fewer procedures using primates have been carried out for this purpose in 2004, compared with 2003. Obviously, we must keep the matter under review and continue to monitor the statistics, but I hope that that, at least for tonight, provides some explanation and reassurance for 2004.

[Caroline Flint]

Looking to the longer-term trends in primate use, there are bound to be some annual fluctuations, but the number of procedures using primates has remained fairly stable for a number of years and we believe appears likely to remain so. The figure for 2003 was only 0.17 per cent. of the total for all animals. However, I understand that primates are a special case and the law is therefore even more stringent when allowing licences for their use. There is no evidence that the amount of primate use is being affected by an increase in brain research or developments in the human genome project. We will continue to keep that under review.

The human genome project is more likely to lead to increased use of genetically modified mice into which human genes have been inserted rather than greater primate research. Again, we will keep the matter under review and continue to ensure that all primate use is fully justified.

My hon. Friend referred to the Animal Procedures Committee and its work. As he knows, it launched its report on primates in July 2003. It contained several recommendations that were aimed at reducing primate use. In our initial response in November 2003, we accepted the committee's principal recommendation that there should be a stakeholders' forum on primate use. The Home Office and the committee jointly organised a forum that drew together APC members and a range of primate users and regulators in January 2004.

The Home Office has prepared a summary of the forum's findings and the chairman of the APC recently agreed it. It will be placed on the Home Office and APC websites shortly for further comment from stakeholders. I would therefore welcome it if hon. Members read the report. I am sure that they will come back to me with any issues that they want to raise.

Mr. Drew: The APC's original report dates back to December 2002. I know that various interim statements and 12 recommendations were made. It is now February 2005—we have waited an awfully long time. Will my hon. Friend assure me that the matter will be clarified on the website?

Caroline Flint: I take my hon. Friend's concerns on board. The report will appear on the website. We are responsible for providing a full and final response to all the Committee's recommendations when further consultation has been completed. When we place the forum's findings on the website, we will seek views from other stakeholders, such as non-governmental organisations and hon. Members, on them. We will consider those views when we devise our final report on the recommendations. I hope that that will create an opportunity for further debate. As I said at the beginning of my speech, I would be happy to see hon. Members at some stage when we can hold a more detailed discussion about the issues.

My hon. Friend commented on progress on the National Centre for Replacement, Refinement and Reduction of Animals in Research. He knows that we have made significant progress on establishing the centre for three Rs. I am happy to inform hon. Members that the centre has already awarded its first two grants and launched a specific three Rs funding scheme, with a budget of £500,000 in 2005. The first applications have been received and are currently being peer reviewed. The board has also held a stakeholder meeting with a wide range of participants, including the RSPCA and the Dr. Hadwen Trust for Humane Research. That is an important development and the Department of Trade and Industry is the lead organisation on that.

The use of dogs was mentioned. The 1986 Act requires that regulated procedures use animals with the lowest neurophysiological sensitivity necessary to produce satisfactory results. Primates could therefore never be used merely as a convenient alternative to the dog. There has to be a clear scientific justification for the use of primates in every case. Second species use is necessary for some types of agent to be sure of their effect on man. However, I repeat that we examine every request for the use of primates seriously.

My hon. Friend mentioned xenotransplantation. No solid organ xenotransplantation is currently licensed in the UK, so in the context of what my hon. Friend has said that is not an issue for us now. Who knows? There may be an application in the future, but there are none at the moment, and I am aware of none in the near future.

Animal experimentation is an area in which Government policy must recognise a wide range of opinions when making the best possible provision to meet the public interest—and the public interest is often in two minds, as it were. Part of that involves being as open and transparent as possible about why animals are being used. I understand that we have made progress on licence summaries, and that details are now available on websites to help people understand the ways in which licences are being used. That is a huge step forward since I took up my responsibilities.

Because of public concerns, this is a highly regulated sector and will continue to be so. We are open at all times to suggestions about opportunities to reduce the use of animals in experimentation, not just primates but other animals. We do believe, however, that there are potential benefits to us and the environment that can currently be achieved only through the strictly controlled used of animals. As I said earlier, we should also bear in mind the need for all animal use to be fully justified, and for animal suffering to be minimised and carefully weighed against the potential benefits.

I am grateful to my hon. Friend for giving me the opportunity to respond to a debate that can have no closure, because it is an ongoing discussion. We should use the opportunities provided in the House to increase awareness of these important issues.

Question put and agreed to.

Adjourned accordingly at six minutes past Nine o'clock.

House of Commons

Thursday 24 February 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

EDUCATION AND SKILLS

The Secretary of State was asked—

Nursery Education

1. **Paddy Tipping** (Sherwood) (Lab): What percentage of children aged (a) three and (b) four years are receiving nursery education in (i) Nottinghamshire and (ii) England. [217626]

The Minister for Children, Young People and Families (Margaret Hodge): All three and four-year-olds in England are entitled to a free nursery education. This Government have replaced the unfair postcode lottery, which existed under the previous Government, with a universal guarantee for every three and four-year-old in every part of England, giving every child the very best start in life. In January 2004, 93 per cent. of three-year-olds and virtually all four-year-olds benefited from free places.

In Nottinghamshire local education authority area, 6,800 free places were taken up by three-year-olds, and a further 8,100 free places were taken up by four-year-olds.

Paddy Tipping: The record is excellent, and I congratulate both Nottinghamshire county council and the Government on that investment. We must invest even more in families and children. Does the Minister agree that we must examine flexible patterns of parental care and leave, the provision of nursery centres in every community and wrap-around care in schools to provide help in mornings, evenings and during holidays? That would be a real investment for hard-working families.

Margaret Hodge: I thank my hon. Friend for his contribution and for his question, the answer to which is contained in our 10-year strategy for early years education, child care and support for parents. That strategy will give parents the flexibility to balance their time between their responsibilities at work and their responsibilities to their children. It is about providing high quality care for all children and providing flexibility for parents, so that parents can put the interests of their children at the heart of everything they do. I look forward to being part of the Government who implement that strategy.

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. I hope that we are going to have short questions and concise answers, which will help us to make progress through the Order Paper.

Student Visa Charges

2. **Dr. Vincent Cable** (Twickenham) (LD): What discussions she has had with Home Department Ministers about the impact on universities of higher student visa charges. [217627]

3. **Mr. David Rendel** (Newbury) (LD): What discussions she has had with the Secretary of State for the Home Department regarding visa charges for international students. [217628]

The Minister for Lifelong Learning, Further and Higher Education (Dr. Kim Howells): My right hon. Friend the Secretary of State and I have had productive discussions with Home Office Ministers about leave to remain visa extension charges. Those discussions resulted in an agreement to set a discounted rate for students of £250 for postal applications, compared with the new £335 standard rate for everyone else.

Dr. Cable: If there was proper consultation, why was the Home Office not made aware of the Prime Minister's initiative to attract international students and of the passionate concern of university vice-chancellors, who have written to us about the damaging consequences of those charges? If a new Labour Government are elected, is it not inevitable that one of their first acts will be an increase in the limit on top-up fees in order to compensate universities for the loss of income from overseas students?

Dr. Howells: No, that will not be the first act of a new Labour Government—I hope that the Liberal Democrats will be around to witness a new Labour Government. There has been a lot of talk from Tory Members, and a lot of talk of a different sort from Liberal Members, about this or that attitude to immigration. Some say that we must be tougher and some say that we must be more liberal, but none of them has got a clue how to enforce the rules on who comes in and who stays and how to discern between genuine students and those who are not.

Mr. Rendel: Given that both Universities UK and the Universities and Colleges Admissions Service report that applications from international students are well down this year, does the Minister recognise that his policy, which he has agreed with the Home Office, will have a significant effect on the financial health of our universities and on our place in the international market for education? His policy runs counter to his Department's previous comment that education in the UK has a crucial international dimension.

Dr. Howells: I would be concerned, if I thought that the policy would have a significant effect. The hon.

Gentleman is asking me to explain the effect of the existing charges on students. If he is saying that we should do away with the existing charges for leave to remain applications and for applications for visas to study in this country in the first place, then he should say it. The new charges have not come in yet.

The fact that the number of applications has dropped is significant, but after 9/11 the Americans closed up shop on students going to study in the United States, and we were the major beneficiary of that decision. The world market is currently righting itself. I was lucky enough to go to China, where I met the Chinese Education Minister and Vice-Minister, who did not state that visa charges were significant.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): Does my hon. Friend agree that it is a question not only of the fee but of having the right to appeal withdrawn? Sheffield university tells me that 90 per cent. of those who were initially refused on appeal were subsequently able to come to this country to study. The real problem of people coming here fraudulently as students is not in universities but in language schools and other colleges. My hon. Friend should consider that energetically, but he should not penalise the university sector, where overseas students do so much good for our country.

Dr. Howells: I thank my hon. Friend for raising that important issue. Short-term students coming to study for less than six months, or those who have not been accepted for a course of study, are already prevented from appealing on that basis. In discussions with the Home Office last year, we became aware that it was considering removing the right of appeal against visa refusals for some students—for instance, those who had applied to study at an institution that is not on the DFES register of learning providers.

I take my hon. Friend's point, however. In further discussions with the sector, we shall try to ensure that such institutions are not penalised. I know that the most difficult issue arises when students come in for short courses and decide, because of the very high quality of the education that they receive, that they want to continue with a longer course.

Mr. Michael Fallon (Sevenoaks) (Con): What is the point of the Chancellor saying out in the far east that higher education is one of our great strengths, the Home Office driving up fees and driving students away from our universities, and Education Ministers just sitting there wondering what is going on? Why do they not join it all up?

Dr. Howells: The hon. Gentleman will not know this, but I returned from China last night. Having spoken with the Chinese education Minister and Vice-Minister at great length about this, I am well aware of how the Chinese feel about it. We take 185,000 non-EU students a year from abroad. That figure is not plummeting and is a huge source of income generation. People come to this country because we offer the best higher education in the world and it is very good value for money. We will continue to do so in order to ensure that people are not put off from studying in this country.

Mr. Andy Reed (Loughborough) (Lab/Co-op): I am sure that my hon. Friend is aware of the excellent work at Loughborough university, where the number of international students has increased in recent years. However, there is some concern about the charges. Has my hon. Friend assessed the overall cost to students of the charge of £250, or in some cases up to £500—not only to Chinese students but those from other, poorer, countries, particularly developing countries?

Dr. Howells: Yes, I have some figures on the percentage increase in costs for a typical student of undertaking a year's study in the United Kingdom resulting from the new charges. In higher education, there will be 0.8 per cent. additional cost on a postal application and 2.1 per cent. if the student takes the premium service. It is a relatively small increase, although I am not trying to belittle it because it is nevertheless significant.

Charles Hendry (Wealden) (Con): Has the Minister seen research by the University of Brighton showing that 88 per cent. of its students from abroad would not continue their courses if these increases in fees and visa charges went through? Does he accept the suggestion by the Chairman of the Select Committee on Education and Skills that the increase is a consequence of the Government's failure to tackle illegal immigration through language schools and that, as a result, higher enforcement costs are being passed on to bona fide students? Will he agree to carry out a detailed assessment of the impact of the increases on British universities before taking further action?

Dr. Howells: I do not accept that for one minute. Our aim must be to strike a balance between ensuring that we continue to enhance the United Kingdom's reputation as a world-class education provider to international students and generating sufficient income to enable us to operate the effective immigration control that helps to facilitate that. I know that the hon. Gentleman cares a great deal about higher and further education, but it does no good for him to make such criticisms based on grossly inflated figures. The idea that 80 per cent. of students will not come to this country because of a very small incremental increase is clearly absurd. Whoever carried out that research should go back to university to do a fundamental degree.

Sustainable Development Education

4. **Mr. David Kidney** (Stafford) (Lab): What support the Department gives to schools for the pursuit of sustainable development education. [217629]

The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg): Sustainable development runs through our key policies, for example promoting health, physical activity and well-being, encouraging pupil participation and volunteering, improving transport and estate management and the building schools for the future programme. It is also a statutory part of science, design and technology, geography and citizenship. We provide funding, information, resources and other support, including specifically for sustainable development aspects.

Mr. Kidney: Is my hon. Friend aware of Staffordshire's great success in sustainable development

education, as shown by the many schools that achieved the status of eco school? Will he confirm that it is the Government's ambition that every school in the country will be eco friendly? Will he assure hon. Members that the Department and the Department for Environment, Food and Rural Affairs are working hard to ensure that sustainable development is a substantial element in every child's learning experience?

Derek Twigg: I can confirm that DEFRA and the Department are working together and holding regular discussions. I congratulate my hon. Friend on his work in Staffordshire and his commitment to the issue. As he knows, all schools can register free with Eco Schools, which is one of several schemes that are available to schools. We want schools to assess what aspects of sustainability they wish to tackle, according to the circumstances and needs of pupils, parents and the local community. That is why a web-based service to offer schools a framework for making those choices and provide information on a wide range of schemes, awards, resources and support is available. It will be widely publicised to encourage schools to become more active on sustainable development and we have a five-year strategy for all schools to be environmentally sustainable.

Mr. Mark Prisk (Hertford and Stortford) (Con): Does sustainable development, as defined in the curriculum, include building on the green belt? If not, would the Under-Secretary like to invite the Deputy Prime Minister to attend one of his classes?

Derek Twigg: We are committed to much more building on brownfield sites. The building schools for the future programme is considering how the way in which schools are built can be environmentally sustainable. We have already done a pilot on that. However, it is worth reminding hon. Members that we are doing a great deal on sustainable development. We have put in place advice and a new global gateway for a website. As I said, building schools for the future is a big programme. We have also set up the healthy living briefing for schools and initiatives on school transport and school leadership. We are doing whatever we can to ensure the best sustainable development in education.

Vocational Education

5. **Mr. Graham Allen** (Nottingham, North) (Lab): If she will make a statement on financial co-operation between local education authorities, the Learning and Skills Council and further education colleges in implementing in Nottingham the Government's 14 to19 strategy for vocational education. [217630]

10. **Syd Rapson** (Portsmouth, North) (Lab): What plans she has to increase the take-up of vocational training in schools and colleges. [217636]

The Secretary of State for Education and Skills (Ruth Kelly): Yesterday, I placed before the House the Command Paper "14 to 19 Education and Skills". That should lead directly to an increase in the number of young people undertaking vocational education and training. To deliver the radical proposals in the White Paper, we expect local partners to co-operate in planning and funding to ensure breadth of provision and highest quality and value for money, without disrupting core funding systems or increasing bureaucracy. Nottingham provides an excellent model.

Mr. Allen: Does the Secretary of State accept that my constituency will be the test of the White Paper on 14 to 19-year-olds because it sends the fewest youngsters to university and further education? Will she therefore ensure that the bureaucratic interlocking of the various organisations—the local education authority, the Learning and Skills Council and many others—which produces less progress than we would like, is tackled in the aftermath of the White Paper? Will she examine the good example of Sure Start, which my hon. Friend the Minister for School Standards was instrumental in promoting? It had a dedicated capital fund, a dedicated revenue fund and everybody knew their exact responsibilities. That is the way to get more youngsters into FE.

Ruth Kelly: I pay tribute to my hon. Friend's work in championing the needs of young people in his constituency. He has raised the matter with not only me but my hon. Friend the Minister for School Standards. He is right to draw attention to the need for the Learning and Skills Council and local authorities to work together to overcome any financial barriers to providing integrated education for 14 to 19-year-olds. One way of achieving that would be through a flexible funding pot for the Learning and Skills Council to facilitate collaboration. We shall revert to that proposal shortly and set out the details of how it might work.

Syd Rapson: I, too, welcome the White Paper, which was published this week, especially its promise of new vocational routes to success. I have spent a lifetime encouraging people into engineering. Will the Government give support specifically to women entering into engineering and following that vocational route to success? That would tap an untapped group of people who are central to the country's future.

Ruth Kelly: I thank my hon. Friend for that important question. Yesterday, I met some young women and girls in the 14 to 19-year-old age group who were studying engineering. It is important that girls are given that opportunity. The Equal Opportunities Commission is currently considering gender segregation, and is due to report in March. I believe that one of the occupational sectors that it will consider is engineering. We will study its proposals carefully to see whether we can take them forward.

Mr. Phil Willis (Harrogate and Knaresborough) (LD): The hon. Member for Nottingham, North (Mr. Allen) raised a key issue about 14 to 19 development funding. Does the Secretary of State agree that without harmonisation of the funding units for the same delivery of a programme in a school and a college, we will not get the sort of co-operation that he wants? Does she also agree that unless we can bring together the pay rates and conditions of service for teachers and lecturers, again we will not be able to get that sort of co-operation? What plans does she have to deal with those two issues?

Ruth Kelly: Those are indeed important issues. I am glad that the Liberal Democrats have now committed

themselves to parity between further education lecturers and teachers. We must overcome the barriers involved in delivering that. The real test is whether it can work in practice and whether it does work. The answer is that it does. In places such as Knowsley, local authorities and the Learning and Skills Council are working together to deliver really innovative programmes for young people, making a success and widening opportunities right across the board.

Mr. Nick Gibb (Bognor Regis and Littlehampton) (Con): When the Education and Skills Committee took evidence on the Tomlinson review, we were told that vocational courses would just be a taster and would not involve genuine training in any particular skill. Will she reject that superficial approach and ensure that all vocational courses provide high-quality, useful training that leaves students with a genuine, marketable skill?

Ruth Kelly: I can make that commitment. It is very important that students are able to study in the ways that motivate them in the places that motivate them. For example, if a student is taking a catering course, it is not right that they just learn about applied catering theory; it is right that they learn how to cook in a kitchen, taught by a chef. That is exactly the sort of course that I would like to see offered and made available to all our students.

Mr. David Chaytor (Bury, North) (Lab): Is there not a wider national issue relating to the role of the learning and skills councils? Is the Secretary of State absolutely confident that the strategic planning responsibilities that she has given to the learning and skills councils are always consistent with the prospect of 200 new academies and the autonomy that they have, the move to 3,000 foundation schools and the autonomy that they have, and the encouragement of all 11 to 16 schools to open new sixth forms?

Ruth Kelly: I am committed to collaborative working between different schools and FE colleges and indeed employers and the voluntary sector where that is necessary. I foresee the Learning and Skills Council and local authorities coming together to offer a joint prospectus of opportunities available to all our young people from the ages of 14 to 19, and that that will be backed up by coherent information, advice and guidance to make sure that students take the right courses and that their options are not narrowed down too quickly, so that they have the opportunity to switch course later as they mix the academic and the vocational. My hon. Friend is right that there are challenges and we will need extra money to oil the wheels of collaboration. I will set out in due course how we intend to develop that model.

Mr. Mark Hoban (Fareham) (Con): Today's young people cannot wait for the full roll-out of the national diploma in a decade. We are committed to creating 300,000 vocational education places for today's 14 to 16-year-olds. What measures will the Government take to make sure that vocational education is a reality for today's 14 to 16-year-olds?

Ruth Kelly: I am glad that the hon. Gentleman has drawn attention to the policy of the Conservative party. Yesterday, that was strangely absent—there was not one mention from the hon. Member for Westmorland and Lonsdale (Mr. Collins) about its policy to cap the funding available for vocational courses for all our 14 to 19-year-olds. We intend to make provision available across the board. There will be no cap on opportunity and no cap on aspiration. Four of the specialised lines will be available by 2008 if not before. Some are already being developed and will be on-stream over the next year or so. Over the decade, we will raise the participation rate from 75 per cent. to 90 per cent. to be one of the best in the industrialised world.

Truancy

6. **Mr. Siôn Simon** (Birmingham, Erdington) (Lab): What steps the Department is taking to tackle truancy. [217631]

7. **Mr. David Amess** (Southend, West) (Con): How much her Department has spent on anti-truancy initiatives since 1997; and if she will make a statement. [217632]

9. **Mr. John Bercow** (Buckingham) (Con): How much her Department has spent on anti-truancy initiatives since 1997; and if she will make a statement. [217635]

The Minister for School Standards (Mr. Stephen Twigg): Most funding for work on attendance is combined with funding for wider work on discipline, behaviour and exclusions. The Department has spent £11.5 million on measures dealing solely with attendance since 1997. Today we published new data on the maintained sector for the autumn term 2004, which show that overall absence in schools fell from 6.68 per cent. last year to 6.17 per cent. last term.

Mr. Simon: We have heard a lot of cheap opportunist point-scoring about truancy in recent weeks, yet all the anecdotal evidence from schools, the youth service and related agencies, and the police in my constituency shows that the worst culprits, and those causing the most trouble when not at school, are at school more than they used to be. Has the Department enough qualitative data not just on how many pupils are at school, but on who is and who is not at school, and on what pupils are doing when they are or are not at school?

Mr. Twigg: My hon. Friend is right to ask that. As I said, today we have published new data relating to last term. I have particular praise for schools in Birmingham, where there has been a significant fall in the number of absences. The figure is now 5.38 per cent., one of the lowest in the country for an urban area. That demonstrates the success of schools working together through the behaviour improvement programme, and the importance of not relying on statistics alone but ensuring that quality measures are in place.

Mr. Amess: A lot of money has been spent on these initiatives, for example sending parents to prison if their children play truant or giving secondary schools disincentives to retain truanting children, but I am not at all sure how successful they have been. Must not the Government now accept that an all-out concerted effort

is needed to recruit and retain, and to encourage the women and men with the necessary special skills to persuade these young people to reconnect to formal education?

Mr. Twigg: I agree. That is why we have invested in more than 10,000 learning mentors, why the programme that we set out yesterday is so important to engaging and re-engaging more young people, and why we have record numbers of teachers and classroom assistants.I am sure that the hon. Gentleman will join me in congratulating Southend schools on a significant fall in truancy last term. The recent truancy sweeps in particular are having a real impact, which is showing in the figures.

Mr. Bercow: Given that in 2003–04 no fewer than 1,264,103 primary and secondary school pupils played truant, that that represented a 25 per cent. increase on 1997 and that the Government missed both their important public service agreement targets for reducing truancy, does the Minister not understand the concern that the £300,000 a day that Ministers have spent since 1997 has not been well spent? Is he not particularly ashamed of the appalling record in Edmonton, north London, which is very close to his constituency?

Mr. Twigg: What is important is that we are now given the figures in a far fuller and more sophisticated form. The position varies from one area to another. What I have announced today, however, is a very significant improvement. If we compare like with like, we see that there were 87,000 more pupils at school each day in the 2004 autumn term than during the equivalent period when we came to power.

I will happily work with the London borough of Enfield—Conservative-led—and my hon. Friend the Member for Edmonton (Mr. Love) to ensure that Edmonton is part of the wider national improvement that we are announcing today.

David Taylor (North-West Leicestershire) (Lab/Co-op): It is good news that 60,000 fewer pupils, on average, are absent from school each day, but 450,000 still are. Two per cent. of the school population are responsible for 50 per cent. of all truancies. Is not much of that linked to parental attitude? A particular problem is that the system of authorised absences has been rather over-relaxed over the years. It can slip-slide into unauthorised absences, with all the social and economic consequences about which we have been hearing. What is being done to tackle that?

Mr. Twigg: My hon. Friend is absolutely right. The big fall in absences over the last two years has consisted mostly of authorised absences. Schools that were authorising absences are now rightly taking a much tougher stance. He is also right to remind us that the evidence shows that very few pupils—about 2 per cent.—are responsible for about half the truancy. Engaging parents is important, but so is engaging such young people in the curriculum and in school activities. Yesterday's announcement will contribute to that.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): To continue the theme but to draw a distinction, in my constituency parentally condoned truancy seems to be a bigger problem than parentally condoned authorised absences, because traditional truancy has been mitigated by good work between the local authority and the police. What steps can be taken to develop strategies to deter parentally condoned truancy?

Mr. Twigg: As my hon. Friend will know, we have taken a number of steps in the past few years. The hon. Member for Southend, West (Mr. Amess) referred to the extreme step of parents being sent to prison, but we have introduced a number of other measures, such as fast-track prosecutions and fixed penalty notices. Birmingham—just down the road from my hon. Friend's constituency—has been at the forefront in using fixed penalty notices. I am confident that in Birmingham, part of the reason for the significant improvement that I described earlier is the way in which schools and local authorities have engaged positively with parents in the process. However, authorities also have the sanction that ultimately, parents can be taken to court. That is working in Birmingham and in many other parts of the country as well.

Mr. Tim Collins (Westmorland and Lonsdale) (Con): Why, after eight years of a Labour Government is unauthorised absence—truancy—substantially worse; or is the answer in the question?

Mr. Twigg: I—*[Interruption]*—I am being encouraged to refer to the hon. Gentleman's truancy on Sunday from Granada, but I think that he had a very good excuse for that.

For many years pre-dating this Government, unauthorised absence stood at about 0.7 per cent., and it is acknowledged across the board that that is a very tough nut to crack. We want maximum attendance in schools and the hon. Gentleman must accept that we now have record levels of attendance. Indeed, today's new figures demonstrate that there was a substantial improvement in the last school term. That shows that the measures that we have taken are having an effect. Schools are not prepared to authorise absence that they might previously have authorised.

Mr. Collins: But does the Minister not keep coming back to the same point? The Government have done the easy bit, which is to reduce authorised absence, but they have demonstrably failed to reduce unauthorised absence, which is truancy. They have spent £885 million and they have been criticised by the National Audit Office. Should they not address some of the underlying causes of this problem? Since 1997, violence in schools has increased and drug use has doubled. Would not clearer signals from the Government about pupil behaviour and drug use actually help, instead of just constant talk?

Mr. Twigg: We have sent clear signals. The £885 million to which the hon. Gentleman referred is to support discipline and promote good behaviour and attendance in schools. It includes the provision of 10,000 learning mentors, who are making a real difference in terms of school standards and raising educational achievement. There are 1,000 learning

support centres in schools and double the number of places in pupil referral units. We have not had just talk; serious action has been taken.

The James review says that the Conservatives would cut central support for dealing with behaviour issues and for special educational needs support from local education authorities, but schools need that back-up from LEAs in order to tackle behaviour. The Conservative proposals would make the situation worse.

GCSE Results (Lancashire)

11. **Mr. Mark Hendrick** (Preston) (Lab/Co-op): If she will make a statement on changes in GCSE results in Lancashire over the last four years. [217637]

The Parliamentary Under-Secretary of State for Education and Skills (Mr. Ivan Lewis): In 2004, 53.8 per cent. of pupils in Lancashire achieved five or more grades A* to C at GCSE and equivalent, compared with 47 per cent. in 1998. Over the last four years, Lancashire has performed above the national average in terms of those achieving five good grades, any passes and average point scores.

Mr. Hendrick: My hon. Friend has given us the figures for Lancashire and I want to quote the figures for Preston, Walton le Dale and Bamber Bridge. There has been a rise in the percentage of pupils achieving five or more GCSEs at grades A to C—from 33 per cent. in 1997 to 45 per cent. now. Will he join me in congratulating Walton le Dale high school and Christ the King high school in particular on being among the top 60 most improved schools in the country? Will he also comment on what effect yesterday's announcement on 14 to 19-year-olds might have on future GCSE results?

Mr. Lewis: I join my hon. Friend in congratulating the schools in his constituency and, indeed, teachers and pupils throughout the country who have contributed to improvements in GCSE performance. It is sad that the Conservative party wants to undermine the achievements of our young people. I believe that yesterday's announcement will enhance GCSEs in several ways: toughening the focus on the basics, enhancing the vocational route and genuinely tackling disengagement and encouraging stretch. Additionally, we are expanding investment in early years through the children centre programme, Sure Start and the focus on literacy and numeracy in primary schools on a long-term generational basis. All that will ultimately ensure that improvements in GCSE performance continue to accelerate in the years ahead.

Mr. Patrick McLoughlin (West Derbyshire) (Con): If the GCSE examination is working so well, why did the Government announce changes yesterday?

Mr. Deputy Speaker: Order. The question relates specifically to Lancashire. The Minister may reply.

Mr. McLoughlin: GCSEs in Lancashire, then.

Mr. Lewis: In Lancashire, the benefits of the reforms that we announced yesterday are very straightforward. Even when a system is moving in the right direction, a responsible Government should attempt to make even further improvements. What we announced yesterday on GCSEs was a radical step for a Government to take—the Conservatives did not do it when they were in government—as we intend to toughen standards on the basics and make it more difficult to get five decent GCSEs. We are also going to incentivise students and schools to understand the priority that we place on English and maths as core skills that are essential both for the modern world of work and for becoming good citizens in that modern world. The reforms announced yesterday are about supporting individuals to fulfil their potential while setting the bar higher in respect of basic skills and academic standards. I am proud of the fact that the Government are prepared to do that.

Sexual Health Education

12. **Mr. Hilton Dawson** (Lancaster and Wyre) (Lab): What measures she has taken to improve the standard of sexual health education in schools. [217638]

The Minister for Children, Young People and Families (Margaret Hodge): Our priority is to improve the quality of teaching and learning of sex and relationship education, including sexual health. We are supporting a programme of training for teachers and a similar programme for community nurses. The Qualifications and Curriculum Authority is developing materials and guidance to support better assessment of pupils, and the healthy living blueprint, sent to all schools last year, addresses a range of health issues, including sexual health.

Mr. Dawson: I thank my right hon. Friend for her reply and ask her to note that the question comes not from some out-of-touch old bloke on the Back Benches, but from an extremely bright young woman currently working in my office—Ms Tiana Golden. She identified this as the priority issue out of the whole range of Department for Education and Skills questions that could be asked. Will my right hon. Friend confirm that in all that the Government do, they are striving to maintain high standards across the board, across all schools and across all education establishments? Will she also confirm that this crucial work is being carried out firmly within the realm of relationships education and outside the science labs?

Margaret Hodge: First, I endorse the fact that this issue is important to young people. I had a meeting yesterday with a children and youth board that I regularly consult and the quality of sex and relationships education was raised as a key issue. I agree that relationships education, as well as biologically based sex education, is crucial, particularly if we are to reduce the currently high teenage pregnancy rates and improve sexual health among our youngsters.

Miss Anne McIntosh (Vale of York) (Con): Does the Minister accept that the Government have singularly failed to raise the standards of sexual health education because we have the highest rate of teenage pregnancies in Europe? What are the Government doing to deal with that problem?

Margaret Hodge: No, I do not accept that we have failed. Indeed, the figures announced this morning show

a trend of reduction in the number of young girls who become pregnant, and that is the right direction. We have seen a welcome cut in the number of teenage pregnancies. However, I am not complacent about that complex issue. We are doing what we can, but I would welcome any positive contribution that the hon. Lady has to make. Part of the answer is what happens in schools, part is the support that can be given by community nurses, but most important is the education and advice from parents about sex and relationships. When we talk to young people that becomes very clear, and we have to do what we can to support parents in giving better advice and support to their young people.

Jonathan Shaw (Chatham and Aylesford) (Lab): Is it not the case that in the 1970s Britain had similar teenage pregnancy levels to the rest of Europe? In the 1980s, our level went up and up and elsewhere in Europe levels went down. The Conservatives completely ignored the issue and it was not until we had the social exclusion unit's report on the issue and the teenage pregnancy strategy that we started taking the issue seriously. Does my right hon. Friend agree that perhaps too much autonomy was granted with the strategy, so that some areas are doing very well and others, which have had the same resources, are not doing so well? What is she doing to encourage best practice so that we can continue to drive teenage pregnancy rates down and deliver on that important issue?

Margaret Hodge: I could not have put better the difference between the Government's approach and that of the Conservatives. It is a complex issue, but we now understand much better the correlation between, for example, truancy and teenage pregnancy rates. All the work that we are doing to raise aspirations and to cut unauthorised as well as authorised absence is important in tackling the wider issues. My hon. Friend is right to say that some areas are doing better than others. We are learning from that and we are now focusing much of our effort on what we call the hot spot areas—50 per cent. of teenage pregnancies occur in 20 per cent. of wards. If we concentrate on those areas, and work with midwives and health visitors to address the fact that one in five teenage pregnancies are second pregnancies, I am sure that we will see greater success.

Apprenticeships

13. **Mrs. Anne Campbell** (Cambridge) (Lab): How many apprenticeships have been undertaken in each year since 1997; and if she will make a statement. [217639]

The Parliamentary Under-Secretary of State for Education and Skills (Mr. Ivan Lewis): In 1997 there were 75,000 apprentices in training; 172,000 in 1998; 154,000 in 1999; 203,000 in 2000; 198,000 in 2001; 212,000 in 2002; 233,000 in 2003; and 245,000 in 2004. That represents a threefold increase since 1997 and demonstrates the Government's commitment to serious long-term investment in vocational education.

Mrs. Campbell: I thank my hon. Friend for that reply. It is excellent news that more young people than ever are taking advantage of high quality apprenticeships, such as those offered by Marshall Aerospace of Cambridge in my constituency. However, one national problem is that many young people begin apprenticeships but do not complete them. It would be helpful if my hon. Friend could describe what action is being taken to ensure that more young people complete their apprenticeships.

Mr. Lewis: I join my hon. Friend in congratulating the organisation in her constituency. It is true that a number of issues arise from the apprenticeship programme. For example, non-completion is sometimes a consequence of a young person remaining in employment having been told by their employer that they do not need to continue training. We have several issues to address, one of which is ensuring that apprenticeships are fitter for purpose by involving employers in the design of the apprenticeships. We also need far more employer engagement in offering apprenticeships and vocational learning opportunities. If we are to create a high status route, as we described in the White Paper yesterday, it is important that we see progression from advanced apprenticeships into foundation degrees, or from level 3 specialist diplomas—as they will be known in the future—into higher education. The challenge must be to involve higher education in the design of advanced apprenticeships and level 3 specialist diplomas, and ensure that they are given the same esteem as so-called academic achievements.

Alistair Burt (North-East Bedfordshire) (Con): Is not the real problem, as the hon. Member for Cambridge (Mrs. Campbell) said, the fact that too many people do not complete apprenticeships because the esteem given to manufacturing is still not strong enough in this country? The experience in my constituency is exactly the same as that of the hon. Lady. I was at an engineering firm recently where I was told that of the five people who had started apprenticeships, none had completed their term because, to schools, manufacturing industry still does not carry the same esteem as other routes into the future. The firm was concerned about the number of people being urged to go into higher education rather than apprenticeships. Should not the Minister tackle the lack of esteem in which manufacturing is held in order to get the answer to why people drop out of apprenticeships?

Mr. Lewis: It is a misnomer to talk about apprenticeships simply in the context of manufacturing industry; it is an outdated notion. About 112 sectors of the economy offer apprenticeships. If the hon. Gentleman had listened to the announcement yesterday, he would have heard that central to it is getting young people from the ages of 11 and 14 to have far more contact with the labour market and the world of work, breaking down the dividing line between the labour market and the educational establishment and ensuring that the choices that young people make are based on an informed experience of the world of work. My challenge to manufacturing industry in the context of the sector skills councils is to go into schools and colleges and make the case for the modernity and relevance of such industry and for the earning potential of young people in it. As for the 50 per cent. higher education target,

what Britain needs economically is more graduates and more apprentices and we should not seek to choose between the two.

Mr. Brian Jenkins (Tamworth) (Lab): My hon. Friend will be fully aware, as we all are, of employers' concerns that we recruit not only craft apprentices but apprentices who will go on to university and gain higher qualifications. The Government are fully aware, and the White Paper shows it, that we need to give our youngsters the opportunity to experience what occupations industry can offer them. The White Paper is fine and the words are fine, but surely the Minister must realise that it takes more than words—it takes personal commitment from the Government to take on the crusade: otherwise, it will founder.

Mr. Patrick McLoughlin (West Derbyshire) (Con): We will have to wait a long time then.

Mr. Lewis: Well, we waited 18 years under the Conservative Government, when we had a decimated vocational education system. The reality is that from September work-related learning will be a statutory part of the curriculum. From next September enterprise education will become part of the curriculum. That is for all young people, not just young people pursuing vocational routes. As a consequence of the reforms that we announced yesterday, there will be a far more dynamic relationship between education providers and employers in every community in every part of the country.

This is a challenge not just to the Government and educationists—yesterday, we delivered to employers a commitment to focus on the basics. Their responsibility is to come to the table now to enable us to deliver a high quality, high status vocational education system. Government alone will not be able to achieve it; we need a partnership between Government and employers.

Tomlinson Report

15. **Richard Ottaway** (Croydon, South) (Con): When the Government will publish its response to the Tomlinson report. [217641]

The Secretary of State for Education and Skills (Ruth Kelly): I did, yesterday.

Richard Ottaway: I thank the Secretary of State. Does she accept that we can all argue for a long time about those bits of Tomlinson that we like and do not like? I welcome the retention of A-levels, but does she accept that the retention of AS-levels is not so popular? Will she acknowledge that taking three serious sets of examinations in three consecutive years hampers the broadening of the mind and the development of the character of young people in their late teens? Even at this late stage, will she rethink her position on that particular exam?

Ruth Kelly: I will not because, under the new system, I see people taking exams at the age and pace that suits them so that we get away from the idea that 16 is a fixed point in the education system, that at 17 one takes AS-levels, or that at 18 one has to take A-levels. We will move toward a system in which students take GCSEs when it suits them and perhaps take an AS-level at 16. We have to try to broaden the range of opportunities available to all our young people to offer a mix of the academic and the vocational and to give the vocational route much higher esteem. That all fits together as a coherent picture.

Mr. Kelvin Hopkins (Luton, North) (Lab): My right hon. Friend will be aware that there is some concern about the decision to retain A-levels, but does she accept that AS-levels are popular in certain respects, especially for youngsters from non-traditional backgrounds who perhaps do not have the academic background that some of us have had? It is a great advance to have an examination in the first year of sixth-form study to get used to the style and content of A-levels. It is beneficial to students of that type.

Ruth Kelly: I thank my hon. Friend for his comments. It is quite possible that, in the future, in the different specialised lines of learning such as engineering, employers and higher education institutions might ask for an AS level—in physics, for example—as part of a vocational course. It is quite important that students have the opportunity to mix the academic and the vocational, so that we get away from the idea that pupils are pigeonholed into one category or the other and let all our pupils have the opportunity to combine studies in both areas.

SOLICITOR-GENERAL

The Solicitor-General was asked—

Burden of Proof

20. **Miss Anne McIntosh** (Vale of York) (Con): What legislative provisions introduced since 1997 have entailed a reversal in the burden of proof; and what guidance she has provided to the Crown Prosecution Service in relation to these provisions. [217646]

The Solicitor-General (Ms Harriet Harman): I will write to the hon. Lady with a list of the issues that have been considered by the CPS reversed burdens sub-committee. I think that that is the most helpful way I can answer her question. The CPS issues guidance to all prosecutors on new legislation and on significant court decisions that clarify the law.

Miss McIntosh: This is the second opportunity that I have had to put this question. I did so once in writing to the Solicitor-General, which was due to be answered on Monday, and the right hon. and learned Lady said that she would write to me. I find that unacceptable, given that on Monday we debated the Clean Neighbourhoods and Environment Bill, whereby the incidence and the level of fines for the issuing of fixed penalty notices has increased and there is a reversed burden of proof at the time that the fixed penalty notice is issued. Does the right hon. and learned Lady not see that as a result of increasing the reversed burden of proof at that stage, the

only defence for those who do not wish to pay such a fine is to go to court, so that will throw a load of cases in the direction of the court? Does she find that acceptable?

The Solicitor-General: The hon. Lady will agree that what is in the substantive law is a matter for the House. All these issues are canvassed on the Floor of the House and in Committee, and if a reversed burden of proof is introduced in any legislation, customarily people do look more closely at it. When it comes to prosecution, cases will be prosecuted in the normal way following the legislation and following any guidance.

Mr. John Burnett (Torridge and West Devon) (LD) *rose—*

Miss McIntosh: On a point of order, Mr. Deputy Speaker.

Mr. Deputy Speaker: Order. I am not giving the hon. Lady a second supplementary question.

Miss McIntosh: Owing to the totally unsatisfactory answer I have received from the Solicitor-General, I wish to apply for an Adjournment debate on this matter.

Mr. Deputy Speaker: The point is noted.

Mr. Burnett: Can the Solicitor-General confirm that—

Mr. Deputy Speaker: Order. I am advised that, as a result of that point of order, we now have to move on to the next question.

Victims Charter

21. **Mr. Harry Barnes** (North-East Derbyshire) (Lab): If she will introduce proposals to extend the provisions of the victims charter to Government Departments and agencies which can instigate criminal actions on behalf of complainants. [217647]

The Solicitor-General: A draft of the victims code will shortly be the subject of a public consultation exercise. As with the charter, it is proposed that the code applies to named criminal justice agencies, including the Crown Prosecution Service. The Government do not propose at this stage to extend the code to cover other prosecuting authorities.

Mr. Barnes: Is it not the case that under the victims charter, a victim of crime can obtain an explanation from the police or the Crown Prosecution Service if charges relating to the crime they have suffered from are being reduced, dropped or just not proceeded with? I have been pursuing a case for six years with the Department of Trade and Industry, where it has powers to prosecute under the Fair Trading Act 1973. Why are not the DTI, other Government Departments and agencies covered by the victims charter, so that my constituent can be given the explanation that he seeks as to why the action he and I feel should have been taken by the DTI has not been taken?

The Solicitor-General: My hon. Friend raises an important point. He has identified, of course, that these prosecutions come under the responsibility of the DTI, which is not covered formally by the victims' code, but I think it is good practice for all prosecutors to look at how they inform victims of things that are important to them. Perhaps I can undertake to get the Whitehall prosecutors' group, which includes all the prosecutors in Whitehall, including the DTI, to look at whether they could adopt good practice when prosecutions are of particular importance to individual victims.

Mr. John Burnett (Torridge and West Devon) (LD): Has guidance yet been given to the Crown Prosecution Service on the ability of victims and prosecution witnesses to have direct access to the CPS? If that guidance has yet to be given, will she tell us when that will happen?

The Solicitor-General: The first stage of closer involvement between the Crown Prosecution Service and victims came with the roll-out of victim information. Not so long ago, victims would often find out that charges in their cases had been dropped. Nobody would be told about it—they would read about it in the newspaper. Now, new procedures have come into effect in all areas so that if there is a material change—if a charge is dropped or reduced—the CPS has a responsibility to inform that victim directly. However, there are many other issues that victims want to know about—for example, the progress in the case—so more information is being given, in co-ordination with the police, in witness care units. I hope that the information that I have given is as helpful as it possibly could be. I had no intention of doing anything other than answering the question asked by the hon. Member for Vale of York (Miss McIntosh).

Mr. Andrew Miller (Ellesmere Port and Neston) (Lab): Will my right hon. and learned Friend review the way that victims are treated in circumstances in which it is impossible to bring a prosecution because of the lack of absolute proof? I am thinking in particular of circumstances in which an elderly, vulnerable witness has been conned out of money by builders and so on, and people who have sought to befriend them.

The Solicitor-General: It is important that victims get support even if there is no prosecution. Victim Support gives very useful support to victims, irrespective of whether anybody has been caught and charged with the crime. Also, victims can get criminal injuries compensation even if the offender has not actually been caught.

Mr. Dominic Grieve (Beaconsfield) (Con): The Solicitor-General will be aware that in some categories of offences—particularly those under the Health and Safety at Work, etc. Act 1974—it is possible for prosecutions to be brought either by the Health and Safety Executive or by local authorities, and now by the Crown Prosecution Service as well. How does that impact on the operation of the victims charter? It is my understanding that some of those bodies will not be covered by the charter, but, in many cases, there are likely to be victims. What co-ordination or discussion

has taken place to ensure, particularly if cases start with one body and are transferred to another, that victims' views are properly represented?

The Solicitor-General: What we are looking for is a culture change whereby all prosecutors think carefully about the information and support that is given to victims throughout the case and how they are treated. The hon. Gentleman is right to identify that prosecutions can move from one prosecutor to another. They may start with one prosecutor who is not covered by the code and then move to a prosecutor who is covered by the code, or vice versa. The answer is to ensure that the Whitehall prosecutors' group discusses all those issues and that we level all practice up to the best, but we must start with the code that is under the statute having a clear focus. We must move it forward on that basis and then, in future, we might well be able to extend it.

Domestic Violence

22. **Barbara Follett** (Stevenage) (Lab): What assessment she has made of the effectiveness of anger management courses in the prevention of reoffending in domestic violence cases. [217648]

The Solicitor-General: It is important to understand which programmes are effective in changing the behaviour of perpetrators of domestic violence, and it important that such programmes are monitored and evaluated. My own view is that one of the most important ways to change the behaviour of domestic violence perpetrators is for them to understand that they will not get away with beating their wives, that excuses will not be accepted and that they will be prosecuted and punished.

Barbara Follett: Although I agree with my right hon. and learned Friend's conclusion on that matter, if we are serious about reducing reoffending in domestic violence, we must combine anger management courses with some therapeutic work on the sources of that anger and perhaps work on dispelling it. Will she do all she can to ensure that where there is a high incidence of domestic violence, authorities get the funding they need to put on such courses?

The Solicitor-General: I commend the probation service on its work with perpetrators in general and with perpetrators of domestic violence in particular. It is important to tackle repeat offending and to reduce offending. However, as well as working closely on the issue of perpetrators and reoffending, it is important that we do not assume that domestic violence is perpetrated by people who are victims of their own anger and who cannot control themselves. They often can control their anger at work, with friends, in the pub and with someone who is 6 ft 6 in, but they somehow cannot control their anger when they are behind closed doors with a wife who is only 5 ft 2 in. I am sceptical about some of the philosophies behind anger management, but I know that the work of the probation service, with which my hon. Friend has worked closely in Stevenage, is good.

Mr. John Bercow (Buckingham) (Con): There can be no excuse for the commission of domestic violence, and I am always interested in the views of the right hon. and learned Lady, but what does the empirical evidence show about the effectiveness or otherwise of such courses?

The Solicitor-General: There are a number of different programmes in a number of different areas. They are all being monitored and evaluated, and the hon. Gentleman can see the result of the empirical research. The absolute bottom line, however, is the reoffending rate. There is good evidence that a high level of intervention with perpetrators cuts the reoffending rate, mostly because it gets them to accept responsibility for their actions and stops them giving the excuse, "I got angry and I lost it."

Business of the House

12.31 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): Will the Leader of the House please give us the business for next week?

The Leader of the House of Commons (Mr. Peter Hain): The business for next week is as follows:

MONDAY 28 FEBRUARY—Committee and remaining stages of the Prevention of Terrorism Bill.

TUESDAY 1 MARCH—Conclusion of Committee and remaining stages of the Constitutional Reform Bill *[Lords]*.

WEDNESDAY 2 MARCH—Opposition day [5th allotted day]. There will be a debate on an Opposition motion. Subject to be announced.

THURSDAY 3 MARCH—Remaining stages of the Consumer Credit Bill.

FRIDAY 4 MARCH—Private Members' Bills.

The provisional business for the following week will include:

MONDAY 7 MARCH—Proceedings on the Income Tax (Trading and Other Income) Bill, followed by a motion to take note of various European documents relating to future European Union finances.

Hon. Members may like to be reminded that the Chancellor of the Exchequer has announced that the Budget statement will be on Wednesday 16 March.

Mr. Heald: Will the Leader of the House give us information about the arrangements for tabling manuscript amendments to the Prevention of Terrorism Bill and his understanding of the current position? Has he given further thought to providing a full Committee stage for the European Union Bill? As there is not to be the usual St. David's day debate next Tuesday on Welsh affairs, what assurance can he give the House that we will have an opportunity to have that debate soon?

Can the right hon. Gentleman give us any news about the debate that I have been seeking on foreign affairs, so we can discuss Africa and the middle east? Important questions have also been raised about the Attorney-General's advice prior to the war. Such a debate would provide an opportunity for clarification.

The date for the Budget was announced this week. Over recent years, there has been no consistency in the amount of notice given for the announcement of that date. This year, three weeks' notice was given. In some years, it has been seven weeks, and in other years, two weeks. Has not the time come for a standard notice period of perhaps one month? The Budget is an important date. Surely the time has come for a little modernisation, perhaps even a tidying-up exercise.

There is widespread concern about the way in which business is being pushed through. This week, the timetabling of the Clean Neighbourhoods and Environment Bill and the Drugs Bill was subject to considerable complaint by Members on both sides of the House, and the Prevention of Terrorism Bill has not been given adequate time next week. I realise that the right hon. Gentleman must be getting desperate, because he has so many Bills to deal with and so little time, but surely he should still try to allow the House to do its job properly. That is particularly important for the Prevention of Terrorism Bill. He must share the concern that draconian powers, of the sort that he used to oppose, are being slammed through. Why will he not stand up to fellow Ministers on behalf of the House and give us extra time?

May we also have a statement about the Food Standards Agency's handling of the Sudan 1 chilli powder contamination? It seems to have been very slow. Is it not time to tell the agency to concentrate on its core activity and do it properly? Should not the Government look again at all the various agencies and trusts involved in food safety?

Finally, may we have a statement from a Transport Minister about the effect of the snow on our roads and train services? It is pathetic that we are being told yet again that the snow was just too heavy or was the wrong sort.

Mr. Hain: I am afraid Tory snow is just the same as Labour snow. It mucks the system up. *[Interruption.]* I am grateful for the helpful interventions from my colleagues. On reflection, snow under Labour is definitely better.

On the Prevention of Terrorism Bill, I will certainly bear in mind the hon. Gentleman's point about manuscript amendments. Ultimately it is a matter for the Speaker, I am, however, happy to say that we intend to provide extra time at the end of the debate so that there is a longer time to debate any amendments on Monday, especially if there is a Government amendment.

In respect of the hon. Gentleman's charge about draconian powers, we have been over this ground before and the Home Secretary has addressed it fully on a number of occasions. The security services and the police have stated clearly that they need something in between locking people up in the normal way following the normal prosecution procedures, and mere surveillance. It is our duty as a Government to act on that. To be fair to the Liberal Democrats, they have not disputed that principle. Their main challenge has been about the precise way that it is done, and when the judiciary comes into the picture or whether the Home Secretary is in the lead. There is a balance to be struck as to whether we can act sufficiently speedily and where the courts come into the picture. We are seeking to address that, and the Home Secretary is considering it.

I remind the hon. Gentleman that the Labour Government introduced a human rights Act. The Law Lords' judgment would not have been possible without the Human Rights Act 1998 being prayed in aid. In addition, it is important that Conservatives remind themselves that article 1 of the European convention on human rights is the right to life. When we balance rights such as civil liberties with the right to life, we need to make sure that, in an age of suicide terrorism, we get that balance right and that as a Government we do not ignore our responsibilities to maintain security.

On the European Union Bill, of course there will be a full Committee stage in due course. On the Welsh affairs debate, because of progress on the Prevention of Terrorism Bill we were not able to schedule, as we originally planned, a Welsh affairs debate on St. David's

[Mr. Hain]

day, so it will have to come later as it often has done in the past. But there will certainly be a Welsh affairs debate.

I have continued to bear in mind the hon. Gentleman's request for a foreign affairs discussion. There is a great deal of legislation going through at present, as he knows. The Commission for Africa report is imminent and the Prime Minister and the Chancellor have led the international agenda for assistance to Africa. The Prime Minister has been the pre-eminent world leader pressing for resolution of the middle east conflict. The progress now in prospect on the middle east would not necessarily have occurred without his leadership.

On the Attorney-General's advice on the war, that is old ground. The Attorney-General has issued a statement denying any of the allegations made in the media. His advice was his and his alone, and he was not leant on by anybody.

The hon. Gentleman has raised an interesting point about the consistency of notice for the Budget. Let there be no misunderstanding about this: Chancellors are a bit of a law unto themselves in whatever Government they serve. The timing of the Budget is a matter for the Chancellor because economic issues are extremely sensitive and important. However, I shall bear in mind the important issue that the hon. Gentleman raises.

On the Sudan 1 problem, the Food Standards Agency acted very vigorously and immediately in order to advise and publicise the problem as soon as it had practical advice to give customers. After all, it was a Labour Government who set up the Food Standards Agency and gave it the powers to act as it has done. It will continue to advise customers that, although there is no risk of immediate illness, it is important that any of the affected products at home are withdrawn and that they are not used. All in all, we are seeing the Food Standards Agency acting exactly as we wanted and set it up to do.

Mr. Paul Tyler (North Cornwall) (LD): Has the Leader of the House noted that last night, very unusually, a substantial number of his colleagues voted against the programme motion? They obviously shared the misgivings of everybody else in the House about the way in which the house arrest Bill is being pushed through all its remaining stages on Monday. In view of that, does he not recognise that one particular problem about having one day for remaining stages is that there is not proper time to consider amendments? If, as he hinted just now, there is going to be a substantial Government amendment, or perhaps several, can we have an assurance that it will be published before the weekend, so that we do not see, as has happened very often in the past, the Home Office producing last-minute, ill-thought-out concessions to buy off its own rebels on the Back Benches? Can we ensure that the amendments are given proper consideration before Monday?

Can we have a statement from the Chancellor on the ongoing problems surrounding tax credit overpayments? Every Member in the House will have heard about the experience of constituents who have been asked to pay back to the Government sums that the Inland Revenue considers it unreasonable for them not to have known that they were paid unduly. Given that the formula on tax credits is now so complex that the computer charged with the job has to think overnight—human beings cannot do it; the computer has to think over a 24-hour period—and that the Revenue has now had to publish a special booklet of guidance, can we have a statement from the Chancellor to explain what it is reasonable for the public to know or not know, what target the Revenue has to clear the backlog of disputed overpayments, when exactly it will introduce the new clearer award notice and when it will overhaul the IT system to deal with the situation?

Finally, what steps is the Leader of the House taking to meet the strictures that Mr. Speaker has given on several occasions on timely and accurate answers to parliamentary questions? Is he aware that the Home Secretary is having major problems answering any questions at all? For example, I asked the Home Secretary on 20 December last year how much his Department was making out of 0870 so-called national rate telephone numbers—he has no fewer than 19 different lines charging the public. Despite my prompting him with another question for a named day two weeks ago, I have still not heard anything. What has he got to hide?

Mr. Hain: I am sure that there is no intention on behalf of the Home Secretary or any Minister to hide anything, but I shall certainly draw the matter to his attention, because the hon. Gentleman has a right to know the answer to the points that he has made. The hon. Gentleman will also know that I wrote to all Government colleagues last year to address the issue of delayed answers to questions and said that it was not a practice that should be encouraged; on the contrary, it should be stopped and answers given as soon as possible.

I shall certainly draw the Chancellor's attention to the hon. Gentleman's point about tax credits, which is important.

On the programme motion and its timing, we have been over this matter before. I have just said that we will be allowing extra time on Monday. I did not say that there would be a Government amendment. I said that, if there was a Government amendment, it would be easier to handle that, but I guess that other amendments will have been tabled for Monday, and if they are selected by Mr. Speaker, they can be considered. Let us look at the time that Parliament as a whole, both the Lords and Commons, are devoting to the measure. It is an emergency Bill. We have to bring it in and get Royal Assent before 14 March. *[Interruption.]* We do have to do it, because the present orders, which have been ruled illegal by the Law Lords, have to be replaced. That particular section has to be replaced, so we do need to do it quickly. I think that there is an understanding of that. Between the Commons and the Lords, there will be six days on the Floors of both Houses. In addition, I guess, if any amendments come back from the Lords, the House of Commons will have further time to

consider them. In all, I think that hon. Members will have the opportunity to scrutinise and deal with all issues that they want to.

Several hon. Members *rose—*

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. I have to bear it in mind that there is strictly timetabled business before the House today, so hon. Members will have to ask short, concise questions if I am to have any chance of calling them all.

Mr. Tam Dalyell (Linlithgow) (Lab): How about a ministerial statement next week on the obligations of senior Ministers to the House of Commons? Acquit me of personal chagrin, but I did not want to speak yesterday. However, the truth was that many important speeches from hon. Members on both sides of the House were heard by a Minister of State and a junior Whip. When I first came here, Leaders of the House—R.A. Butler and then Herbert Bowden—would certainly have been present for such a debate so that they could report the atmosphere of the House back to the Cabinet. Frankly, that is the Leader of the House's job. Will he consider his obligations to report to the Cabinet about situations such as that in the House yesterday? It is a dereliction of duty for the Leader of the House and the Chief Whip not to be present in such circumstances.

Mr. Hain: My hon. Friend makes an important point, but he will understand that I have a range of duties to do with this job. However, the debate was important and I shall certainly bear in mind the point he makes.

Mr. John Hayes (South Holland and The Deepings) (Con): Governments are judged by both what they do and how they do it. Will the Leader of the House make a statement on how the Government are managing business? My hon. Friend the shadow Leader of the House has made it clear that we have had inadequate time to scrutinise important legislation, such as the Drugs Bill, the Clean Neighbourhoods and Environment Bill and, most especially, the Prevention of Terrorism Bill. It really is not acceptable that hon. Members on both sides of the House do not have adequate time to hold the Government to account and scrutinise such legislation. Will the Leader of the House personally make a statement to reassure us all that we will have adequate time to examine such matters, rather than having legislation rushed through the House in this most undignified way?

Mr. Hain: The hon. Gentleman asks how business is being managed and I would say that it is being managed well. We are making progress with Bills, and if he looks at the record rather than rhetoric, he will find that scrutiny is better under the procedures that we have adopted because there is less scope for filibustering. We have been over this argument before: timetabling allows clauses to be examined carefully so that Bills are properly scrutinised.

The Deputy Leader of the House of Commons (Mr. Phil Woolas): Would the hon. Gentleman abolish it?

Mr. Hain: My hon. Friend the Deputy Leader of the House asks whether the hon. Member for South Holland and The Deepings (Mr. Hayes) would abolish timetabling. If the Conservatives got into power, it would be interesting to find out whether they would abolish timetabling.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Yes.

Mr. Hain: I do not think that the former shadow Leader of the House, the right hon. Member for Bromley and Chislehurst (Mr. Forth), would have the job, but if the current shadow Leader of the House was standing on this side of the Chamber, I am sure that he would not abolish timetabling because it is sensible, it allows the House to scrutinise legislation properly, and it allows interested parties outside the House to know when things will be happening in Committee and on the Floor of the House. It thus makes for better scrutiny and public understanding all round.

Ms Julia Drown (South Swindon) (Lab): May we have a debate on local government so that I can raise my constituents' concerns about Swindon borough council's Conservative budget? This week, the council put through £10 million of cuts, which included breaking a pledge to the voluntary sector by taking £250,000 from it? It has also raised day care charges from 65p to a massive £10 a day. Should we not have a debate to show that when the Tories talk about running services efficiently, in fact they make cuts to services on which we all rely?

Mr. Hain: That is a horrifying story from Swindon showing what happens when the Conservatives get into power. It shows what happens locally and what would happen if they got into power nationally, with their programme of £35 billion cuts that would result in the massacring of services throughout the country, including those in Swindon, and, additionally, sky-high council tax bills after they had cut local government budgets.

Mr. Deputy Speaker: Order. I think that I should remind the House about Mr. Speaker's recent strictures about propaganda in questions. May I also appeal once again for brevity?

Mr. Forth: Will the Leader of the House make an urgent statement about the obvious dispute between him and the Prime Minister? When he referred to the powers in the Anti-terrorism, Crime and Security Act 2001, he said:

"It is not possible simply to renew them".—[*Official Report*, 21 February 2005; Vol. 431, c. 22.]

At PMPs yesterday—

Dr. Julian Lewis (New Forest, East) (Con): PMPs?

Mr. Forth: Prime Minister's porkies. When the Prime Minister discussed the same matter, however, he said:

"Of course it is true that we could extend the existing powers".—[*Official Report*, 23 February 2005; Vol. 431, c. 300.]

The Leader of the House says that we cannot extend the powers and the Prime Minister says that we can, which means a clear rift in the Cabinet and a serious split in the Government.

Mr. Hain: We miss the right hon. Gentleman as shadow Leader of the House, although his replacement

[Mr. Hain]

is a decent man. There is no difference between me and the Prime Minister. The Law Lords ruled that a particular section of the 2001 Act is unlawful, and we therefore had to introduce new legislation to make sure that we can deal with the threat of terrorism. The Prime Minister and I are both right.

Mr. Gordon Prentice (Pendle) (Lab): There is huge confusion and anxiety that the Prince of Wales's forthcoming marriage in a civil ceremony may not be legal. Are the Government minded to introduce a short Bill to put the legality of the marriage beyond doubt?

Mr. Hain: A written ministerial statement about that matter has been published today,. and the Lord Chancellor made a statement yesterday that sets out the position clearly.

Mr. Bernard Jenkin (North Essex) (Con): Will the Leader of the House provide for an early debate on the Government's policy on arms sales, given that the Prime Minister made it clear yesterday that he would sanction arms sales to China? The Government used to be against arms sales to countries with bad human rights records, to countries that threaten their neighbours in the way in which China is threatening Taiwan and to countries that proliferate weapons of mass destruction—China used to supply Iraq with such weapons and is supplying North Korea now. Is that not an extraordinary volte-face?

Mr. Hain: No, I do not think that it is. Shortly after the Labour Government came into office, we introduced a code that includes strict controls, which are now applied on a European Union-wide basis as a result of the proposals that we put to our colleagues in the EU. We support the EU policy, which does not permit the use of exports for either external aggression or internal repression. We think that the code is right at both the British level and the EU level.

Tony Wright (Cannock Chase) (Lab): My right hon. Friend made an important and welcome statement to the Liaison Committee last October, when he said that henceforth there would be a "presumption" that special advisers would be able to give evidence to Select Committees. Will he confirm that that presumption also applies to the Prime Minister's special advisers?

Mr. Hain: I had a detailed discussion with the Liaison Committee, of which my hon. Friend is a member, and set out my response to that matter, in which I used the word "presumption". I am grateful to the Liaison Committee for its comments on the revision of the Osmotherly rules, which apply to my hon. Friend's question.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): The hon. Member for Stoke-on-Trent, Central (Mr. Fisher) and I were present throughout yesterday's Second Reading of the Prevention of Terrorism Bill. At the end of the debate, we were both allowed two minutes in which to make speeches. Today, the Leader of the House has told us that the House of Lords will get four days to discuss the Bill, while we are only allowed two days. We have got the democratic mandate; surely we should be allowed to have our say.

Mr. Hain: As I have said before, the Anti-terrorism, Crime and Security Act 2001, of which the Prevention of Terrorism Bill affects only one section, was given three days in the House, and the Bill has been given two days. Further time in which to examine the Bill will be available after it returns from the House of Lords, if there are Lords amendments for the Commons to consider. *[Interruption.]* The process is not an invitation to the Lords to do anything. I am simply saying that more time will be provided on the Floor of the House, if it is needed. When I was a Back Bencher, I was not always called and sometimes could only speak for a short time. When lots of hon. Members want to speak, one cannot always get in.

Julie Morgan (Cardiff, North) (Lab): I welcome the announcement of the Welsh day debate, although it will not take place on 1 March. Will the Leader of the House tell us whether we will have an equality debate, which normally takes place close to international women's day on 8 March?

Mr. Hain: My hon. Friend is right that we normally hold such a debate, but I cannot promise that it will happen given the pressure on legislative time and other demands. There is a lot of legislation to get through, so it may well be that that debate does not take place this year.

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): It is down to the Government that there is a lot of legislation to get through. Last week, the Leader of the House said that the Identity Cards Bill had been discussed satisfactorily, and yesterday's debate raised profound issues in relation to our freedoms. Contrary to the evidence of the Modernisation Committee, which he chairs, contemporary legislation is not subject to adequate scrutiny, which is a point made in the annexe to a report to which he was a signatory. Can we have a proper debate, which I also asked for last week, on how we manage the business of legislation going through this House?

Mr. Hain: The hon. Gentleman and I have an honest difference of opinion.

Mr. Shepherd: The facts are in the report.

Mr. Hain: No, the facts are on my side, and it is a question of interpretation. The hon. Gentleman sees filibustering as parliamentary scrutiny; I see timetabling as providing for proper parliamentary scrutiny, for better handling of Bills and for the House doing its job much more effectively. The Identity Cards Bill, the Drugs Bill, counter-terrorism legislation, the Charities Bill and the Clean Neighbourhoods and Environment Bill, which addresses antisocial behaviour in local communities, are the Bills that our constituents—and, I suspect, the hon. Gentleman's constituents—feel that we should take through the Commons in their interests, which is what the Government are doing.

Keith Vaz (Leicester, East) (Lab): May we have a debate on the erection of mobile phone masts outside

schools, which are causing a great deal of worry to my constituents in Leicester? All parties in Leicester oppose Vodafone's latest proposal, which is to establish a mobile phone mast outside St. Joseph's church at the junction of Uppingham road and Goodwood road.

Mr. Hain: The matter is serious, and my hon. Friend is right to raise it on behalf of his constituents. I am sure that my right hon. Friend the Secretary of State for Trade and Industry and the Deputy Prime Minister will pay close attention.

Mr. Nigel Dodds (Belfast, North) (DUP): In light of recent security warnings to leading public figures and recent IRA activity, may we have a guarantee from the Secretary of State for Northern Ireland that, no matter what agreements were made under the joint declaration about the running down of security and security installations in Northern Ireland such as Girdwood barracks in my constituency, a thorough review will be undertaken and that no further measures will be taken under that joint declaration, which is to the detriment of the security of my constituents and the people of Northern Ireland?

Mr. Hain: My right hon. Friend the Secretary of State for Northern Ireland does not want to do anything that would jeopardise the security of the hon. Gentleman's constituents and others in Northern Ireland. The maintenance of security is the top agenda item, along with trying to get the peace process back on the road.

Mr. Michael Foster (Worcester) (Lab): Given the current food scare concerning the Sudan 1 dye, has my right hon. Friend had the opportunity to read early-day motion 741?

[That this House notes that the original Lea and Perrins Worcestershire sauce is not implicated by the current Sudan 1 dye food scare; urges honourable Members to continue to use the original Lea and Perrins sauce, which is only linked by name to the product involved in the food scare; and calls upon the Food Standards Agency clearly to state that Lea and Perrins (based in Worcester since 1837) use only the highest quality and certified safe ingredients in its sauce.]

It distinguishes between the original Lea and Perrins Worcestershire sauce, which is the product that consumers are most likely to see on the shelves in the shops, and the other brand, which is subject to the food scare. Given the food scare, will my right hon. Friend consider a future debate on food labelling?

Mr. Hain: Lea and Perrins Worcestershire sauce is wonderful, and it is not contaminated by that dye. I support my hon. Friend in encouraging everybody to buy Lea and Perrins Worcestershire sauce, which is made in his constituency, in the knowledge that it is perfectly safe and incredibly wholesome.

Dr. Julian Lewis (New Forest, East) (Con): May we have a debate on the decision by the Senior Salaries Review Body that even the Chief of the Defence Staff should be paid according to productivity and results? That would enable us to consider whether that principle should be applied to Ministers, particularly to the Chancellor of the Duchy of Lancaster, who spends most of his time on duties that are, shall we say, not unconnected with the election campaign.

Mr. Hain: I congratulate the hon. Gentleman on getting his question in again.

Mr. Parmjit Dhanda (Gloucester) (Lab): Will my right hon. Friend find time for a debate on railway infrastructure projects such as railway subways, which affect thousands of pedestrians in my constituency, where a £400,000 scheme is coming to a halt because of a bitter dispute between the county council and Network Rail? Will he join me in welcoming moves this morning by Network Rail to write off its legal costs, and in encouraging all sides in such battles to work together—in this case with me, at a meeting that I will host on 10 March?

Mr. Hain: I very much hope that the county council and Network Rail will work closely with my hon. Friend and listen to his representation of his constituents' interests. They should get their act together and follow his advice.

Mr. Nigel Evans (Ribble Valley) (Con): The Department of Health announced today that there have been 5,016 cases of HIV. Given the habitual late reporting of that condition, the figure could easily be more than 7,000. In view of the new strain that has developed in New York, which is completely resistant to treatment, never mind cure, may we have an urgent debate to consider the Government's policy towards HIV and the possibility of an effective advertising campaign to warn people of the dangers of contracting it?

Mr. Hain: The hon. Gentleman raises a very important and serious issue. The Secretary of State for Health will want to take careful note of his remarks, and I will ensure that he is aware of them.

Mr. Ian Davidson (Glasgow, Pollok) (Lab/Co-op): Could the Leader of the House find time for a debate on the disgraceful Government announcement that they intend to abuse 8 May—VE day—by using it to launch their campaign on the European constitution? Does he accept that using the second world war in that way is an example of looking backwards, not forwards—and may I suggest to him that if Ministers are thinking of dressing up in uniform at such an event, they should remember what happened to Prince Harry?

Mr. Hain: Despite the fact that we take a completely different view of the future of Europe—my hon. Friend wants to get on a train out of Europe and we want to be right at the heart of Europe—

Mr. Davidson: Not true. That is a lie.

Mr. Hain: Let me say this to my hon. Friend: of course there has been no attempt by the Government or by the Secretary of State for Trade and Industry to, as it were, abuse VE day. The point that my right hon. Friend was making, and is entitled to make, was that as a result of the European Union's existence and our membership

[Mr. Hain]

of it, it is now inconceivable that a continent in which more wars were fought over the centuries than in any other part of the world could see such conflicts between the nations that are its constituent members ever happening again. That is a fantastic tribute to Europe's success, and the constitutional treaty will help to continue that success by creating a much safer and more secure Europe, and therefore a much safer and more secure world.

Mr. Michael Weir (Angus) (SNP): The Leader of the House will be aware that this week Postcomm announced that the postal service will be opened up to full competition almost 18 months ahead of schedule, and that the Post Office's response to that was to call for more cost-reflective pricing to be available to it. That has caused a great deal of worry, especially in rural areas, about the future of our postal services. Can we have an urgent debate on the matter?

Mr. Hain: Guarantees have been put in place to ensure that rural services are protected, and that will be uppermost in the minds of the Government and the postal regulator in taking the agenda forward. The Royal Mail is the jewel in the crown of the postal service, and that will continue to be the case under this increasing competition.

Paul Flynn (Newport, West) (Lab): May we have a debate on early-day motion 750?

[That this House hails the success of the ban of hunting with dogs; welcomes the demonstration by 184 hunts that the ban does not destroy jobs or traditional pageantry nor result in the destruction of horses or hounds; notes that the only loss is the gratuitous cruelty of the protracted chase of a small mammal bred for that purpose; congratulates the vigilance of the police in arresting a group of alleged hare coursers; and urges farmers and landowners to disregard the request by Master of Foxhounds Association to counter the current shortage of foxes by breeding more animals for hunting.]

Such a debate would enable us to congratulate and thank the 184 hunts that last weekend demonstrated the great success of the ban on hunting by proving that there need be no loss of jobs or traditional pageantry, nor any hounds or horses destroyed, and that all that is being lost is the cruelty of a protracted chase. Can we look forward to the electors deciding that that cruelty will never return?

Mr. Hain: I completely endorse my hon. Friend's point. I think that the electorate will want to maintain a ban on cruelty to animals and will not want to vote Conservative for the Hunting Act to be overturned and cruelty to animals to become widespread again.

Mr. William Cash (Stone) (Con): The Leader of the House said that that question of the Attorney-General's advice regarding the war was old hat. He may recall that on 17 March 2003—the date of the war—I received a written answer from the Solicitor-General pursuant to a question regarding the legal basis of the war that I, as shadow Attorney-General, had asked the Prime Minister on 11 March. I therefore read with considerable concern the report in today's edition of *The Guardian* suggesting that the Attorney-General, in evidence to the Butler inquiry relating to a meeting that took place in Downing street on 13 March, stated:

"they shortly, of course, set out my view"

in a parliamentary answer—"they" apparently being the people whom he met, Baroness Morgan and the present Lord Chancellor. In those circumstances, and in view of the written answer that I received from the Solicitor-General on behalf of the Attorney-General and the Prime Minister, may we have a debate and/or a statement on this matter to clear up how that advice came to be put together, by whom and when—and should not the full advice be made available to the people of this country?

Mr. Hain: The hon. Gentleman knows that it is not practice, nor is it sensible, for advice that the Attorney-General gives to other Ministers to be made public. However, for his benefit and for the benefit of the House, I repeat what the Attorney-General has just said in a press statement:

"In my Parliamentary answer on the 17 March 2003, I explained my genuinely held independent view, that military action was lawful under the existing Security Council resolutions. It was certainly not a view that I expressed as a result of being leant on in any way, nor as I have already made clear, was it written by or at Number 10."

Mr. Gwyn Prosser (Dover) (Lab): I can understand why the Leader of the House did not find time last week to have a debate on the closure of the jobcentre in Deal in my constituency. However, he may not know that neither the staff affected by that closure, nor the Public and Commercial Services Union representatives who represent the people who might be made redundant, have had an opportunity to discuss the matter with management or to be consulted at all, although the consultation period was due to end yesterday. Does he agree that that action by management is completely unacceptable and smacks of arrogant disregard?

Mr. Hain: My hon. Friend will have a chance to raise that matter during Work and Pensions questions on Monday, but the account that he gives is very surprising, and it is not acceptable for management to behave in that way.

Mr. Andrew Robathan (Blaby) (Con): Will the Leader of the House make a statement on Monday, before we return to the Prevention of Terrorism Bill, on the comparison between that measure and the laws that were in place in South Africa before the apartheid regime fell? We will know that one of his hon. Friends, who has the most dreadful personal reasons to know about this in detail, said that the measures bore an extraordinary and chilling resemblance to the pass laws in South Africa. Since the right hon. Gentleman has personal knowledge of BOSS and its methods, perhaps he could explain whether the proposed house arrest is similar to what Verwoerd and his cohorts had in South Africa.

Mr. Hain: I have reason to know quite a lot about what went on in South Africa. The rule of law did not apply in South Africa, where it would not have been

possible for Law Lords to overturn a provision in an Act in the way that they did here. We were dealing with an apartheid police state in which people disappeared, never to be seen again. People were killed, harassed, intimidated and wounded. Many suffered appallingly. To try to compare the apartheid police state, which imprisoned Nelson Mandela for 10,000 days of his life, with conditions in Britain today, when we face a serious security threat from al-Qaeda and suicide bomber terrorists, who if they got the chance would blow everyone up, including themselves, is monstrous.

Mr. Robathan: What about the ANC?

Mr. Hain: The activities of the African National Congress bore no resemblance to al-Qaeda's terrorist attacks, and it is unacceptable for the hon. Gentleman to suggest anything to the contrary. It shows how baseless his allegation is.

Mr. Graham Stringer (Manchester, Blackley) (Lab): My right hon. Friend will know that for more than a decade, the major regional airports in this country have been in favour of an open skies policy for foreign airlines because they believe, with some justice, that that would improve local economies and create jobs. The Civil Aviation Authority has recently examined the freedom rights for foreign airlines. Will my right hon. Friend arrange for an immediate debate on the matter so that we can have a clear—preferably positive—statement on it from the Secretary of State for Transport?

Mr. Hain: I cannot promise my hon. Friend an early debate, but he has the chance to apply for one, and the Secretary of State for Transport will answer questions on Tuesday. He will want to note my hon. Friend's comments and important points.

David Burnside (South Antrim) (UUP): When the Secretary of State for Northern Ireland announced a range of sanctions on Tuesday in response to the widespread criminality for which the Sinn Fein-IRA republican movement is responsible throughout Ireland, he said that the Government would find time for the House to debate the allowances that are granted at Westminster to Sinn Fein Members of Parliament. When will that debate take place? Will the Leader of the House assure us that we will have the opportunity to vote not only on financial allowances, which mean nothing to a multibillionaire organisation such as Sinn Fein, but on access, offices, security passes and employment of staff in the Palace of Westminster? Will he assure us that the House will vote on all those matters, not only on small financial allowances?

Mr. Hain: I assure the hon. Gentleman that there will be an opportunity to decide the matter next month, although I cannot confirm the exact date. The motion that I intend to table will be restricted to allowances, in line with the Secretary of State's statement. However, it will be amendable and the hon. Gentleman will have the chance to table amendments. If they are selected, he can make any points he wishes.

David Cairns (Greenock and Inverclyde) (Lab): Can we have a debate on the Government's priorities for their presidency of the G8 and the EU? Will my right hon. Friend confirm that as well as debt and aid, on which the Government have an outstanding record, we will also deal with the international global rules, which work against the best interests of the people of Africa, and especially the much needed reform of the common agricultural policy, for which he pushed when he was Minister for Europe? Will he lend his support to my constituents who are campaigning hard to have Inverclyde recognised as a fair trade area?

Mr. Hain: I will be pleased to back my hon. Friend's constituents' request and his campaign on their behalf. As he says, the Government lead the world on pressing for trade justice, including the ability of poor countries in Africa to get into existing protected markets, such as the EU—we want the CAP to be abolished—and the United States. It is abhorrent that rich markets in the world block themselves against trade from poor countries. In addition, we are increasing overseas aid and development assistance and working to lift the burden of debt from the poorest countries. I am delighted that my hon. Friend's constituents are taking up that cause.

Alistair Burt (North-East Bedfordshire) (Con): It is essential that the public are assured that civil servants who offer advice to Ministers can do so in an honest and open climate. In view of the statement on the record in the recently published Yarl's Wood inquiry by a senior Home Office civil servant that disagreements over policy, even if it was patent nonsense, ran the risk of civil servants being branded as troublemakers and "not one of us", thus making reasoned debate forbidden, will the Leader of the House ensure that the Home Office responds to the allegations as a matter of urgency? Must we assume that such an oppressive climate for the giving of opinion by civil servants continues to exist?

Mr. Hain: Obviously, the Home Secretary will want to pay close attention to the point that the hon. Gentleman raises on behalf of his constituent. I make a general point, which is not related to his constituent, that the phrase "not one of us" came from Mrs. Thatcher and the practice that she instituted of effectively promoting a coterie of civil servants who tended to support her policies. That is where the problem lay, not in anything that this Government are doing.

Chris Bryant (Rhondda) (Lab): The Leader of the House knows that consumer credit organisations—banks and credit card companies—use many aggressive marketing techniques to persuade people to take out loans that they often do not understand, and in many cases simply cannot afford. The Consumer Credit Bill will do a great deal to rectify that, but does my right hon. Friend believe that we will manage not only to get through Third Reading next week but to get the Lords to complete their consideration, so that the Bill will be on the statute book in time for the general election?

Mr. Hain: I very much hope that that is the case and that, in the event of an earlier rather than a later general election, the Opposition will co-operate with the Government on that Bill and others that are much

[Mr. Hain]

needed by our constituents to get rid of loan sharks and protect poor and vulnerable individuals and families. I hope that the House of Lords and the Opposition would give the Consumer Credit Bill a fair wind if it came to an early election, and the negotiations that always follow in those circumstances.

David Taylor (North-West Leicestershire) (Lab/Co-op): Could we have a debate soon on the early performances of the National Offender Management Service, which have been deeply disappointing to many people? It seems to lack a clear strategy or sense of direction. It appears to have an insatiable desire to flog off public assets, privatise core activities and, despite Gershon, expand civil service bureaucracy at the expense of front-line staff. Could the Minister with responsibility for prisons lead a debate on that organisation?

Mr. Hain: As my hon. Friend knows, there is a measure on that matter before the House, and those issues could be tackled in debates on it.

John Cryer (Hornchurch) (Lab): My right hon. Friend will be aware of a bunch of fundamentalist thugs called Christian Voice, who have recently strong-armed a cancer charity into refusing a donation from the production "Jerry Springer—The Opera". I do not care how good or bad the production is, but it should concern us all that a cancer charity of all things can be intimidated into that position by such a dodgy outfit. Can we have a debate on the matter?

Mr. Hain: I hope that my hon. Friend manages to secure a debate on that matter. I cannot promise him one, for the reasons that I have already explained. The instance to which he refers is troubling and the behaviour of those involved is unacceptable. My hon. Friend described them correctly.

Mark Tami (Alyn and Deeside) (Lab): Following the question asked by my hon. Friend the Member for Hornchurch (John Cryer), will my right hon. Friend allow time for an early debate on the work of cancer charities? We must not lose sight of their tremendous work and the support that they provide to sufferers and their families. Does he agree that a good way of showing support for Marie Curie Cancer Care would be to buy a Marie Curie daffodil for St. David's day?

Mr. Hain: Yes, I do. That sounds like an instruction to me to go out and buy one, which I shall do immediately. I am glad that my hon. Friend has raised that important issue. The work of cancer charity organisations in all our constituencies is important, and they deserve the support of us all.

Mr. Andrew Miller (Ellesmere Port and Neston) (Lab): In responding to the hon. Member for Aldridge-Brownhills (Mr. Shepherd), my right hon. Friend read out a list of measures that are currently going through the parliamentary process, but he did not list the Road Safety Bill. Will he assure me that time will be found to complete the passage of that measure? It is about saving lives, and I hope that we will get cross-party consensus on it if there is an early general election.

Mr. Hain: I very much hope so, too, and I applaud my hon. Friend for his work as patron of RoadPeace and his other work to tackle road safety problems. This is an important Bill, as are a lot of others such as the Consumer Credit Bill and the Identity Cards Bill. We hope that, in the normal fashion, the Opposition will behave in a constructive way so that the interests of our constituents can be put above party interests and Parliament can discharge its duty to road safety victims or, in this instance, potential future victims.

Mr. David Chaytor (Bury, North) (Lab): The Government will be considering their negotiating strategy on the forthcoming nuclear non-proliferation treaty review conference. My right hon. Friend will remember the important role that he played in the previous NPT review conference five years ago. In view of the escalating concerns about proliferation, not only in North Korea and Iran but in many other countries, both members of the NPT and those outside the NPT, could he find time for a debate on this crucial conference that will be held within the next few weeks?

Mr. Hain: I am grateful to my hon. Friend for reminding the House of the role that I played in the 2000 conference in New York. For the first time, we managed to get an agreement between the permanent five nuclear states and the new agenda coalition of countries, which gave the NPT new force, a new vision and a new objective. It remains the cornerstone of our international policy, and I hope that we will manage to get a similar agreement between the different countries involved, both nuclear and non-nuclear, to take forward a common agenda, especially on the frightening degree of nuclear proliferation that is happening now across the world.

Mr. Mark Hendrick (Preston) (Lab/Co-op): I have in my possession a copy of a letter from the Muslim Council of Britain's secretary-general, Mr. Iqbal Sacranie, to the leader of the Liberal Democrats, the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy), expressing the concern of British Muslims at the Liberal Democrats' opposition to the Government's amendment to the Serious Organised Crime and Police Bill relating to religious hatred. If this Bill does not receive Royal Assent because of the opposition of the Liberal Democrats and Conservatives, will the next Government reintroduce it as quickly as possible?

Mr. Hain: If, as I hope, the next Government are a Labour Government, we will certainly do so. It is important, however, that the whole Muslim community right across Britain understands that the Liberal Democrats and Conservatives are seeking to sabotage this important protection against incitement to religious hatred, which gives the Muslim community protection that it does not enjoy and that it desperately wants. Therefore, Labour is acting in the interest of Muslims, as we have done for generations and always will do.

Points of Order

1.22 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): On a point of order, Mr. Deputy Speaker. During business questions, the Leader of the House indicated that a significant Government amendment to the Prevention of Terrorism Bill, which we will consider on Monday, was likely or possible. He also made a remark or two about the question of manuscript amendments, which I had raised with him. Would it be possible for you or Mr. Speaker to explain what the arrangements for manuscript amendments are likely to be on Monday, as it is obviously a matter of great importance, with so much changing at a late stage? Can it also be confirmed that the time when a general election is called is entirely a matter for the Prime Minister, and if he calls one four months into the parliamentary Session, it is hardly surprising if he does not get a full year's business in?

Mr. Deputy Speaker (Sir Alan Haselhurst): First, on the question of amendments to the Bill, there are still two sitting days in which amendments can be tabled. I understand that more than 100 amendments have currently been tabled, and a preliminary selection will take place during tomorrow, the next sitting day. There is still an opportunity to table further amendments, however. Clearly, once that selection has taken place in light of all those amendments that have been put before me, the question of manuscript amendments will be given the usual careful consideration. There is still plenty of opportunity to avoid last-minute measures, however.

Mr. William Cash (Stone) (Con): On a point of order, Mr. Deputy Speaker. You will have noted the points that I made in business questions to the Leader of the House regarding the legal advice of the Attorney-General in respect of the war and the question that I raised with the Prime Minister on 11 March 2003. I have considerable concern about the answer that I received from the Solicitor-General, in which she said:

"The Attorney-General has given a written answer to a question from Baroness Ramsey in the House of Lords today"—[*Official Report*, 17 March 2003; Vol. 401, c. 515W]

14 March 2003—

"in the following terms".

It then sets out the truncated advice.

It is clear that uncertainiy exists in respect of the advice that the Attorney-General gave to the Butler inquiry, when he said:

"they shortly, of course, set out my view".

The question therefore needs to be resolved, perhaps through a statement or some investigation by Mr. Speaker—with whom I raised the matter on 14 March 2003, I think—with regard to the confidentiality of the advice. Can you give me some guidance as to how we can get to the bottom of what exactly was meant by those words in the Butler inquiry, bearing in mind that the Butler inquiry was apparently prepared to abandon its proceedings altogether because it was getting unsatisfactory answers to questions relating to the advice on the war?

Mr. Deputy Speaker: The one person who is least qualified to achieve the end that the hon. Gentleman seeks is the Speaker or the occupant of the Chair. Clearly, scope exists for the hon. Gentleman to pursue this matter in other ways. If I may say so, he has taken two opportunities to do so today, and I have no doubt that he is resourceful enough to find other ways. It really cannot be resolved on a point of order for the Chair, however.

Electoral Registration (Northern Ireland) Bill [*Lords*] (Allocation of Time)

1.26 pm

The Minister of State, Northern Ireland Office (Mr. John Spellar): I beg to move,

That the following provisions shall apply to proceedings on the Electoral Registration (Northern Ireland) Bill [*Lords*]—

Timetable

1. Proceedings on the Bill on Second Reading, in Committee, on consideration and on Third Reading shall be completed at this day's sitting and shall be brought to a conclusion, if not previously concluded, at Six o'clock.

Timing of proceedings and questions to be put

2. When the Bill has been read a second time—

(a) it shall, notwithstanding Standing Order No. 63 (Committal of bills), stand committed to a Committee of the whole House without any Question being put, and

(b) the Speaker shall leave the Chair whether or not notice of an Instruction has been given.

3. On the conclusion of proceedings in Committee the Chairman shall report the Bill to the House without putting any Question and, if the Bill is reported with Amendments, the House shall proceed to consider the Bill as amended without any Question being put.

4. For the purpose of bringing any proceedings to a conclusion in accordance with paragraph 1 the Speaker or Chairman shall forthwith put the following Questions (but no others)—

(a) any Question already proposed from the Chair;

(b) any Question necessary to bring to a decision a Question so proposed;

(c) the Question on any Amendment moved or Motion made by a Minister of the Crown;

(d) any other Question necessary for the disposal of the business to be concluded.

5. On a Motion so made for a new Clause or a new Schedule, the Chairman or Speaker shall put only the Question that the Clause or Schedule be added to the Bill.

Subsequent stages

6.—(1) Any further Message from the Lords on the Bill shall be considered forthwith without any Question being put.

(2) Proceedings on any further Message from the Lords shall, if not previously concluded, be brought to a conclusion one hour after their commencement.

7.—(1) This paragraph applies for the purpose of bringing any proceedings to a conclusion in accordance with paragraph 6.

(2) The Speaker shall first put forthwith any Question which has already been proposed from the Chair and not yet decided.

(3) The Speaker shall then put forthwith the Question on any Motion made by a Minister of the Crown which is related to the Question already proposed from the Chair.

(4) The Speaker shall then put forthwith the Question on any Motion made by a Minister of the Crown on or relevant to any of the remaining items in the Lords Message.

(5) The Speaker shall put forthwith the Question, That this House agrees with the Lords in all remaining Lords Proposals.

Reasons Committee

8.—(1) The Speaker shall put forthwith the Question on any Motion made by a Minister of the Crown for the appointment, nomination and quorum of a Committee to draw up Reasons in relation to the Bill and the appointment of its Chairman.

(2) A Committee appointed to draw up Reasons shall report before the conclusion of the sitting at which it is appointed.

(3) Proceedings in the Committee shall, if not previously brought to a conclusion, be brought to a conclusion 30 minutes after their commencement.

(4) For the purpose of bringing any proceedings to a conclusion in accordance with sub paragraph (3) the Chairman shall—

(a) first put forthwith any Question which has been proposed from the Chair but not yet decided, and

(b) then put forthwith successively Questions on motions which may be made by a Minister of the Crown for assigning a Reason for disagreeing with the Lords in any of their Amendments.

(5) The proceedings of the Committee shall be reported without any further Question being put.

Miscellaneous

9. Paragraph (1) of Standing Order No. 15 (Exempted business) shall apply to any proceedings to which this Order applies.

10. The proceedings on any Motion made by a Minister of the Crown for varying or supplementing the provisions of this Order shall, if not previously concluded, be brought to a conclusion one hour after their commencement and paragraph (1) of Standing Order No. 15 shall apply to those proceedings.

11. Standing Order No. 82 (Business Committee) shall not apply in relation to any proceedings to which this Order applies.

12. No Motion shall be made to alter the order in which proceedings on the Bill are taken or to re commit the Bill.

13. No dilatory Motion shall be made in relation to proceedings to which this Order applies except by a Minister of the Crown; and the Question on any such Motion shall be put forthwith.

14.—(1) This paragraph applies if—

(a) a Motion for the Adjournment of the House under Standing Order No. 24 (Adjournment on specific and important matter that should have urgent consideration) has been stood over to Seven o'clock, Three o'clock or Four o'clock (as the case may be), but

(b) proceedings to which this Order applies have begun before then.

(2) Proceedings on that Motion shall stand postponed until the conclusion of those proceedings.

15. If the House is adjourned, or the sitting is suspended, before the conclusion of any proceedings to which this Order applies, no notice shall be required of a Motion made at the next sitting by a Minister of the Crown for varying or supplementing the provisions of this Order.

16. Proceedings to which this Order applies shall not be interrupted under any Standing Order relating to the sittings of the House.

I shall be brief. In seeking the House's agreement to the allocation of time motion, I shall explain the urgency with which the Government are seeking to progress the Bill and why it is necessary to take it through all its stages in the House today.

Currently, only 85 per cent. of eligible individuals are registered in Northern Ireland. That compares with around 93 per cent. in the rest of the United Kingdom. There are important local elections due in Northern Ireland in May and we think that it is important that as many electors as possible are given the opportunity to vote. For that reason, I made my statement to the House in November.

To make this possible, we have decided to put back on to the register around 81,000 electors who did not re-register during last year's annual canvass. However, to have the chance to vote, they must be back on the register in time for it to be used for those elections. The

register is published on 1 April 2005. It is therefore essential that this Bill becomes law as quickly as possible.

I concede that we had intended to include these provisions in a much more comprehensive Bill that would have come before the House if the talks between the political parties had been successful. Unfortunately, as we are only too well aware, that was not to be, so we have had to produce this Bill as fast as we could to strengthen democracy in Northern Ireland and to do so in time for the May local elections.

Mr. David Trimble (Upper Bann) (UUP): I hope that I am anticipating the Minister, but I intervene in case he is not going to make this point. The Democratic Unionist party-Sinn Fein deal broke down in December, and he would have known at that stage that he would not be able to proceed with the larger Bill to which he referred. I presume that the clauses relating to this matter were already in hand. Surely, therefore, the Government could have introduced this measure earlier so as to proceed through the House in the normal way rather than having to proceed in the extraordinary way employed this week, going through the other place in two days and this place in just one.

Mr. Spellar: We had to get the exact details right, which we had to do in consultation with the parties. As the right hon. Gentleman is aware, we discussed that with all political parties and those meetings had to be consistent with the meetings that we were holding with regard to broader matters. There is also significant pressure on parliamentary counsel at the moment, with a considerable amount of legislation relating to Northern Ireland as well as elsewhere.

Those are the reasons for the delay. The reason that we need to get the legislation in now is, as I said, to have the register right for the local elections. Accordingly, I commend the motion to the House.

1.29 pm

Mr. David Lidington (Aylesbury) (Con): I will be brief.

I have much sympathy with what was said by the right hon. Member for Upper Bann (Mr. Trimble). I hope that the Government will learn a lesson and realise that, even if various details are still a matter for consultation, it is in the interests of the House—including Members who do not represent the Northern Ireland political parties—to have access to the Government's legislative proposals, although they may be in draft form.

The Minister gave the game away to some extent when he spoke of pressure on parliamentary counsel. There is an object lesson there not just for Northern Ireland Ministers, but for the entire Government. The Government are legislating too much, when fewer laws better prepared, better drafted and better scrutinised would be in the national interest. The Minister might well recommend a different approach to his colleagues.

I acknowledge that the Northern Ireland local government elections on 5 May impose a deadline and that, following discussions in the past few days, the Government have produced a programme motion that is less restrictive than it might have been. They have imposed a 6 pm deadline, rather than trying to impose limits on the Bill's various stages.

We do not propose to divide the House on the motion and I hope that we can proceed swiftly to debate the Bill itself.

1.31 pm

Lembit Öpik (Montgomeryshire) (LD): The Liberal Democrats also accept the Minister's allocation of time, but I have two thoughts. First, on 30 November, Ministers were saying in statements that there was a problem. It seems rather as if, notwithstanding the consultations that were necessary, everything has been left until the last minute. Secondly, as the Minister himself said, there is substantial pressure on various Departments, especially the Home Office, to push through a large amount of legislation.

What surprises me is the unseemly haste. We know that the general election could take place as late as June 2006. There is plenty of time for the Government to get the Bill through—unless, of course, they are implying that there will be a general election on 5 May.

Mr. Spellar: It may have escaped the hon. Gentleman's notice that local council elections will take place in Northern Ireland in May.

Lembit Öpik: But the Prevention of Terrorism Bill, which we discussed yesterday, has nothing to do with local elections in Northern Ireland. Surely this Bill, which must accord with the elections to which the Minister refers, is rather more pressing than some of the other Bills that are being discussed.

David Burnside (South Antrim) (UUP): Is the hon. Gentleman aware that the Government announced the date of the general election by moving the date of the Northern Ireland local government elections to 5 May? I fail to understand why he even questions the Government on when the general election will take place.

Lembit Öpik: I do not want us to end up discussing the date of the general election rather than the allocation of time for the Bill. I merely say that this looks more than a little suspicious to those of us who believe that the Government had ulterior motives in moving the local elections to 5 May. I think that there is a pretty loud siren call from Northern Ireland to the rest of us to prepare for that date.

A characteristic of Northern Ireland policy making and legislation passing is that we always seem to do it in a rush. That is no way to run the Province. Along with Northern Ireland Members and Conservative Members, I have often expressed frustration at the fact that Ministers seem to play fast and loose with the small amount of time that we are given to debate important issues. Let me repeat a call that has come from all the Opposition parties: please will the Government be more considerate in regard to the amount of time that they allow for other legislation? However, in this particular instance, I think that we shall have more than enough time to do what the Government want to do.

1.34 pm

Mr. David Trimble (Upper Bann) (UUP): The motion is unusual in two respects. First, I understand that the Conservative party does not intend to press it to a

[Mr. David Trimble]

Division. That is a departure for the Conservatives, who, I believe, operate a policy of always dividing on timetable motions. Members may also notice that, on this occasion, we are not graced, as we normally are during debates on programme motions, by the presence of some of the ornaments of the Conservative party. Consequently, we will not enjoy the entertainment to which the House has been accustomed on such occasions. I hasten to add that I have no intention of trying to emulate the persons to whom I have referred.

The second respect in which the motion is unusual is that this time the Government have not imposed a guillotine for each stage of the Bill, but allowed us to debate all its stages until 6 pm. Indeed, if I have read the Order Paper correctly and if the business motion is moved at 6 pm, it could be debated until even later. In any event, we have been allowed to do what comes naturally in debating Second Reading and the Committee stage. I want to record my appreciation of this slightly more liberal guillotine and my thanks to the Government Whips.

That brings me to my main point, which is that the programme motion is wholly unnecessary. This is a very short Bill with only two clauses of substance; the other clauses relate to minor matters. I may be proved wrong, but I do not think that there is any great controversy over the central measure. Concern will be expressed about what it may portend, and whether it portends a change in Government policy. There will be concern about how it will operate practically and a desire for safeguards, but I do not think that Members in any part of the House wish to frustrate a move that will include in the electoral register people who would otherwise not be entitled to vote.

I am not trying to anticipate our later debate, but I see little likelihood of opposition to the Bill or of filibuster throughout the day. That is why I think the motion is unnecessary. The fact that it is there, albeit in a slightly more liberal form than usual, reflects the Government's highly illiberal attitude to legislation. Although I was not present for the business statement because I was in my office upstairs, I watched it on the monitor, and heard the Leader of the House once again attempt to defend the Government's practice of programming by claiming that it resulted in proper consideration of legislation. That, of course, is utter and arrant nonsense. Programme motions have not improved the quality of consideration of Bills, and, like nearly all the changes introduced by the Government, they have not improved the work of the House.

Last night, I sat listening to some Labour Members bemoaning the poor quality of this Parliament and the one preceding it, in terms of their ineffectiveness and inability to hold the Government properly to account. Labour Members do not realise that that is largely due to the changes that they, in their naivety, allowed the Government to make. Nearly all those changes have made life easier for Government and made it more difficult for Members to perform one of their basic functions. I just wanted to put that on record. I have not taken the same opportunities that other Members have taken to express my view on the changes in, and deterioration in quality of, the House during the last two Parliaments. We can hope for better in the future.

1.39 pm

Mr. Nigel Dodds (Belfast, North) (DUP): I endorse the remarks of the hon. Member for Montgomeryshire (Lembit Öpik), in that the way in which today's business is being conducted is symptomatic of how Northern Ireland Office legislation and matters affecting Northern Ireland tend to be dealt with in this House. I recall a number of occasions when legislation—some of it controversial, or of major significance—was brought before the House to be dealt with in a single day's proceedings. Although this Bill is not as controversial as some others, it is unfortunate and regrettable that that procedure tends to be adopted for legislation affecting Northern Ireland.

I find it odd that, whereas two days were provided for consideration of the Bill in another place, we are dealing with all stages in one day—and on a Thursday afternoon at that—when there is another pressure in play in Members' desire to return to their homes and constituencies, especially given the current weather, which we discussed earlier. Those factors will doubtless impinge on the length of Members' contributions this afternoon. Having said that, I think that we will be able to deal with the Bill, which is generally welcomed, fairly speedily. However, those points need to be put on the record, and I hope that we will have fewer instances of such procedure being used for controversial legislation, about which I will not say very much, given that we are discussing the allocation of time motion. For example, future legislation on parades will be dealt with upstairs in Committee in one and a half hours, which is frankly inadequate.

Question put and agreed to.

Orders of the Day

Electoral Registration (Northern Ireland) Bill [*Lords*]

[Relevant documents: The First Report from the Northern Ireland Affairs Committee, Session 2004–05, HC 131, and the Minutes of Evidence taken before the Committee on 2nd April 2003, Session 2002–03, HC 619-i, on Electoral Registration in Northern Ireland.]

Order for Second Reading read.

1.42 pm

The Minister of State, Northern Ireland Office (Mr. John Spellar): I beg to move, That the Bill be now read a Second time.

I will begin by setting out what this short Bill does and then explain its context and why its introduction is necessary at this time. It gives the chief electoral officer of Northern Ireland the power to re-register former electors on to the Northern Ireland electoral register by 1 April 2005. Former electors are individuals who appeared on the register published on 1 September 2004, but who failed to return that year's annual canvass or failed to complete it accurately, so did not appear on the register published on 1 December 2004.

Lady Hermon (North Down) (UUP): I am most grateful to the Minister for taking such an early intervention. The whole purpose of the electoral fraud legislation passed by this House in 2002 was to put in place additional identifiers to stamp out the serious problem of electoral fraud. What is the point of putting back on to the register electors who failed to comply with the requirement to provide the proper identifiers?

Mr. Spellar: People who were previously properly recorded on the electoral register will have been through that verification process. They were on the register running from 2003 to 2004 precisely because they had filled in the forms properly and had been checked. In 2004, they either did not return the forms, for which there are many possible reasons, or they did not fill them in accurately, but those individuals had already been checked. So we are not changing the procedure for properly identifying individuals or the procedures for verifying voters at polling stations. I shall return to that matter.

Lady Hermon: The Minister is being most generous in giving way again. If an elector has changed address, how will the chief electoral officer check the accuracy of the identifiers?

Mr. Spellar: In cases where the officer does not believe that the elector has moved or that someone else resides at the address in question, he already has the identifiers for those voters. He already has their national insurance numbers and dates of birth, which is why they are included on the existing register. The difficulty that we face—it is reinforced by today's report on electoral registration—is that whereas one might have anticipated a one-step drop in the electoral register as a result of its being cleaned up and of the changes introduced in previous legislation, in fact there is year-on-year decline. That is why there has been considerable and widespread cross-community concern that although the register is now highly accurate, because everyone who is on it is supposed to be on it, it is definitely becoming less comprehensive because not everyone who should be on it is. I will identify some of the differential effects shortly.

Mark Tami (Alyn and Deeside) (Lab): Does my right hon. Friend agree—he has just touched on this issue—that the previous legislation was intended to prevent fraud, rather than to deter people from taking part in a proper democratic process?

Mr. Spellar: As I have said, there are many measures that prevent register and voting fraud. For the latter, photo identity is an example, and we rightly propose to make no change in that regard.

Mr. Gregory Campbell (East Londonderry) (DUP): Can the Minister explain the effect of this restoration? He said that the UK average for persons eligible to be on the register was 93 per cent. and that the figure for Northern Ireland is now 85 per cent. What will that percentage be, assuming that the Bill is passed today?

Mr. Spellar: The Bill will certainly improve it—by approximately 81,000 electors—but we should allow for the fact that every week that figure is reduced. For example, the registrar produces a weekly report on the deaths that have occurred and by other means it might become clear to the registrar that certain people have moved. Of course, there might also be a new registration at a different address.

Mr. David Trimble (Upper Bann) (UUP): I want to follow up the point made by the hon. Member for East Londonderry (Mr. Campbell). The Minister referred to registration figures of 93 per cent. for Great Britain and of 85 per cent. for Northern Ireland. Although we will eventually have an effective register of citizens as a consequence of the identity card legislation—that is one of the advantages of that legislation—we do not currently have one, so how can the Minister be sure that those figures are accurate?

Mr. Spellar: We work on the most reliable census figures, but there will be a degree of inaccuracy in them, as some of the challenges to the census have made clear to us. However, the census figures for both jurisdictions make it clear that a considerably lower percentage of those recorded in the census are registered as electors in Northern Ireland than are registered in the rest of the United Kingdom. The Bill will increase the registration figure to more than 90 per cent., but we do not regard this as the long-term answer. It is an interim measure to enable us to have a more comprehensive register while we look at the whole question of electoral registration.

The right hon. Member for Upper Bann (Mr. Trimble) is right, in that an identity card register might completely change the way in which an electoral register is drawn up. In some continental countries, for example, the register is entirely drawn from the residential register because, whether or not one is a citizen in those jurisdictions, it is a requirement, on moving, to register with the local authority. In Holland, that information is gathered together into one national register, which is also used for vehicle licensing and other purposes.

[Mr. Spellar]

Those are some of the broader issues, but today we are dealing with an interim measure to deal with a recognised problem before May this year.

David Burnside (South Antrim) (UUP) *rose—*

Mr. Spellar: I cannot resist giving way to the hon. Gentleman, after his earlier intervention in which he objected to harmonising arrangements between the United Kingdom—I mean Great Britain—and Northern Ireland.

David Burnside: The Minister's Freudian slip speaks for itself.

Does the Minister accept that lower registration in Northern Ireland stems from the general disillusionment of the citizens of Northern Ireland? We have more elections than any other part of the United Kingdom. Over the last 20 or 30 years, we have constantly had elections, but the democratic mandate—as in the Assembly elections at the end of last year, for example—is not reflected in concrete governmental terms. There is no reaction on the ground. We can elect an Assembly, but it does not operate; we elect local government, but it has very few powers. There is a general disillusionment with political society in Northern Ireland because of the lack of powers to govern the Province and affect its future.

Mr. Spellar: That argument may imply that people decide not to participate in elections by not voting. We want to ensure that every citizen who is eligible to vote has the ability to participate when election day comes and is not prevented from doing so because of non-appearance on the register. Incidentally, what we are proposing is not unusual in a number of countries. In Australia, which has slightly later registration once an election has been announced, about 500,000 electors apply within a few weeks to be on the register. It is indefensible in democratic terms not to ensure that we have the most comprehensive register possible. The Bill is designed to achieve that.

Lembit Öpik (Montgomeryshire) (LD): While the Minister is considering the need to get 81,000 people on the list, will he answer a question that is on many people's minds? Is it not the case that some of those 81,000 may never have existed in the first place and may be bogus voters? The Minister may have a good answer to that question, which I have been asked many times. It would be helpful to have his answer on the record.

Mr. Spellar: That argument could have been made about previous electoral registers, but as a result of the 2002 legislation, there was a major clean-up of the register. Subsequently, all those registered were checked in respect of their personal identifiers, so they have already been verified as individuals on the register. Some of the concerns previously expressed are no longer relevant because the safeguards on voting are stronger. The right hon. Member for Upper Bann has tabled an amendment that we can debate later. I hope to be able to allay some of the concerns about postal or proxy voting, but the great majority of votes are cast at a polling station and I have pointed out the safeguards that apply in those circumstances, which I hope reassures hon. Members.

Mr. Harry Barnes (North-East Derbyshire) (Lab): Would it not be difficult for a person who did not exist to secure a photo identity card?

Mr. Spellar: We are perhaps now touching on some of the broader areas of theology.

Mr. Nigel Dodds (Belfast, North) (DUP): While the Minister is in the mood for allaying fears, I want to put another concern to him and I am sure that he will provide a good answer. Could any of the 81,000 electors being carried forward include any who had died in the meantime? That question has been put to me and it would be helpful to have the Minister's answer on the record.

Mr. Spellar: I thought that I had answered that earlier. The carry-over arrangements for the electoral register include the mechanism for the registrar to be notified on a weekly basis of any deaths registered during that period. The list will therefore be cleaned up regularly. That concern applies to the current register in any case, not just to the carry-over register. The same procedures apply in each case. It reminds me of the anecdote about a little Mexican boy crying on the street in south Texas. Asked why he is crying, he says that he is upset because his father did not come to see him. When told, "Your father has been dead for seven years", he replies: "I know, but on Saturday he was in town and voted for Lyndon Johnson, yet he never came to see me". That would no longer be a problem because of the regular clean-up of the register. As I said, it applies to both parts of the register.

It would be as well if I made some progress—

Lady Hermon: The Minister is gracious in taking so many interventions, which I greatly appreciate. On the question whether any of the 81,000 names go back on the register, will he clarify one particular issue? When the properly registered electors were first included on the register, it was in connection with a particular address. That is part of the identification scheme. If, in the interim, someone moves and subsequently dies at the new address, how can the Minister guarantee that no voting papers will be issued to the original address at which the elector, sadly, no longer resides?

Mr. Spellar: The answer is simply because of the national insurance number identifier. Cross-matches are regularly undertaken. I am a little cautious, because I cannot quite remember whether we have actually carried out the first cross-checks—or are about to do so—between the national insurance register and the electoral register. In any case, that is the clean-up mechanism and there are a range of such mechanisms in place. I return to the point that anyone who wants to vote will have to secure a photo identity card. As the hon. Lady knows, a driving licence or pensioner's bus pass can be used. I stress that these cross-checks do not exist in the rest of the United Kingdom, but I believe that they provide, for Northern Ireland, a considerable degree of assurance as to the integrity of the register and the electoral process.

I want to make some progress, though many of the issues have already been covered in my responses to interventions. The Bill also gives the chief electoral officer the power to carry forward the names of electors who fail to complete the annual canvass form in 2005 on to the register published on 1 December 2005. The provision expires after one year, but may be renewed for a further year by order of the Secretary of State.

On the restoration to the electoral register of names previously removed, clause 1 gives the chief electoral officer the power to put back on the electoral register those electors who were on the register on 15 October 2004 but did not re-register during the autumn canvass in 2004. That takes effect on 1 April 2005. If the chief electoral officer has information suggesting that the former elector has ceased to be resident at the relevant address or that the registration conditions set out in previous legislation—the Representation of the People Act 1983—no longer apply, the chief electoral officer cannot exercise his power in relation to a former elector.

I have already stressed that the personal identifiers that the former electors gave when they originally registered will be kept when they are restored to the register. To respond to another question put to me, an elector's previously expressed preference as to whether they wanted their name to be on the full or the edited version of the register will still be binding.

Clauses 2 and 3 modify the 1983 Act to ensure that the chief electoral officer can retain names on the register after an annual canvass until the publication of the updated register after the next annual canvass. The power does not apply to former electors added to the register under clause 1. An elector's name can be carried over only for 12 months—that is important—and, unless they re-register, they will be removed from the register. It is a one-off exercise for an elector, even in the event of that one renewal by the Secretary of State. That applies only to those whom the chief electoral officer has no reason to believe are no longer at the address given. That power will automatically lapse unless specifically extended by the Secretary of State for a maximum period of one year.

I shall briefly give the background because it is important to put it on the record. In Great Britain, the Representation of the People Act 1983 allows the name of an elector to remain on the register after a canvass until the registration officer determines that they are not entitled to so remain. That is referred to as the carry-forward. In Northern Ireland, names must be removed if no form is submitted or if the form submitted does not include all the information required.

The effect is to prevent a carry-forward of names from year to year unless the chief electoral officer receives a properly completed form. That was introduced by the Electoral Fraud (Northern Ireland) Act 2002. The measures introduced in 2002 have been successful in reducing fraud and increasing the accuracy of the register, but an unfortunate consequence has been that, although there was a one-off fall in the register as we anticipated, there has also been a consistent fall in the number registered year on year. We believe—the belief is widely held in Northern Ireland—that that risks damaging the integrity of the register due to a lack of comprehensiveness.

Mr. Trimble: The Minister said, correctly, that the introduction of the 2002 Act was expected to result in an initial reduction as it cleaned out false registrations and phantom voters. However, as he also said, there has been a subsequent fall. I may be anticipating what he is about to say, but I hope that he will consider the reasons for that subsequent fall and what the continuing fall is. That would be worth while because the Bill is a one-off measure; we must look to the future and consider how to ensure that people register. We know the cause of the one-off drop, but what is the cause of the continuing drop?

Mr. Spellar: There are multiple causes, many of which are common to democratic societies. They include increasing social mobility, lower registration by younger people, people becoming more averse to filling in endless forms and so on. All those factors are comprehensible and can be addressed. We must consider a range of measures and we are looking at methods in other countries, such as cross-referencing to driving licences, social security and national insurance records, notification of change of address to the Post Office and other utilities, the sale of houses and new registration of house ownership, housing association properties and so on. Many of those refer to a previous point raised by the right hon. Gentleman about an identity register. However, in the absence of those procedures, we must address the problems. They are not unique to the United Kingdom or to Northern Ireland, but we must consider how to tackle them.

In the meantime, we have the immediate problem of a substantial shortfall—that is generally agreed—between the number of people who are eligible to be registered and the number who are registered. No one would argue that it is undesirable to have the maximum possible registration and no one would argue for attempts, as we have seen in some other jurisdictions, artificially to depress the register by administrative means. That would be unacceptable to all democratically minded people and I know that that argument would not be made today. Therefore, we must consider how to ensure the most comprehensive register possible. We need to consider longer term measures, which I intend to explore with the political parties during the next few months. In the meantime, we must take action—we have received representations from across the community for that—to deal with the particular problem facing us now.

Mr. Gregory Campbell: The Minister has said several times that this is a one-off problem, but that the Government must address the ongoing problem. Will there be any research into the 80,000-plus voters who will be restored to the register as a result of the Bill? For example, many people believe that younger voters are predominant among the 80,000. Will there be any research to ensure that the younger age group of voters will be targeted to ensure maximum electoral registration and maximum turnout at elections?

Mr. Spellar: Yes, indeed. We have commissioned work from the Electoral Commission to discover the

[Mr. Spellar]

reasons for the continuing fall and the shortfall. We are also undertaking our own work to consider how other jurisdictions ensure the most comprehensive register possible.

The main Northern Ireland parties have been lobbying Ministers hard to introduce measures to alleviate the falling numbers on the register. There is general concern, particularly about the shortfall among younger people, as the hon. Member for East Londonderry said. Therefore, we have decided to re-introduce the carry-forward temporarily until we can put in place new registration arrangements for Northern Ireland in the longer term.

The Bill is important because the electoral register should be accurate and comprehensive. Putting an additional 83,000 electors back on to the register will strengthen the democratic process in Northern Ireland, particularly with important local elections due in May.

Mr. Trimble: I hope that the Minister can respond to a matter that he has not yet touched on. He referred to the desirability of having as many people as possible on the register. It is also desirable to have the register available to people, particularly with the prospect of at least one election. Those involved in political activity need to have the register available as soon as possible. The Bill does not take effect until 1 April. Will a new register be published on 1 April, or is that being too optimistic?

Mr. Spellar: That touches on an amendment that has been tabled by the Liberal Democrats and I shall address the matter when we come to that amendment. We recognise the desire for the comprehensive register to be available as soon as possible and, if it is administratively feasible, I hope that it will be produced before 1 April for that reason. We are considering the possibility of doing that because I recognise the need for political parties to be able to access the electorate as early as possible. I shall deal with the matter in greater detail when we come to the amendment.

I appreciate some of the concerns that were raised during the debate on the programme motion about fast-tracking the Bill and cutting down some of the time available for debate. There has been adequate discussion and consultation since November and we need to implement the Bill because those electors must be able to vote in the forthcoming local elections.

I thank hon. Members for their constructive comments and look forward to responding to any detailed matters that are raised. I commend the Bill to the House.

2.9 pm

Mr. David Lidington (Aylesbury) (Con): The Opposition accept that the Bill has been introduced to try to remedy a real problem. It was made clear during exchanges in response to interventions from Unionist Members that everyone expected the Electoral Fraud (Northern Ireland) Act 2002 to lead to a fall in the number of registered electors in the Province. It certainly did that, because about 120,000 electors, amounting some 10 per cent. of the entire register, were removed. What was not expected was that that would be followed by a year-on-year decline in the number of people registered to vote.

The Minister has given the Government's assessment that only about 85 per cent. of people in Northern Ireland are now registered to vote compared with about 93 per cent. in the rest of the United Kingdom. Not only the Government but the Electoral Commission and the Select Committee on Northern Ireland have expressed concern about that state of affairs. In its report on the operation of the Electoral Fraud (Northern Ireland) 2002 Act, the commission explicitly pointed to the abolition of the ability to allow names to be carried forward for one year as probably the chief reason for the continuing fall in the number of registered electors.

One has to ask, as others have done already in the debate, why those people have not registered. I suppose that for some it was a matter of deliberate choice. For others it was probably, if we are honest, sheer laziness, or due to the mislaying of a form. I am obviously speculating here, but I suspect that the chief reason is that there are plenty of people who are not terribly interested in politics and for whom the task of re-registering annually is one of those things that they do not regard as a particularly high priority.

Lady Hermon: I suggest to the hon. Gentleman that one of the significant reasons why people do not register every year is that there is an education problem here. The Electoral Commission and the chief electoral officer need to advertise more clearly especially to older voters, who enjoy voting and vote regularly that a change has taken place and they are now expected to register every year. That is the main problem.

Mr. Lidington: The hon. Lady makes a perfectly fair point. When I consulted my own party organisation about our approach to this Bill, a comment was made to me by a senior agent that people in Northern Ireland might well have expected that, having once registered with the unique identifier, they had done the job for good and all, and that they would not have to repeat the process annually.

So we have to decide today whether we can make it easier for people who are genuinely entitled to vote to remain on the register without compromising the safeguards against fraud that were built into the 2002 Act. I have a number of questions to ask the Minister which I hope he will be able to answer in due course. Some of the points that I intended to make have already been covered, so I will not labour them at length. The hon. Member for Belfast, North (Mr. Dodds) referred to how deaths influence the composition of the register. The Minister gave us an answer that provided some reassurance that the chief registration officer notifies the chief electoral officer every week of those people in Northern Ireland who have died and provides lists of their unique numbers. I hope that the Minister can confirm exactly the procedure that is followed. It seems a vital safeguard.

Can the Minister be absolutely confident of the reliability of the data set of national insurance numbers? We hear from time to time in the House and in the media about the alleged widespread use of false national insurance numbers and of people who appropriate the

national insurance numbers of citizens who have died. I hope that the Minister can give us some assurance that he can be confident that there is no gap in the anti-fraud regime as a consequence of that.

Mr. John Hayes (South Holland and The Deepings) (Con): May I ask the Minister through my hon. Friend what alternatives to national insurance numbers were canvassed? My hon. Friend is right to say that worries about accuracy have been raised on occasions in the House. We carry all kinds of other things. National health numbers are an example, but there are many others. How were any alternatives judged to be inferior, to national insurance numbers? What test has been made of that? There is a widespread worry in the House about the impermanence of all this and whether we are proceeding without having done that kind of homework. The Minister may be able to assure us that he has done it, but I would like to ask him through my hon. Friend whether he has.

Mr. Lidington: I am sure that the Minister will have taken note of my hon. Friend's comments and that he will respond later.

I move on to questions about people who have changed their address since their original registration. Clause 1(c) makes it unlawful for somebody to be re-registered if the chief electoral officer has information to suggest that that person is no longer resident at the address at which he was previously lawfully registered. What in practice does that safeguard mean? Does the chief electoral officer have the wherewithal to carry out checks on change of residence, or is all we are saying in the Bill that somebody who notifies the officer of a change in address will have his or her electoral registration duly altered? Are there other sources of information to which the chief electoral officer has access that would provide safeguards against the impersonation of somebody who had moved house and as a consequence had not registered at their previous address and had chosen, for whatever reason, not to register at their new address?

I have a particular concern about younger voters. Taking up the point made by the hon. Member for East Londonderry (Mr. Campbell), I have seen figures that suggest that fewer than a quarter of 17 and 18-year-olds in Northern Ireland are registered to vote. We know that in general young people in their late teens and 20s are likely to be mobile; they may well change address relatively often. So re-registration as proposed in the Bill could put back on the register many people who have moved house but who have not bothered to tell the electoral authorities. If we consider that in the circumstances of Northern Ireland, how likely is it that a paramilitary organisation linked to a political party could work out that at a particular address in Belfast or Londonderry a number of young electors had properly registered in the first instance, subsequently moved away and re-registered under the terms of the new legislation? In such circumstances, will there not be an opportunity for such an organisation to make applications for postal or proxy votes on behalf of those people who have moved away from their original registration address? I know that the right hon. Member for Upper Bann (Mr. Trimble) hopes to speak about that issue in later stages of the consideration of the Bill. I hope that the Minister will be able to come forward with some persuasive reassurances at that stage, if not in response to the Second Reading debate. This is one of the most troublesome aspects of the Bill.

Rev. Martin Smyth (Belfast, South) (UUP): I appreciate the point that the hon. Gentleman makes about how the votes could be misused. Is it also possible that one of the problems of younger voters dropping off the register is that registration takes place around August or September when some of them are moving away from home to university or other education establishments? In the past, their mother or father would put their name on the register but no longer is that being done. Is there not a role for education there as well? It seems to me that once students are away sometimes they are forgotten about.

Mr. Lidington: The hon. Gentleman makes a perfectly valid point.

Finally, may I put it to the Minister that there may be a risk of intimidation? I simply ask the question: is it possible that some people have failed to re-register not through idleness but in order to make it impossible for them to be intimidated into voting for a particular candidate in an election in Northern Ireland? It seems to me that if one's name is on the register in Northern Ireland, one knows that the parties linked to the paramilitaries will—admittedly after the election—in due course have access to a marked register showing which electors have voted and which have not; and that knowledge on the part of the individual elector may make him or her more susceptible to intimidation by those paramilitaries into turning out, into casting a vote and into casting a vote in a particular direction. From the elector's point of view, to follow my hypothesis through, the only way to avoid any risk of that happening would be to decide not to go on the register at all. So is there a risk that in bringing this measure forward we shall actually make it easier in some circumstances for paramilitary groups to intimidate people who are very scared and have chosen not to register to vote in order to avoid being put in that predicament?

Mr. Jeffrey M. Donaldson (Lagan Valley) (DUP): Is the hon. Gentleman aware that members of the security forces, particularly police officers and those serving with the Royal Irish Regiment, have been advised at times—I am talking about security advice—to remove their names from the electoral register because of the threat of being identified through that mechanism and having their homes targeted? Does he share my concern that they may find themselves back on the electoral register again, and could be identified in the same manner as he has just outlined in terms of others who, for different reasons, would be concerned about intimidation?

Mr. Lidington: The hon. Gentleman makes a perfectly legitimate point. Of course there are a number of electors in Great Britain as well who, for similar reasons, choose to withhold their address details from the published electoral register, and the hon. Gentleman has raised a further point that I hope the Minister will address, and certainly about which I trust that the Government have done some thinking and provided some answers.

[Mr. Lidington]

In conclusion, this legislation is all about trying to get the balance right. It is clearly wrong for there to be some tens of thousands of people in Northern Ireland who are qualified to vote but who, as a result of inattention or a lack of publicity or for some other reason, will not be able to exercise the most fundamental of rights in a democracy. On the other hand, can we, through this Bill, provide a mechanism to redress that wrong without risking the framework of safeguards against fraud, impersonation and intimidation that the House enacted back in 2002?

I shall await with interest the Minister's responses to the questions that not just I but other Members of all Opposition parties have posed.

2.24 pm

Lembit Öpik (Montgomeryshire) (LD): The Minister will know that of late I have been increasingly unhappy with the lack of consultation regarding various aspects of legislation and initiatives taken by Northern Ireland Office Ministers in regard to the peace process and other matters. I am glad to say, and I give credit to the Minister and his colleagues for this, that the situation seems to be improving, and I am grateful for the proactive approach that the Government seem now to be taking in regard to consultation and inclusion of all parties in pre-legislative discussions of matters such as this one. It has been very helpful to hear and see the Government's perspective on the need for the Bill in advance of today's debate.

It is also clear that we are not discussing the occasional omission or error that appears on electoral registers. We have all seen or heard of examples where somebody's pet or six-month-old child has turned up on the register, but we are now talking about the massive level of electoral fraud that bedevilled politics in Northern Ireland for a very long time, and to that extent it is salient and appropriate that this matter is being discussed in the run-up to the May elections—although, for the reasons that we discussed earlier and which I need not repeat, it does seem a little curious that the Government have left it so close to the last minute to do so.

I remain slightly sceptical, however, and indeed a little uneasy, about the contents of the Bill, and that is because we supported the Electoral Fraud (Northern Ireland) Act 2002 and we are concerned that the Bill might to an extent dilute it. It was obviously sensible to tackle the huge problem of electoral fraud faced particularly by Northern Ireland, where democracy was really being undermined and where in some cases the outcome of elections may have been affected or compromised by fraud. Indeed, it was the Liberal Democrats, together with the other Opposition parties, who proposed the use of national insurance numbers as an additional personal identifier for electors when registering.

Interestingly, in April 2004 the Electoral Commission published a report on the operation of the Assembly election of November 2003. Paragraph 5.63 of the report stated:

"The findings illustrate that suspicions of electoral fraud among presiding officers had reduced dramatically. This view was endorsed by a number of parties and candidates who felt the election was fair and free. One political party said they believed the election held in November 2003 was probably the 'cleanest and fairest' ever held in"

the north of Ireland. The Police Service of Northern Ireland

"confirmed that they had received no reports of attempted personation at any of the polling stations during election day. This was in direct contrast to previous elections when a small number of incidents of personation were reported directly to the police."

So it does seem that the 2002 legislation is working.

I have, however, a concern that the methodology designed to include the 83,000 or 81,000 people whom we have discussed might actually dilute the efficacy of the original legislation. The Minister indicated that there was a problem in a written statement published in *Hansard* on 30 November 2004. During the annual canvass last autumn, officers of the Electoral Office for Northern Ireland had been, and were, calling at electors' houses to deliver and collect registration forms. Electors were written to and encouraged to fill in those forms, and still we ended up with a deficit of 83,000 people at that time.

Mark Tami: I accept a lot of the points that the hon. Gentleman is making, but does he accept that there might equally be a problem on the other side? There is a distinct possibility that at the next election some people who think they are still on the register will turn up at the polling station, discover that they cannot vote and then perhaps feel that a fraud has been committed against them.

Lembit Öpik: That is an interesting point and a fair one, and I fear that such things happen in every election in England, Wales and Scotland as well as in the north of Ireland. The hon. Gentleman is right, but I am not entirely convinced that the move that we are taking today will necessarily alleviate that problem. In response to what the hon. Gentleman says, I would ask the Minister, in his summation, to share his perspective on whether he thinks there will be a significant problem at the next elections in the Province of people who think they are registered but turn out not to be.

It must also be said that there has been an intensive communication process with the citizens of Northern Ireland to encourage them to fill in their forms, and still we have ended up with 80,000 or so people who have not. I am still not clear in my mind why the Government think that this has occurred. It has been mooted to us by officials that perhaps there is just a lot of apathy about, but I am wondering what the chief electoral officer has actually done between the end of the annual canvass and today to establish why there has been a drop in registration. I suggest to the Minister that it would be helpful to have a definitive analysis of the cause. He also spoke about percentages and, although he may not be able to give us the statistic now, I should be grateful to know the figure for the number of people that it is estimated are not registered to vote in England, Wales and Scotland, because that comparison would probably be rather important. I suggest that there probably comes a ceiling beyond which it is extremely difficult to get people to register.

On the legislation itself, electors can still register through the existing process for inclusion in the April register. Since—to use a phrase that has been used

before—the dogs in the street now know that the general election is likely to take place on 5 May, there is a particular incentive to do so. Under the rolling registration process, I understand that the last date to register is 10 March. I wonder whether, since the Minister made a statement in November, the officers from the Electoral Office for Northern Ireland have made significant attempts personally to contact the 80,000 or so people who will be affected by the legislation. I accept that that is a very large number, but personal contact may be the single most effective way to overcome the problem. Has anyone attempted to explain to those people that, unless they fill out an electoral registration form, they will not be able to vote? To some extent, that responds to the intervention from the hon. Member for Alyn and Deeside (Mark Tami) a few minutes ago.

Surely it is much better to ensure that electors are registered properly in accordance with the Electoral Fraud (Northern Ireland) Act 2002, rather than through the measures proposed in the Bill. That leads me to my concern: we are setting a precedent that might be rather difficult to get out of in the future. We can discuss the danger of having to re-enact this kind of last minute legislation when we debate the amendments. I seek an assurance from the Minister that he will not use today's debate as a precedent for future debates and say, "Well, back in February 2005, we made this exemption, so it's okay to do it again," because, as far as I am concerned, it is not. This is a one-off occasion when we will rather unhappily pass an exemption that should not be repeated.

A very interesting point was made earlier about the possibility that students will be excluded because, unlike in the past, their parents will not be able to put their names on the register. I am particularly concerned about that, because students are obviously smart and we know that smart people tend to vote for the Alliance party of Northern Ireland. So my sister party stands to lose more than anybody else if students are not on the register. I seek the Minister's perspective on what we can do to ensure that those students do not fall through the net. I feel, therefore, that the Government have not really fully explored some of the alternative measures to those proposed in the Bill. We seek to make some modifications with the amendments that we will be discussing shortly.

Finally, in some correspondence relating directly to the legislation, the Secretary of State for Northern Ireland has written to me and my colleagues in the Liberal Democrat party asking us to reconsider our sceptical stance on the Bill. In fact, he said:

"in the interests of democracy, it is important that the Northern Ireland register is both accurate and comprehensive. I firmly believe that this Bill will help us to achieve that objective."

The Secretary of State and the Minister are more persuaded of the need for that than the Liberal Democrats; nevertheless, on the basis of the Minister's speech and his helpful responses to a number of interventions, the Liberal Democrats will agree to support the Bill today.

2.33 pm

Mr. David Trimble (Upper Bann) (UUP): I start by commending what was done by the Liberal Democrats and the Conservatives in terms of their approach to the Bill, which has resulted in the Bill before us being somewhat different from the Bill that we might have had originally. I will come back to that, because there are some really important points there.

As has been said, we are operating in a context created by the electoral reform legislation. We regard that legislation as hugely important. There is no doubt but that Northern Ireland elections over the years have been attended by certain local customs, although I have to say that those customs are not unique to Northern Ireland. The extent of electoral abuse that existed in the past in Northern Ireland exists in some localities in Great Britain today, and indeed will be hugely increased by some of the Government's other proposals.

The Minister may be aware of the very considerable concern about recent elections and referendums that exists in some areas in England, where there is increasing evidence of massive abuse through the novel practices that the Government have been introducing. That is not a matter for debate today, but it is so closely connected with this matter that the Government need to think. They have been doing—I hope that they continue to do—the right thing in Northern Ireland, but they are not doing the right thing, in electoral terms, elsewhere. I hope that the practices that operate with regard to Northern Ireland elections are replicated elsewhere in the United Kingdom to deal with the abuse that exists there.

I return to my central point that there were local customs in Northern Ireland, of which at one point, I suppose, there was a grudging acceptance in society. Indeed, in many respects, the practice of what was called personation operated as a sort of informal proxy voting—I may come back to this later. People sometimes took advantage of it. However, in recent years, because of the way in which it has been organised by certain paramilitary-related parties and because of the intimidation that accompanied their actions, there was very real concern that the abuse was getting out of hand in some respects and was becoming something completely one-sided. That had been a concern of ours for a long time. As the Minister knows, we have been pressing for reform on this matter and we were glad to see reform come in the shape of the electoral reform legislation. We think that it is hugely important.

The report quoted by the hon. Member for Montgomeryshire (Lembit Öpik) expressed the opinion that the November 2003 election was probably the most honest that there had been in Northern Ireland. We share that view, and we are glad of that. We want to see elections that are honest and that have the greatest participation possible, which is why we approach the Bill with a slightly mixed mind. We are concerned that it might weaken the structure of the electoral reform legislation, but at the same time, we do not object in principle to putting people on the register. Indeed, we want to see people go on the register—but they must be people who are entitled to be there.

That brings me to the point that I touched on earlier in an intervention, which is that although we expected there to be a significant drop when the electoral reform legislation took effect, we thought that it would be a one-off. The continuing drop is a matter for concern. As a number of hon. Members said, it is something that ought to be looked into closely. Some work has already been done, but as was suggested in an intervention, it

[Mr. David Trimble]

would be a very good idea for more to be done, and in particular, for an effort to be made to identify the 80,000-plus persons whose registration is about to be resumed, and to establish whether we can find out anything about their circumstances.

The Minister referred to some of the reasons why people may allow their names to lapse, or not put themselves on the register, but hon. Members have also touched on three matters already in their interventions. The hon. Member for Lagan Valley (Mr. Donaldson) referred to the fact—it is a fact—that many people associated with the security forces do not put their names on the register because they feel that by being on the register, they are making it easier for people to target them. That has been a factor. I do not think that it would be an increased factor at the moment. If anything, it might be a diminished factor, although, in the present uncertainty, who knows? But it certainly has been a factor in the past.

My hon. Friend the Member for North Down (Lady Hermon) referred to a significant factor when she spoke of the quality of the work done by the Electoral Commission, and whether enough was being done to draw people's attention to this fact, particularly with regard to old people. Again, I do not want to stray beyond the terms of the Bill, but we have grave concerns about the quality of the Electoral Commission's work, even on something as basic as why counts in Northern Ireland take so much longer than counts elsewhere. We all have to experience that irritation in Northern Ireland. I dare say that if there is something other than a local government election on 5 May, by the time the first results come out in Northern Ireland, everyone else in Great Britain will have gone home.

Andrew Mackinlay (Thurrock) (Lab): You may hold the balance of power.

Mr. Trimble: There was a happy occasion when that happened. It caused some confusion on the mainland in February 1973—[HON. MEMBERS: "1974."] I stand corrected. I am grateful to the hon. Members for Belfast, North (Mr. Dodds) and for East Londonderry (Mr. Campbell) for assisting me.

Mr. Dodds: Always happy.

Mr. Trimble: But never so felicitous.

Slow counts are one of the many factors that concern us about the work of the Electoral Commission. The Bill deals with the creation of the register and the maintenance of an accurate register. I do not want to be too negative about the Electoral Commission, but the Minister should see whether there are ways to improve the quality of its work, because that is undoubtedly a factor.

My hon. Friend the Member for Belfast, South (Rev. Martin Smyth) made a good point that may explain the low take-up of registration by young people. Previous research mentioned that fact, but did not explain it, other than assuming that young people are more apathetic than others.

Andrew Mackinlay: Surely one of the great problems is the number of students from Northern Ireland who are studying at university on the United Kingdom mainland who either were not on the original register or are now in their second or third year. Those who are diligent and deem themselves residents of Northern Ireland could be treated unfairly, but there is also the potential for abuse if they are not retuning as frequently to Northern Ireland as they once did. The problem is the grey area of what constitutes a "resident" in respect of Northern Ireland students who are on the mainland.

Mr. Trimble: The hon. Gentleman makes the valid point that the problem of young people registering may be affected by the large number of people from Northern Ireland who attend university in Great Britain. However, I wonder whether that proportion is any higher than the proportion of people from an English region who are attending universities out of their region, perhaps 50, 100 or 200 miles away. The proportion of Northern Irish students on the mainland may be no higher. The existence of a bit of water does not affect ease of travel.

Andrew Mackinlay: This is an important point. There is a cultural difference. People from the mainland are encouraged by the National Union of Students and their families to register, and it is not considered irregular to be registered both at university in, say, Durham, and at home in Surrey. However, I can understand the diligent and responsible citizen of Northern Ireland hesitating, almost nervously, in case he is doing something improper by registering in both places. It is the decent people who will be nervous, because the Electoral Commission has not spelt out with clarity the ground rules in Northern Ireland.

Mr. Trimble: Again, the hon. Gentleman makes a good point, which I would take further. The cultural difference is largely the result of people finding themselves operating in a different political environment when they move from Northern Ireland to GB. Why is that so? No doubt the hon. Gentleman knows that it is because of the failure of the national political parties to be national parties. The fault lies to a large extent with the people who are not in the Chamber; I think we can cheerfully agree on that.

The serious point is that people who have moved from, for example, Surrey to attend Edinburgh university will be approached by those who are involved in political activity to ask them whether they want to register in Edinburgh or to participate in the election at home. People from Northern Ireland might not be approached and targeted in the same way because they are likely to cast their votes at home, to which those involved in politics in Edinburgh or wherever are not motivated to have regard. The problem is underlined by an important fact that is of a more general nature. Again, I do not want to stray too far from the point, but there are political implications for the so-called national parties.

My hon. Friend the Member for Belfast, South mentioned timing. The months of August and September are not a good time for people to fill in the forms. That is true not only because young people are going to university, but because of the normal tempo and shape of family life. That should be taken on board.

We need to look at the causes. Until we know what they are and find a way to address them, we cannot be sure that the problem will not continue. The one-off drop in registrations when the 2002 Act came into force was followed by a continuing drop, in response to which the Minister has proposed a Bill that is almost of a one-off character. It will operate for 12 months, but if we do not address the underlying problem satisfactorily, then what? Once the Bill ceases to have effect and people are no longer restored or carried forward in the way provided for in the Bill, will the Minister or his successor introduce another one-off measure in three or four years' time? If that happens, will we not permanently change the scheme of electoral reform, and does that not put us in danger of undermining legislation? That is one of the crucial problems with the Bill.

Lembit Öpik: I agree with the right hon. Gentleman. Does he agree that it would help if the Minister gave a categorical assurance that the Government will not use the Bill as a precedent for the future? The danger is that electors in Northern Ireland will think that there is no need to register early, because they can do it at the last minute.

Mr. Trimble: I agree with the hon. Gentleman. The crucial issue is whether there will be a change of policy. Is this a one-off or are we setting a precedent? He asks the Minister to give an undertaking. I hope he does because if he fails to do so, the amicable nature of our proceedings might change.

Rev. Martin Smyth: Does my right hon. Friend agree that people in Northern Ireland are used to annual re-enactments of non-permanent legislation, and we do not want that to be repeated?

Mr. Trimble: When my hon. Friend said "annual re-enactments", another thing popped into my mind, but he then made it clear that he was talking about legislation and some of the unfortunate ways in which it is handled. I am happy to agree entirely with him.

The central point is whether we are maintaining the policy of the 2002 Act. I hope that the Minister will give a positive response to the request by the hon. Member for Montgomeryshire. But even if such a positive response is given, if we do not address the underlying causes there is the danger that in two or three years another Minister will say that we must deal with the changes that have come about as a result of continuing falls. We must find some way of tackling the underlying cause and encouraging people to register. It is a trite point to make, but if politics in Northern Ireland were more successful, and more effectively addressed the whole range of people's interests rather than just constitutional and security matters, and if the whole range of economic issues and activities and parties were available to the people of Northern Ireland, we might see a great change. To that extent, it is important that the issues on which I am sure the hon. Member for Thurrock (Andrew Mackinlay) and others would agree with me are progressed.

As the Minister knows, I intend to say something about the need for safeguards. That is a matter that we will discuss again, but it is appropriate to advert to it at this point. In response to interventions earlier, when hon. Members were worried about the Bill leading to people being on the register who should not be on it, the Minister referred to the identifiers as safeguards. Each time he spoke about safeguards, he returned to the photo ID as the key one—but people can gain access to insurance numbers, and signatures can be forged. The Minister's sheet-anchor in his response to earlier interventions was photographic ID.

I understand the point that the Minister makes, and the fact that we have such identifiers is hugely important. Without them, our approach to the principle of the Bill would not be the same, but photographic ID is relevant only for those who are physically present at the polling station. It is not relevant to proxy voting and absent voting. The abuse that was taking place on such a large scale by paramilitary-related parties involved proxy and absent voting in particular. It was no longer the old-fashioned impersonation by people who turned up at the polling station and then allegedly went to a caravan where they changed clothes, hats and what not, and came back to vote again, or the sort of circumstances that led Sinn Fein in Foyle to hold a competition, or at least award a prize, to the person who cast the largest number of votes in an election. I dare say the hon. Member for East Londonderry, who is a native of the maiden city, will tell us that on one occasion that prize was won by a person who was subsequently elected herself to a particular place—but that is another matter.

I was about to say that that was in the good old days, but I correct myself—that was in the old days. In modern times the abuse occurs through proxy voting and absent voting. That is why safeguards are hugely important. To take the point a little further, I said that in the past in Northern Ireland, personation was an informal form of proxy voting. To a certain extent an improperly cast vote is organised in families. We have spoken about the intimidation that may take place, but improper voting may be organised in families, which means that information about national insurance numbers, for example, and even about signatures, may be readily available to people who want to ensure that a vote is cast improperly. The point that we will discuss later in the context of my new clauses is hugely important, but I shall reserve my further comments until then.

As I said, we are generally well disposed to the Bill. We obviously want to see as many people on the register as should be there. We are concerned about the underlying problem that needs to be addressed. We are concerned that there should be no change in fundamental policy and that there should be safeguards, but we are content to pursue the matter in Committee, and we do not intend to divide the House on Second Reading.

2.54 pm

Mr. Nigel Dodds (Belfast, North) (DUP): I thank the Minister for the consultations between members of our party and himself and officials. As he knows, the issue has exercised our party considerably and is undoubtedly a major issue right across the Province, particularly in Protestant working-class areas where there is a greater than average fall in the number of people registering. That is of great concern across the Province in all communities. I express the appreciation and gratitude of our party for allowing us to make representations and also for the way in which he responded.

[Mr. Nigel Dodds]

By and large the Bill is a sensible measure. We welcome it and we will support it in its course through the House today. There are points of detail that need to be clarified and matters of concern that need to be dealt with, but as the debate has progressed some of those fears have been allayed already. As the Minister pointed out, the Bill brings the law in relation to the carry-over of registered electors into line with what happens in the rest of the country. As a matter of principle, there is no reason why we should oppose it.

Lady Hermon: There is one issue that must be addressed. I hope that the hon. Gentleman—and, certainly, the Minister—will do so. The terms in which the Bill has been drafted will restore only those previously properly registered on the electoral register. That is fine, but there is a key duty on the chief electoral officer and all public authorities to promote equality of opportunity under section 75 of the Northern Ireland Act 1998. We have just heard my right hon. Friend the Member for Upper Bann (Mr. Trimble) and the hon. Member for Montgomeryshire (Lembit Öpik) speak of the need for young people to be on the electoral register. They will be discriminated against by the effects of the Bill.

Mr. Dodds: When the Minister replies, I am sure that he will want to address that in terms of the legislation to which the hon. Lady referred. We are dealing with the 81,000-odd people who were previously on the register, who fulfilled all the requirements as to identifiers and so on, and who the chief electoral officer was satisfied met all the criteria under the anti-fraud measures. Those are the only people whom we can legitimately deal with. It would be a matter of grave concern if we tried to do anything else.

The Bill is a sensible measure in line with the recommendations of the Electoral Commission and the Northern Ireland Affairs Committee. It is right that we should try to increase the number of people registered from the current level of 85 per cent. and bring the figure closer to that in the rest of the country. I am particularly alarmed by the figure mentioned today with regard to young people—that is, 17-year-olds who are registering to vote when they turn 18, and 18-year-olds. As few as 25 per cent. of those people may be registering. That is a cause of grave concern. A number of reasons have been given. The hon. Member for Belfast, South (Rev. Martin Smyth) mentioned the problem of student mobility and the time at which the canvass was carried out—September and October—when many young people may be embarking on courses of study in places other than where they live.

We now have rolling registration, which some might say is allowing many more people to come on to the register at times other than when the annual canvass is done. I think that the figures will show that it is not taken up by as many as should be taking it up. Perhaps that has something to do with the fact that not many people are aware of the ability to get on to the register at any time during the year. That raises a point that I want to deal with in a little while—the resources that are given to the chief electoral officer and his proactive approach in searching out people and getting them on to the register, which is an important point.

I agree that the current electoral register for Northern Ireland is much more accurate than previously, as a result of the Electoral Fraud (Northern Ireland) Act 2002, but I do not think that it is as comprehensive as it should be. We must acknowledge that. We all accept that the legislation that was passed in 2002, which was supported across the House, has made a significant difference. The Electoral Commission has reported on the significant and positive effect of the 2002 Act. There have been problems and we have raised them with the Minister and his Department over the past two years. There have been concerns about people getting access and getting hold of the electoral identity cards that they need to vote if they do not have a bus pass or other appropriate photographic evidence.

I would be interested to hear from the Minister just what the latest position is in relation to electoral identity cards and what the current uptake is like. I know that things have improved. When I go around polling stations on election day, I find that many people use passports, driving licences, bus passes and so on. The electoral identity card is by no means the main or only means of identification. Nevertheless, it is significant, and we must therefore ensure that people are not only on the register, but provided with the wherewithal to vote on the day. The chief electoral officer needs to be given the resources and funding to be able to make it easy for people who are on the register to get electoral identity cards easily and quickly, and in areas that suit them, such as local libraries or community centres. I know that efforts are being made in that regard, but a lot more could be done.

On the comprehensiveness of the register, there are 150,000 fewer people on it than there were two years ago. Other hon. Members referred to the fact that one would expect a drop in the first year of operation under the 2002 Act, because of the anti-fraud measures. Indeed, I have no doubt about the effects that the anti-fraud measures would have had if they had been in place prior to 2002. I think, for example, of a former colleague, William McCrea in Mid-Ulster. I have no doubt that, if the legislation had been in force at the time, William McCrea would have been returned, rather than Martin McGuinness, in the constituency of Mid-Ulster.

Clearly, the electoral register needed to be cleaned and tidied up, but there is an issue as to why there has been such a massive drop in the first year, with 81,000 people not registering. Other hon. Members have alluded to various reasons and I shall not go through all of them. I have been out and about talking to people in recent months, calling at their doors and asking them about registration. There will always be people who do not want to be registered—it happens here and in Northern Ireland, and in every democratic country because, for various reasons, there are people who do not want to appear on the electoral registration list—but many people simply forget. People get a form through their door or somebody calls and gives them a form, but they put it to one side and forget, or they cannot be bothered to search out their national insurance number or whatever else. They might do it, but forget to get their son or daughter, or another member of the household, to do it. When people are asked about the matter and they realise that they are not on the electoral register, they are willing to get registered. On about 31 January,

when the tax deadline comes up for return of income tax forms, we get a reminder in the national newspapers and are told that hundreds of thousands of people let that deadline go by every year. Even with the threat of a monetary penalty, hundreds of thousands of people still do not fill in the forms. There is an aversion to form-filling.

That is why more resources need to be given to the electoral officer to get people to fill in and return the forms. The main reason why we have such a problem is that, because of lack of resources, not enough has been done by the electoral officer to advertise, get out there, make it easier for people to get the forms filled in and make it clear to them that they have to do it and what the procedures are. When an election is called, whether it is a local, general or Assembly election, people are aware that a vote is coming and canvassing starts. Everybody starts to ring our offices and contact party staff to say, "I've just discovered that I'm not on the register. I want to get on to it, and I need to be on it."

One possibility—I know that there are administrative difficulties and all the rest of it—is to provide a longer period for people to register once an election is called. As with postal, proxy or absent votes, the time between the announcement of the election and the time to make an application is very limited. People do not get their applications in on time. The more time we can provide for people, the better. After all, this is a computerised age in which things can be done fairly quickly. We need safeguards and checking, and identification in terms of national insurance numbers and so on can be checked relatively easily. People should be given as much time as possible, especially in the period after an election is called. That is when they start seriously to think, "Am I on the register and can I vote in this election?" That would be positive in getting more people on to the register.

Lembit Ôpik: The hon. Gentleman will be interested to see that new clause 1 attempts to extend the deadline in a similar way to the one that he suggests.

Mr. Dodds: I welcome what the hon. Gentleman says. We will debate the new clause in due course. I would welcome and support anything that gives people a greater opportunity to register.

On the longer-term arrangements, we are dealing with a one-off, as the Minister said, although there could be another one-off next year. The Bill allows for another one-off extension allowing people who will be on this year's register to be carried forward to the 2006 register. It is to be hoped that, by that stage, longer-term arrangements will be in place. Clearly, it is important at this stage to say that there needs to be carry-over of electors from one year to the next. It simply makes no sense for everybody to have to start completely afresh every single year. That is bound to cause problems. Some people have suggested that the carry-over period should be one year, while others say it should be three years. I think that there should be some discussion and debate, but provided that the safeguards are in place in terms of national insurance identifiers, the signature requirements, photographic identity and so on, the problems that could previously have arisen in a long carry-over will not have the same weight. I urge the Minister to consider seriously, as part of the long-term arrangements that must be put in place, a longer carry-over period so that people will not be disfranchised unnecessarily as a result of carelessness or because they have not got round to registering at a time at which they might not be concentrating on elections. We should offer every opportunity to maximise the vote provided that safeguards are in place, as I believe that they are, thanks to the anti-fraud measures in the 2002 Act.

3.10 pm

Mr. Gregory Campbell (East Londonderry) (DUP): I join other hon. Members in thanking the Minister for the consultation in which he and his colleagues engaged in the lead-up to the Bill.

The Minister said at the outset that more than 80,000 voters who had been removed from the register because of their failure to return a registration form would be restored to it as a result of the Bill. We will have a new register on 1 April. The political parties receive electoral registers from the electoral officers through the normal process of events, so they are in receipt of the present register. They will receive a new register on 1 April, which will include the 80,000-plus additional names. Will the Minister indicate whether the political parties will get the additional names in a separate document in addition to the new register? I fully understand that we will receive the new register, but many political parties are building up towards the local government elections and want to know whether there will be a separate entity to detail the additional entries as well as the new register.

I asked the Minister about the research that is required on those who do not return the forms. It is not in anyone's interests for the register to decline year on year, but that has been the case for the past three years. I and many others believe that a significant number of the 80,000 people whom we are discussing today are younger people, and several hon. Members have made that point. Research is critical to establish whether that is a fact. Many of us suggest that there is a small proportion of elderly and middle-aged people among the 80,000, but a significant number of people in the 18 to 25 age group. We need to establish whether that is true and then, if necessary, establish why it is the case.

Setting aside the one-off basis of the Bill, the Minister must find better ongoing ways of getting young people to fill in electoral forms. We must collectively remove our heads from the sand. Younger people by and large do not rush home on a Thursday night to watch the politics show with Andrew Neil and two of our fellow hon. Members. They are just not interested— *[Interruption.]* Some people might find that difficult to believe, but it is the case. Many things might be on young people's minds, but that politics show is not one of them. How do we encourage young people to get involved in politics and on to the electoral register?

Mr. Dodds: Change the cast.

Mr. Campbell: I shall come to that later.

We could achieve such progress if the Minister was prepared to examine the wider distribution of electoral registration forms on an ongoing basis. For example, the only time that many young people find out that they are not on the electoral register—apart from at the time

[Mr. Campbell]

of an election, obviously—is when they go to apply for credit in retail outlets for the purchase of a vehicle or other goods. Retail outlets, by and large, use the electoral register to establish the identity and address of a person seeking credit. If electoral registration forms were available at car showrooms and other retail outlets and people applying for credit were told that filling in the forms and subsequently being approved would allow them to get the credit that they wanted, it could be another way to motivate young people to register. Young people would not necessarily be registering for altruistic reasons, but they would get on to the electoral register. I hope that the Minister will consider ways in which we can get young people to fill in electoral registration forms.

By and large, we are in favour of the Bill making progress, although we obviously wish to raise several issues. My hon. Friend the Member for Lagan Valley (Mr. Donaldson) raised the question of security forces personnel earlier. I hope that the Minister will address that point because I know that the matter affects a small number of people in my constituency and the same situation might well exist in others. I understand that members of the security forces who had previously been registered but last year decided not to re-register because of security fears due to their location, will automatically be restored to the register under the Bill, despite the fact that they took a conscious decision not to register last year. What will happen to such people? Will they have to apply consciously to have their names removed from the register because they will otherwise be restored to it under the Bill?

Lady Hermon: The hon. Gentleman raises an important point. As a matter of interest, is he aware of whether any representations on that have been made to the chief electoral officer by the Police Federation for Northern Ireland?

Mr. Campbell: I am not aware of representations made by the Police Federation for Northern Ireland, but I know that the situation applies to a small number of people. It might well be the case that the situation is more widespread than that throughout Northern Ireland, so I hope that the Minister will respond to the point.

Let us consider the wider issue. First, we should try to ensure that we have a more representative and comprehensive electoral register, which is a laudable objective that we should support, and, as a consequence of that, we should ensure that we have higher turnouts in elections. My hon. Friend the Member for Belfast, North (Mr. Dodds) alluded to the fact that there is low turnout, especially, but not exclusively, in Protestant working-class areas. In my constituency, as in others, there might well be a 60 per cent. turnout at an election, but the turnout in places in which there is a high proportion of younger people can be 25 to 30 per cent. In effect, there is a double whammy in that younger people do not register and those who do register do not come out to vote on the day of an election. I accept that that is a separate issue from the Bill, but I have no doubt that we will return to it.

The Bill appears to have achieved a broad consensus among hon. Members who have spoken, although some have had reservations. That is welcome. That is the view of my party and all hon. Members who have spoken. It was thus strange that, when the Bill was considered in the other place earlier this week, Lord Maginnis of the Ulster Unionist party was scathing about the Bill and appeared to be utterly opposed to it. Perhaps other hon. Members will wish to qualify or expand on his comments.

3.19 pm

Mr. Spellar: With the permission of the House, I shall reply to the debate. In response to the last contribution, I would fear for the future of the country if young people were rushing home to watch the politics show rather than pursuing the normal healthy activities that they should be undertaking.

I shall respond to some of the points that were made in the debate, although some will be taken up in Committee. If I do not touch on others, they will probably be covered in discussions with the political parties as we look to the future of registration. I take the point made by the hon. Member for Montgomeryshire (Lembit Öpik) and I stress that the Bill is not a precedent for further action. I think I made it quite clear that we see it as an interim operation to deal with a particular problem at a particular time. We fully accept that we have to address the underlying problems. By the way, on a slightly different point, the Department for Constitutional Affairs is looking at registration in the broader context across Great Britain.

We need to look at the broader issues, such as many of the social changes that we have discussed today, which have led to lower levels of registration and participation, and we shall explore ways to improve that. In general, colleagues will have to take on board the need for greater data sharing between public and some private bodies, such as utility companies, and electoral registration officers, to provide a much wider range of information streams that will enable registration officers to produce a full and comprehensive register. I make that point merely as a preliminary remark, because I accept that there will need to be much wider discussions, but colleagues should be aware of the consequences of redressing the pattern, on which I think we are all agreed.

That ties in with the question of education, which was mentioned by the hon. Members for Aylesbury (Mr. Lidington) and for North Down (Lady Hermon). I am increasingly convinced that many young people who have not voted at several elections fear that they will be embarrassed if they turn up at a polling station and ask what the procedure is, so yet again they do not vote. Such behaviour then becomes self-reinforcing. We need to look at that.

Some hon. Members dealt with various issues, but did not necessarily address the way in which they interlock. We talked, for example, about the substantial number of young people who are not registered. Although they will not be affected by the Bill, they will be affected by the subsequent arrangements. The Bill is about re-registration; it is by no means a universal panacea. It is a remedy, not a solution. It will improve the register and

make it more comprehensive, probably taking registration towards 90 per cent., but it will not take it to 100 per cent.

Lady Hermon: Will the Minister take this opportunity to address the issue we raised about section 75 of the Northern Ireland Act 1998? How does the Bill promote equality of opportunity between first-time younger voters and older voters who are already on the register?

Mr. Spellar: It is in the public interest that the register should be as comprehensive as possible, so we are undertaking a number of measures, for example in colleges, to try to increase registration among younger people. In this instance, we are also trying to maintain the strength of the register. In all honesty, no one could argue that it is undesirable to continue to add to the register people who should be included on it. It is open to all to register, and we have to try to facilitate the process wherever we can. As I said, we recognise that the Bill is not a universal solution, but it goes a considerable way towards addressing the problem.

Lady Hermon: I am grateful to the Minister for taking a second intervention on this important point. The Bill includes the imprint that it is compatible with the European convention on human rights—quite right, too; that is what we expect. The Minister will be well aware that under the convention the United Kingdom has an obligation to ensure free elections with no discrimination on any ground whatever. Can the Minister explain to the House how the Bill fulfils that obligation on this country?

Mr. Spellar: That argument is slightly reminiscent of one that was advanced against me on antisocial behaviour orders, so I paraphrase the words of Mr. Justice Girvan: it is open to all to register. That is the discrimination argument. The public policy argument is that we should facilitate as far as possible the most comprehensive electoral register. The fact that we are unable to achieve 100 per cent. registration is not an argument against trying to improve the percentage from the mid 80s to the low 90s. That is exactly right and it is indeed the burden of the Bill.

Mr. Trimble: The Minister says that he has dealt with the public policy argument and the discrimination argument. Perhaps he has. What he has not dealt with is the equality of opportunity argument, which is not that he should not undertake the measures in the Bill but that he should be taking equal measures to provide for those classes and individuals that the Bill does not cover. That is the point. Although he can point to some activity in reaching towards or identifying young people who were not previously registered, he will have some difficulty convincing the House that the measures that he is taking in that respect are equal to those he is taking in the Bill. He is not affording equality of opportunity in terms of section 75.

Mr. Spellar: I should probably not have great difficulty in convincing the House, but I may have difficulty in convincing the right hon. Gentleman. I suspect that colleagues will find my arguments fairly convincing in terms of what we are doing to ensure greater participation in elections. As I outlined, we are already working with colleges, through the Department of Education. Indeed, the hon. Member for Belfast, North (Mr. Dodds) outlined some of the improvements that have taken place, with regard to access to forums and so on. That is not yet sufficient and there is more to be done, but we need to hold discussions with the political parties on how we can further develop registration, precisely to address a number of the groups that the right hon. Member for Upper Bann (Mr. Trimble) described. Improving that situation will involve us in work on the greater disclosure of data to the electoral registration officer.

On the point made by the hon. Member for Aylesbury on intimidation, the marked register shows only that a person attended a polling station. It does not indicate how they voted. In fact, a higher percentage of people in Northern Ireland vote by going to a polling station, which relates to the question about postal and proxy voting put by the right hon. Member for Upper Bann, to which I shall return in due course. The number of people voting by post or proxy has gone down from 41,000 to 27,000, which may have narrowed the scope for possible abuse. However, the marked register merely says that a person has attended the polling station, not whether they actually cast a vote. That is perhaps like the Spanish referendum, where a considerable percentage of voters took the trouble to turn up, but did not record a vote.

I take the compliment from the hon. Member for Montgomeryshire and others on the consultation, and I pay tribute to the work undertaken by my officials with parties in this House and in Northern Ireland.

The hon. Member for Montgomeryshire mentioned the significant problem, which political parties have raised with me, of those who think that they are registered. For example, people who registered for last June's elections for the European Parliament needed to re-register in August and September under the current provisions. People find that difficult to comprehend, and it undermines the procedure. I take the point made by the right hon. Member for Upper Bann about registration in August and September, which we must address when we examine the future pattern of registration and decide whether we should move towards a system of continuous registration.

In Britain, it is common for students who come from Surrey and who study in Edinburgh to be registered in two different places, whereas people in Northern Ireland must undertake individual registration. A disparity exists, and we are examining how to tackle it in future.

We shall examine the question of safeguards in Committee.

The hon. Member for Belfast, North rightly identified under-registration as a problem that has generated concern across the communities in Northern Ireland. That is an important point to stress.

About 100,000 identity cards have been issued. The elections in June saw a considerable reduction in the number of people who, for one reason or another, were unable to vote, and some such people were able to return to the polling stations later. There will be a further campaign to take the facilities around in order to maximise the number of people who have the necessary identity card.

[Mr. Spellar]

The hon. Member for Montgomeryshire raised his concerns about registration once an election is called, and we will deal with that issue when we discuss his amendment in Committee. One way to deal with those concerns would be to introduce UK-wide legislation concerning the relationship between the electoral register, the announcement of the election and the date of the election. Beyond that, I shall refer to a straightforward practical matter that reflects concerns expressed in this debate: if the Electoral Office for Northern Ireland receives a considerable tide of applications in addition to all the other work that it must do before an election, the scope for dubious applications to slip through might be increased, and we must bear that point in mind in striking that balance.

On security personnel, we recognise that members of Her Majesty's armed forces can register at their base for electoral purposes and that that provision does not apply to the police service or, as far as I can recall, to the Prison Service, which is a significant point in particular constituencies, and we must address it.

We must examine the additional list in order to identify more readily those who will be coming on to the register, and I will write to the hon. Member for Belfast, North tomorrow or early next week on that matter.

Mr. Dodds: On the ability of security force personnel to vote, in election after election the issue arises that members of the police service and the Royal Irish Regiment who have registered to vote and who want to vote, but who are on duty at a polling station other than the one at which they are registered, are denied the opportunity to register their vote. That issue comes up at every election. Representations are made, but the problems still occur. As we approach council and other elections, will the Minister undertake to ensure that that issue will not arise again in Northern Ireland?

Mr. Spellar: They may be eligible for a postal vote on the grounds of undertaking that duty, and I undertake to take the matter up with the chief electoral officer.

Mr. Trimble: To reinforce the point made by the hon. Member for Belfast, North (Mr. Dodds), this is a serious problem, and it may be necessary to go beyond the electoral officer. It could be solved by postal voting, but because of the nature of these services and the attitude of those who direct them, policemen and those in the Royal Irish Regiment are not being facilitated in that. That cannot be solved by the chief electoral officer, and the Minister should direct his inquiries to the police and the RIR.

Mr. Spellar: I certainly undertake to consider that matter within a time scale that will enable action to be taken.

I think I have dealt with most of the issues that were raised. I am sure that I have missed some, but we will be able to discuss them at a later stage. I am pleased with the positive way in which the debate has proceeded, which indicates that we are addressing a genuine problem. Of course there will be individual concerns, but I think that the broad thrust of the Bill is accepted. Accordingly, I commend it to the House.

Question put and agreed to.

Bill accordingly read a Second time, and committed to a Committee of the whole House, pursuant to Order [this day].

Bill immediately considered in Committee.

[MR. MICHAEL LORD *in the Chair*]

Clause 1

RESTORATION TO ELECTORAL REGISTER OF NAMES PREVIOUSLY REMOVED

Lembit Öpik: I beg to move amendment No. 1, in page 1, line 18, leave out from 'Officer' to end of line 19 and insert

'shall conduct an additional canvass in respect of such former electors.'.

The Second Deputy Chairman of Ways and Means (Mr. Michael Lord): With this it will be convenient to discuss the following: amendment No. 2, in page 1, line 20, leave out subsections (2) to (4) and insert—

'(2) The power conferred by subsection (1) may only be exercised before 18th March 2005.'.

New clause 1—*Rolling registration*—

'(1) For the purposes of this Act, the last day for an elector to register under the rolling registration process shall be the day on which nominations for election close.

(2) An updated register shall be published no later than one week after the relevant date in subsection (1).'.

Amendment No. 4, in title, line 1, leave out

'in cases where required information is not provided'.

3.36 pm

Lembit Öpik: I wish to speak to the amendments tabled in my name and in that of my hon. Friend the Member for Orkney and Shetland (Mr. Carmichael).

The Second Reading debate covered in fairly extensive detail the reservations that several of us have about the Bill as it stands. As our amendments and the subsequent amendments correspond to the discussions that we have already had, I do not intend to rehearse the broader issues but instead to focus specifically on the purpose of the amendments in order to seek a response from the Minister.

Amendments Nos. 1 and 2 would allow the chief electoral officer to carry out an additional canvass of the 81,000 people who were on the register in 2003 and did not re-register during the autumn canvass of 2004. The canvass would have to be completed by 18 March to allow time for an updated register to be produced for 1 April. That would concentrate the effort of encouraging people to register and get on to the list in time to vote. It would also achieve the benefit of the direct contact that we discussed before. We would hope to see a very vigorous campaign by the Electoral Office for Northern Ireland to achieve that, including sending individual canvassers to call at the homes of each of these electors to persuade them to complete and return their forms. In stipulating the date of 18 March for the process to be completed, we anticipate that the register could be updated and published on 1 April. I recognise that that represents a significant requirement in terms of human resources, but since it is a one-off situation the

cost will not be repeated. I am grateful for the Minister's assurance that this is not intended to set a precedent for the future.

I turn to new clause 1 and amendment No. 4. We were informed by Northern Ireland Office officials that the last day for people to register through the rolling registration process for inclusion on the register on 1 April would be 10 March. The new clause would extend that date to the day on which nominations for this year's council elections close. We anticipate that by that stage, with election fever in the air and a general election in the offing, people would be more concerned about whether they are on the register and more enthusiastic about completing their forms.

There would be an additional benefit in terms of the media, who will unquestionably be increasing their political coverage. I have seen some interesting projects to encourage voter participation. For example, in London, I recently did an interview with Virgin Radio, which is trying to increase public interest in matters that are discussed in Westminster. I am sure that that would have a more beneficial effect if the registration period were extended, as the new clause proposes.

The new clause has perhaps the added benefit of attracting more young people to register to vote. The Bill's carry-over proposals would not do much to tackle the problem of increasing the number of young people on the register. As we have already discussed, that figure is worryingly low—approximately 25 per cent. of those eligible to vote.

Amendments Nos. 1, 2, 4 and new clause 1 seek to provide a practical way of addressing some of the issues that we discussed on Second Reading. I look forward to the Minister's response.

Mr. Barnes: I have some sympathy with new clause 1 on rolling registration, given my long-term interest in the subject. When the Representation of the People Act 2000 was introduced, the Minister responsible for piloting it through the House was kind enough to call me the father of the rolling register.

In many ways, rolling registration is in its infancy. There is no reason why it should not be a much more rapid process. There should be many more arrangements in place to ensure that, when people move into areas, we have details of that and registration can be transferred almost immediately.

I also have sympathy with the notion of moving back the date for final registration. There may be a small defect in the drafting because, although the Bill is a short-term measure, which can exist for two years at most, I have always been conscious that the register should cease to roll when an election is called. The dates for local government elections are known well in advance, but with parliamentary elections, there is a danger that if a by-election were held, people would move into an area to distort the result. That could still happen if registration were left until the time of nomination. The qualifying date should always be when an election is announced in the case of parliamentary elections.

My right hon. Friend the Minister's point about the need to examine United Kingdom-wide provisions on rolling registration is important. Some Select Committees are examining electoral registration, and rolling registration is an important consideration in that. There is a point that we should consider even though it may be for the future. A good stimulator is not only the announcement of an election but immediate issuing of polling cards, which contain details of who is registered in a specific household. The polling card could state that, if the information were incorrect and people were missing, there would still be time to register, perhaps by, for example, the date of nomination. There is no reason why cards cannot be sent to homes where nobody is on the register, because some people in those homes might be entitled to register. There should be a late opportunity to do that.

Publicity—from the Northern Ireland Office in the context of the Bill and the Home Office on the mainland—could be pumped up at a specific stage and state, "Check now to see whether you're registered. Here is an opportunity, as long as you're qualified, to get on the register." I am therefore keen that development in that direction should be pursued. That does not mean that I go along with new clause 1, despite having such sympathy, as I see the faults and the need to engage in a United Kingdom-wide consideration of rolling registration.

3.45 pm

Andrew Mackinlay: Part of the problem regarding the rolling register is that one can register at any time under it, but one must still do so by the so-called qualifying date of 15 October. What "resident" is deemed to be is not spelled out adequately by the electoral registration office. That is so throughout the United Kingdom but particularly in Northern Ireland with regard to the group to whom I referred earlier—students who are away at university, often in Great Britain. They do not understand that they can be deemed to be resident in County Londonderry or wherever, even though they might be at university in Durham or Edinburgh in October.

Mr. Barnes: The rolling register has moved us away from the 15 October qualifying date requirement. When people move their residence to new areas, they can now go on to what used to be called the supplementary lists. At one time, there was an arrangement whereby people could only get on to the published monthly supplementary lists by meeting the qualifying date of 15 October, or September, I believe, in Northern Ireland. That changed under the 2000 Act to allow the register to roll during that period. The problem with that is the number of monthly stages and the period that must be fulfilled before that occurs. I would like a more continuing rolling register and much more rapid provision in relation to people moving to different areas. Help is required, as the last thing on the mind of anyone who moves home is whether they are on the electoral register—unless they are politicians. People are alerted to the issue when an election takes place, and if they have missed out, they should still be able to qualify otherwise. We need an opportunity to meet that.

Mr. Dodds: I am delighted to follow the hon. Member for North-East Derbyshire (Mr. Barnes), who contributes regularly on these issues and gives a lot of thought to them. I sympathise with much of what he said.

[Mr. Dodds]

As I indicated on Second Reading, I support giving people as much time as possible to register to vote. Clearly, as the hon. Member for North-East Derbyshire said, people have these things brought to their attention as an election is called, when it becomes a matter of immediate concern. I therefore have a lot of sympathy with new clause 1, which was tabled by the hon. Member for Montgomeryshire (Lembit Öpik), and with that type of approach, subject to safeguards. The Minister has indicated the concern about a flood of applications late in the run-up to polling day, as the electoral registration office still has a lot of other things to do. With adequate resources, however, that can be taken care of.

We should, therefore, not necessarily in this Bill but as part of longer-term arrangements for the future, try to get as many people as possible on to the register, particularly young people. To do so, people should be given the opportunity to register to vote as late as possible, subject to all the caveats about fraud and so on. I am therefore generally sympathetic to that approach, and I think that it would meet with general support across the Province of Northern Ireland.

Mr. Spellar: I am almost tempted down the path of a full discussion on the future of electoral registration in Northern Ireland, but I would probably not be so well thought of by the Whips Office if I did so.

We are all going to have to consider many of the issues raised in the amendments, and think about their implications. One of the underlying issues is the extent to which notification of one body—the Post Office, in the case of forwarding addresses, the national insurance authorities, the Inland Revenue or one of the utilities, for instance—will trigger notification of other relevant bodies. Today, however, is not the time to explore those issues in detail.

Amendment No. 1 would fundamentally change the nature of the Bill by requiring the chief electoral officer to conduct a full canvass. It would militate against what some parties here have asked us for—the conveying of the information as quickly as possible. If we asked for a full canvass between now and 1 April, we would not be able to give those parties the information that they have rightly said they need in good time for the local elections in May. I understand the concerns expressed by the hon. Member for Montgomeryshire (Lembit Öpik), but I must cast some doubt on the practicality of his proposal.

Clause 1(2) provides that the names to be returned to the register must be reinstated by 1 April, but an earlier date would be possible. We are talking to the chief electoral officer about that. There is a degree of contradiction, and I accept that a trade-off is involved—as, I know, does the hon. Gentleman.

I know of the long-standing interest of my hon. Friend the Member for North-East Derbyshire (Mr. Barnes) in rolling registration. I only regret that he may no longer discuss that subject in the Chamber in future, although I suspect that he will take an unhealthy interest in it outside the House. He has put a great deal of work into it over the years, and I think his views and his advice would be welcome.

Amendment No. 4 is consequential on the others.

I hope I have explained some of the reasons for our belief that the amendments are contrary not just to the Bill, but to some of the issues that have been raised today. I would ask the Committee to reject them if the hon. Member for Montgomeryshire did not feel free to withdraw amendment No. 1.

Lembit Öpik: Let me record my sorrow at the potential moving on—not passing on!—of the hon. Member for North-East Derbyshire (Mr. Barnes). It does, of course, leave the way open for him to become the regular rolling register commentator on "The Daily Politics", should Andrew Neil be looking for such a contributor.

I am grateful to the hon. Member for Belfast, North (Mr. Dodds) for his comments, which were consistent with what he said on Second Reading.

I hear what the Minister says, and he is right: amendment No. 1 does change the nature of the Bill. That, however, is why I tabled it. I want the nature of the Bill to be changed in that way. The Minister also hears what I say, and we must agree to differ, but I think this would be practicable if resources were made available.

The Minister is also right about the slight contradiction between amendments Nos. 1 and 2 and new clause 1, but they were grouped together for the purposes of the debate. As I do not intend to press the amendment to a Division, I am grateful for the view that he has expressed.

I say that I will not press the amendment to a Division, but the Minister's aggressive command to the House to reject my well crafted and thoughtful amendments almost prompts me to do so. But as we live in a country that appears to have been brought to a standstill by 2 cm of snow, it might be a bit unreasonable to expect colleagues to return from the four corners of the country simply in order for me to make that point. I am grateful to the Minister for his response; I am not completely satisfied with it, but sufficiently so to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3

DURATION OF ACT

Lembit Öpik: I beg to move amendment No. 3, in page 3, line 15, leave out subsections (2) and (3).

The amendment, which was tabled by myself, my hon. Friend the Member for Orkney and Shetland (Mr. Carmichael) and the right hon. Member for Upper Bann (Mr. Trimble), relates to a matter that we dealt with on Second Reading. We discussed earlier the grim and inexorable temptation that exists in Northern Ireland politics to turn temporary orders into recurring annual events. Indeed, one tends to get the feeling that legislation relating to the north of Ireland has become something of a shanty town of exceptions, which, over time, get renewed and become the norm. For reasons

that we have already discussed, I am keen to prevent this legislation from becoming another hut in that legislative shanty town.

The amendment removes from the Bill the Secretary of State's power to make an order allowing the chief electoral officer to carry over electors from, say, the October 2005 canvass for another year. Such a power is unacceptable. If the Bill is to be a one-off, it really should be a one-off. If further future problems are thought to occur with the electoral registration process, the Minister must come before the House with properly prepared legislation and give us the courtesy of allowing time to discuss it fully and carefully. We should also be given the opportunity to table amendments, rather than the order being hastily pushed through. That is the purpose of the amendment.

The Minister has assured us that he does not intend the legislation to set a precedent, so I would be at a loss to understand why he would refuse to accept the amendment. In anticipating his agreeing to it, I look forward to hearing his comments.

Mr. Trimble: I support the amendment, which relates to matters that we discussed on Second Reading and to concerns about a change of policy. The Minister said that he does not intend a change of policy and that this provision is a one-off, but as I said on Second Reading, if the underlying problems are not tackled, in a year or two's time strong arguments for yet another one-off will be advanced to whoever is then discharging the ministerial function.

The Bill as drafted gives the Minister, the Electoral Commission and the system in general until the end of 2006 or 2007 to tackle the underlying problem, whereas the amendment would give them a shorter period. I understand why the Minister wants more time, but the more this system is allowed, the more it will take. There will be drift, instead of the vigorous approach that should be taken.

The amendment proposed by the Liberal Democrats in the other place puts the Minister and others under much firmer discipline and requires them to get stuck into the problem, which is wholly desirable. The amendment would compel the Minister to tackle the underlying problem with greater urgency, which is precisely what he should want to do. He should not come to the Dispatch Box to ask for a power to spin things out for another year; rather, he should be anxious and eager to get to grips with the problem in the course of this year.

4 pm

Mr. Spellar: Discussions about electoral registration and voting systems are, understandably among politicians, the subject of great controversy and concern. They are also a matter of considerable complexity. Our debate today has shown the consequences—sometimes unintended consequences—of changes to systems and how they work out in practice. We also need to be aware of the interconnections and interrelations between the different aspects of the problem.

I certainly want to move on, but I anticipate further quite lengthy and detailed discussions with the political parties and other interest groups, not least because of parallel work being undertaken by the Department for Constitutional Affairs on registration in Great Britain. I view the process as drawing up the initial work, going out to consultation, dealing with its results and then legislating, which I suspect means that we may be pressed for time. We may be able to achieve it all within the time scale envisaged in the amendment, but equally we may not. If not, it will not be the result of any lack of will, but a reflection of the nature of the process.

It would be unfortunate if we had to go through another full round of legislation in order to achieve the objectives. There are limits and this is not an open-ended piece of legislation. It is predicated on the one-year extension and it provides the facility for a second year, should it be necessary. I hope that we can work it all out through the one year, but failure to do so would not, as I said, reflect any lack of will. We need to recognise the considerable complexities in the process, so I urge the hon. Member for Montgomeryshire (Lembit Öpik) to withdraw the amendment.

Lembit Öpik: A phrase from my time in industry springs to mind: "It is never too late to procrastinate". I am worried because the tone of the Minister's response suggests that he is seeking latitude to procrastinate on a very important matter. In his concluding comments, he considered the possibility of re-enacting the provisions for further periods of time, and I have to say that I find that frustrating.

Mr. Spellar: What I said should not necessarily have led the hon. Gentleman to draw that conclusion. I merely drew attention to the provisions for a one-year extension and the ability to include another year, if necessary, and suggested that the Bill was limited to those circumstances. I thought that I had explained that further primary legislation would be required only if those provisions were not realised.

Lembit Öpik: I am glad that the Minister has sought to clarify the position. I know that tomorrow morning, 1.5 million people in Northern Ireland will tune into the internet and read the proceedings of our debate. From what the Minister said earlier, they would deduce that they could relax, as there would be further opportunities to procrastinate in the filling in of forms. The Minister's intervention did not reveal any visceral determination to avoid finding ourselves again criticising the Government for having allowed this modification of the law to slip through and then be used indefinitely, as has happened so many times in Northern Ireland politics in the past.

I shall not seek to divide the Committee on the amendment, but others may wish to. In anticipation of a nail-biting climax, I refer the Minister to a saying of my father's: sooner or later, even the best strategy must degenerate into action.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

New Clause 2

ABSENT AND PROXY VOTES

'A person whose name is re-registered by virtue of section 1 of this Act or whose name is carried forward by virtue of subsection 7B of section 10 of the 1983 Act is not entitled to an absent or proxy vote while his name is so re-registered or carried forward by virtue of this Act.'. —*[Mr. Trimble.]*

Brought up, and read the First time.

Mr. Trimble: I beg to move, That the clause be read a Second time.

The purpose of new clause 2 is simple and we touched on it earlier. We do not know who the 80,000-plus people who have dropped off the register are. Many of them probably did not realise that they had to return the form. Most people probably fall into that category because they are not accustomed to having to register every year and expected that, as in the past, names would be carried forward. It is likely that people did not notice, or did not care about, the form that dropped through the letterbox and did not return it in time. Most of the 80,000 are probably in that category, but some may have moved away, and some are no longer with us.

There is concern about putting people back on the register, particularly when the explanatory memorandum says on page 3:

"The purpose of clause 2 . . . is to enable"—

chief electoral officers—

"to carry forward the names of electors registered in the register in cases where those electors have failed to submit an annual canvass form or have submitted a form which does not include all the personal identifiers."

If people are put back on the register when they have returned the form without including all the personal identifiers, one starts to feel uneasy and to look for safeguards.

On Second Reading, the Minister offered reassurance when concern was expressed about the Bill opening the door to electoral abuse, and he referred to the existing identifiers. They included signatures, which can be forged, national insurance numbers, which can be obtained in various ways, and photographic identity, which will not be available for applications for proxy and absent voters. The purpose of the new clause is to ensure that people who are reinstated on the register under the Bill will have to vote in person at the polling station and produce—

Mr. Gregory Campbell: If, as the right hon. Gentleman suggested, the majority of the 80,000 people who are not on the register were entitled to be on it 12 months ago, would the new clause preclude them in their entirety from applying for a postal or proxy vote, even though many of them may have a legitimate reason for not being able to vote in person?

Mr. Trimble: The electoral reform legislation has introduced a number of safeguards to avoid abuse. It is known that when abuse has occurred it has involved absent and proxy voting. I am sure that the hon. Gentleman is concerned about that, and I am sure that he would be anxious to ensure that safeguards existed and were operated. We are dealing with people who have had the opportunity to put themselves on the register, but have failed to do so. The Bill will give them a second chance, so it is reasonable for us to say that we want to ensure that the full range of safeguards in the 2002 Act will operate in that instance, including the need to have, and to produce on voting, the photographic identity card.

The new clause will not deleteriously affect large numbers of people. As I said earlier, the probability is that most of the 80,000 people in question are still resident at their original address, and the Bill will facilitate their registration. It is true that the Bill departs from the basic principles of the 2002 Act, and that is why it is reasonable to try to ensure that adequate safeguards are in place. The new clause would do that, and I therefore hope that the Minister will take it seriously and decide to accept it.

Lembit Öpik: I have much sympathy with the new clause, for the reasons outlined by the right hon. Member for Upper Bann (Mr. Trimble). The touchstone is the need for risk management. However, the inference is that we are more concerned about the 80,000 or so people and their bona fide right to be on the register than about those already on the register. The hon. Member for East Londonderry (Mr. Campbell) rightly pointed out that the new clause would take away a right from those already on the register, but I wonder whether the Minister agrees that the greatest single risk of abuse is in absent or proxy votes. Therefore, with the aim of minimising the risk of electoral fraud, it might be reasonable on this specific occasion to curtail the right to an absent or proxy vote for this specific category of voters, even if that makes it more difficult for them to vote.

Mr. Lidington: I, too, have considerable sympathy with the new clause. The Bill says to those who declined to exercise their responsibility under the law to re-register annually that we will, in the interests of the health of our democracy in Northern Ireland, allow them—for the next year or two years—to be restored to the register and enjoy their full democratic rights accordingly. Like the hon. Member for Montgomeryshire (Lembit Öpik), I wonder whether allowing postal or proxy votes to that category of elector without any check would tilt the balance of risk in the wrong direction. I therefore support the arguments made by the right hon. Member for Upper Bann (Mr. Trimble).

Mr. Dodds: The new clause would have the effect—whether intentionally or as a by-product of the wording, I do not know—of removing those among the 81,000 to be carried forward who are on the permanent list of absent voters. It would deny them the right to be on that list, and therefore it would effectively disfranchise them. That could include elderly people, disabled people and those on the list for other reasons.

Had the new clause said that people would not be able to apply for an absent or proxy vote, it would have affected people who were not on the permanent list, and then that would be the issue. However, effectively, the new clause would deny people who are already on the permanent list the right to a postal vote, which would clearly be unfair. I do not know whether the right hon. Member for Upper Bann (Mr. Trimble) intended that

effect, but the wording certainly has that effect. Therefore, it would be unwise to press the new clause. It would have a detrimental effect on disabled or elderly people.

4.15 pm

Lembit Öpik: Does the hon. Gentleman accept that those people who have, on their own initiative, applied for an absent vote in the past will probably have applied by now for the right to vote? So while what the hon. Gentleman says sounds technically correct, the risk is minimised by the fact that the individuals with the absent vote will have shown the initiative to fill in the forms on the previous occasion.

Mr. Dodds: No, I do not accept that. There are people in Northern Ireland who are on the electoral register and the permanent list of absent voters. The effect of the new clause would be to say that, yes, people can be on the electoral register, but they will not be able to have an absent vote—not that they cannot apply for one, but that they cannot have an absent vote at all—even though they are on the permanent list. That should not be the case.

Mr. Trimble: The hon. Gentleman raises an interesting point, and we may need some guidance from the Minister and others as to the position. We are dealing with people who were on the register, did not return their registration form and consequently ceased to be on the register. It may no longer be accurate to describe them as being on the permanent list of absent voters. I do not know whether the situation that the hon. Gentleman has in mind will arise. It is something on which we need advice. If it will, I am grateful to the hon. Gentleman for having raised it. It is still open to the Committee to take manuscript amendments in the course of these proceedings so if we have the appropriate advice from the Minister or those who may send missives to the Minister, we can certainly deal with the problem.

Mr. Dodds: What the right hon. Gentleman has said carries some weight. When we hear what the Minister has to say in response, we can consider better how to take the matter forward.

Mr. Lidington: I understand the important argument that the hon. Gentleman has put. It is surely also the case that if the new clause was accepted, the Bill would have to go back to the House of Lords for consideration of Commons amendments, and any technical further amendment that the Government wished to make could be considered there.

Mr. Dodds: That is absolutely right. Having made all these points, we await with even keener interest than otherwise what the Minister has to say.

Mr. Spellar: I am advised that, since falling off the register last year, those people will no longer be on the permanent list of absent voters. I recognise that that might create a further anomaly, with the reinstatement of the register. Those people may presume that they do have a vote, and we do not want to deny them that.

The right hon. Member for Upper Bann asked me to consider the matter seriously, and I have done so. I can see the arguments and the difficulties to which he referred. Against that, I have had to balance whether the new clause would create two classes of elector—those who are entitled to an absent or proxy vote and those who are not. I then went back to the more basic principles. The chief electoral officer already has the personal identifiers of those who will be back on the register as a result of the Bill, because they will not have been on the register previously. My understanding is that he will check in some detail any applications for absent or proxy votes that arise from any of those 81,000 individuals.

If, for example, the chief electoral officer discovers that one of the three personal identifiers from the applicant does not match, or that the application comes from a person who is no longer living at his or her registered address—that is important as well—the application will be disallowed, because under the current legislation the chief electoral officer has to be satisfied that any such application is correct before issuing an absent or proxy vote. So, quite apart from the previously mentioned safeguards with regard to other aspects of voting, the fact that he will not be issuing a postal vote to someone who is not resident at the address is a significant further safeguard, which I hope may satisfy the right hon. Gentleman.

Mr. Trimble: I thank the Minister and I want to repeat the point just to make sure that I have understood. He is saying that if an application comes in for an absent or a proxy vote, and on checking the application it is clear that the applicant is not living at the address on the register, no proxy or absent vote will be issued. Am I correct?

Mr. Spellar: For those who are within the 81,000, yes. That is my understanding from the chief electoral officer, so I hope that that would satisfy some of the difficulties that have been identified.

Mr. Trimble: The Minister says that that is his understanding, and by that I take it he means that this is the policy that the chief electoral officer will follow.

Mr. Spellar *indicated assent.*

Mr. Trimble: If that policy is followed, it will achieve the same effect as the new clause, which is a considerable reassurance to me, but the Minister must now consider the point consequential on the discussion a few moments ago. I am now bound to think that the advice that he has received confirms what I thought might be the case—that if persons who had been on the permanent list did not re-register they would not automatically be resumed to the permanent list, and I am not quite sure what is the best thing to do in this situation. Obviously, one wants to facilitate people. How that can be achieved I am not sure, because this may be a matter of legislation and the Minister may not now have the time in which to add a necessary amendment to his Bill, but I am afraid I shall leave it to him. In view of the points raised, there is a matter here that should be looked at sympathetically, but it is not clear to me at the moment how that can be done. In any case, that is a side issue.

[Mr. Trimble]

I thank the hon. Members for Aylesbury (Mr. Lidington) and for Montgomeryshire (Lembit Öpik) for their support for the new clause, but in view of the assurances that the Minister has given, I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

Bill reported, without amendment.

Order for Third Reading read.

4.23 pm

Mr. Spellar: I beg to move, That the Bill be now read the Third time.

We have had a useful, interesting and constructive debate. I am grateful to the right hon. Member for Upper Bann (Mr. Trimble) for withdrawing the last motion, but I shall consider the administrative consequences, as well as the issues raised by the hon. Member for Belfast, North (Mr. Dodds). It may not be necessary to deal with some of those issues in legislation. It may be possible, at the very least, to write to those people who previously had permanent postal votes to get them reinstated. I will certainly have urgent discussions with the chief electoral officer about undertaking that. In many ways, that demonstrates the spirit in which the debate has taken place.

There has been a general recognition of the concern about under-registration and an understanding of the possible pitfalls and dangers, and I hope that we have indicated that we have been alert to them. We have tried not only to mitigate any danger, but to maximise participation in the electoral process. I have also been much encouraged by the contributions from Members on both sides of the House on looking at practical ways in which that can be achieved.

I recognise that this is a staging post in the process. The Electoral Fraud (Northern Ireland) Act 2002 was a significant improvement in the legislation to deal with not just perceived, but clear abuses of the system. That has enabled the system to be considerably improved, but all changes may bring consequences in their wake and we have talked about some of those. As I readily identified, this is an interim measure designed to ensure that the register is more comprehensive, but we fully acknowledge that there are further improvements to be made, so I take note of the point made by hon. Members that we should try to undertake this process as quickly as possible. We need to consider a more long-standing procedure to deal with registration.

Andrew Mackinlay: When the Minister has his ongoing conversations with the electoral registration officer for Northern Ireland, will he undertake to explore whether there is parity of treatment on the narrow issue of what constitutes residence? I have reason to believe that the electoral registration officer in Northern Ireland is putting a very narrow interpretation on that and one that electoral registration officers in Dudley and Bromley, for example, would take a different view on. There needs to be parity of treatment throughout the United Kingdom on what constitutes residence, particularly in relation to people who could claim to be legitimately on the electoral register of north Belfast and of Edinburgh at the same time.

Mr. Spellar: I take my hon. Friend's point, although I am not sure what they do in Dudley. I am more interested in Sandwell—all sorts of strange things probably go on in Dudley. He must understand that this process is taking place in parallel with an examination of electoral registration by the Department for Constitutional Affairs. We will obviously seek to be guided by that and by broader international experience. Having said that, I am mindful of hon. Members' co-operation and the weather—not to mention the arrival of my colleague the Minister for Work. As a result, I thank the House and urge it to approve the Bill on Third Reading.

4.28 pm

Mr. Lidington: This has been a good debate and I place on the record my appreciation of the constructive way in which the Minister listened to the various points that have been made during our proceedings and gave reassurances that people have rightly sought that the Bill will not lead to any undermining of the measures taken against fraud through the 2002 Act.

At one stage, when I was listening to two such formidable lawyers as the right hon. Member for Upper Bann (Mr. Trimble) and the hon. Member for Belfast, North (Mr. Dodds) engaging in a courteous disagreement over the detailed content of the Bill, it was like being back as a university student. However, our proceedings this afternoon have been characterised by an understanding that the Bill attempts to address a real wrong and a flaw in our democratic arrangements in Northern Ireland while preserving those safeguards against fraud that are vital to the health of our democracy.

I hope that the Minister will reflect carefully on the points made by hon. Members on both sides of the House about the need for progress on the Government's proposals for a more permanent system of electoral registration to be not only swift, but transparent. We do not want to be in a position again in which Members of whatever party are put under undue pressure to agree to something without sufficient time to consult either outside the House or other Members within Parliament about the likely consequences of the measures on which we are being asked to take decisions. Some lessons could be usefully learned from our experience in dealing with the Bill. I hope that it delivers the successful outcome that the Minister intends.

4.30 pm

Lembit Öpik: It is a shame that the Minister for Work came in so late because, at the risk of engendering some jealousy in her, I want to congratulate her colleague, the Minister of State, Northern Ireland Office, who has been a parliamentary titan of debate, setting out a high watermark for inclusive and constructive discussion for his colleagues to follow. She missed it all.

The debate showed three things. First, the high standard of debate that can occur when the Government proactively consult and operate their legislative processes in an inclusive fashion. I said in the debate on

allocation of time that my great frustration is the failure of the Northern Ireland Office to do that. Today we saw the rewards of what happens when it does. I enjoyed the interaction between the right hon. Member for Upper Bann (Mr. Trimble) and the hon. Member for Belfast, North (Mr. Dodds). In effect, they did the Minister's job for him. As such, I am sure he will consider providing them with an honorarium from his ministerial salary.

Secondly, we learned that when we are not shoehorned into an artificially restrictive programme motion with guillotines, we conduct ourselves maturely and concisely, and we will finish almost one and a half hours ahead of schedule. The Government should take serious note of the fact that programme motions sometimes act as a provocation to extend debate and reduce the value of their contents. Once again, I hope that this is a precedent for future debates within the Northern Ireland portfolio and elsewhere.

Thirdly, we learned that Opposition Members share concerns about the danger of the Bill becoming a law that is renewed annually. There is no benefit to the Government in regarding the passing of the Bill as a precedent that they can fall back on. The Minister assured us that he does not regard it as a precedent. I sincerely hope that he and others who may discuss the subject will heed those words and not force us into reconsidering the measure. Although we have acceded to the Government's wish to accept the Bill, it should not be taken as an automatic green light for expecting the same co-operation if they do not use the period that they have been granted to solve the problems permanently.

It has been a pleasure to participate in the debate with the Minister and right hon. and hon. Members. On reflection, I am sure he will agree, as he looks at Members on the Opposition Benches and considers our contributions, that he is lucky to have us.

4.34 pm

Mr. Dodds: Yes, this has been a constructive debate. We appreciate the way in which the Minister approached the debate and previous consultations leading up to it. This is a good day for democracy in Northern Ireland and the Bill is a positive move. The Minister has dealt with some of the points raised and allayed some concerns.

Reading clause 1 again, it struck me that we have acted on the assumption that, once the Bill is enacted, the chief electoral officer will immediately get to work ensuring that the 81,000 people are carried forward on to the new register. However, as the explanatory notes state, the Bill gives the electoral officer the power, not the duty, to do so. My concern was reinforced by the fact that clause 1 states that

"the Chief Electoral Officer may enter"

their names. Having gone through the process of passing the Bill, I hope there is no question of the chief electoral officer saying, "I know I have the power and I may do that, but I am disinclined to proceed along that route." The clear will of Parliament has been expressed, and I hope we will see those 81,000 people being able to vote in the forthcoming elections.

4.36 pm

Mr. Trimble: Like other Members, I express my appreciation to the Minister and others for the manner in which the proceedings have been conducted. The hon. Member for Montgomeryshire (Lembit Öpik) referred earlier to the 1.5 million people who will log on to the internet in Northern Ireland tomorrow morning to read the debate. It was a nice fancy, but is it not a pity that it will not happen?

Is it not a pity that very few people outside the Chamber will be aware of today's debate and the manner in which it was conducted? It would do an awful lot to improve the standing of Parliament in the eyes of the public, were they aware of that. It is a good thing that we have the internet and the one channel that takes a continuous feed from the House so that people can log on or switch on to that. It helps to some extent to counterbalance the conspicuous absences from the Press Gallery. Let me express appreciation to the persons who are in the Press Gallery and draw attention to the absences.

Having reflected on the quality of the debate, I echo the point that has been made. We have taken just over three hours to deal with the substance of the Bill. It has been dealt with expeditiously and with no attempt to prolong the proceedings. That underlines the point that programmes are not necessary and are in some respects counter-productive. The Committee stage went according to the timing allowed. A number of mini-debates were provided for by the selection of amendments. Some of them were quick and some took longer, because they needed to take longer as points arose. The hon. Member for Belfast, North (Mr. Dodds) mentioned such a point, and it is a serious one. The Minister will try to address it through administrative action.

Had there been a programme for the Committee stage, those drawing it up would have had no way of anticipating which amendments needed time and which did not. For that reason, particularly for Committee, programmes are wholly inappropriate. I have had the pleasure of serving on quite a few Committees, more in the early and mid-1990s than recently, and I was never conscious in Committee that members were deliberately wasting time. There was the odd bit of self-indulgence and there was a little badinage around the Chamber today, but it did not waste time. The Whips may want to think again about programming. I express appreciation to the Whip for the fact that the programme motion was not as restrictive as such motions have been on other occasions.

I shall make two further points by way of conclusion. I thank the Minister for the assurance that he gave me with regard to safeguards on applications for proxy and absent votes. That is helpful and I am glad that there has been progress in that respect.

I shall end, if I may, on a slightly different note. The way in which things have been done means that we have different classes of voters—those who have applied, those who have been rescued by special legislative means and others who have still not been included, in respect of whom the Minister has an obligation to ensure that equal efforts are made to provide the opportunity to be on the register. I, too, was uneasy about his reply in that regard, which made it sound as though the matter is not

[Mr. Trimble]

going to be treated with the urgency that it deserves. Having had a good day here, let us hope that that emboldens the Minister to get stuck into the problems that he knows he still has to deal with.

Question put and agreed to.

Bill accordingly read the Third time, and passed.

DELEGATED LEGISLATION

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Social Security

That the draft Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2005, which were laid before this House on 26th January, be approved.—*[Vernon Coaker.]*

Question agreed to.

EUROPEAN COMMUNITY DOCUMENTS

Motion made, and Question put forthwith, pursuant to Standing Order No. 119(9) (European Standing Committees),

European Agency for Safety and Health at Work

That this House takes note of European Union Document No. 9050/04, Commission Communication on the evaluation of the European Agency for Safety and Health at Work accompanied by a draft Council Regulation amending Regulation (EC) No. 2062/94 establishing a European Agency for Safety and Health at Work; supports the Government's position that Article 308 of the Treaty on European Union is acceptable as the legal basis for the proposed amended Regulation; and agrees that the Government should signal political agreement to the proposed amended Regulation at the Employment, Social Policy, Health and Consumer Affairs Council on 3rd March 2005.—*[Vernon Coaker.]*

Question agreed to.

Return to Work

Motion made, and Question proposed, That this House do now adjourn.— *[Vernon Coaker.]*

4.41 pm

Sue Doughty (Guildford) (LD): I am grateful for the opportunity to raise this issue this evening. It arises from the problems encountered by my constituent, Dominic Ponsillo, whose parents have come here tonight to listen to this debate because they feel it is so important.

Dominic Ponsillo is a former Royal Mail employee. He sorted mail, and I understand that he was one of the best and fastest there. In January 2003, he suffered a severe illness: chronic epididymo-orchitis, from which recovery is slow, normally taking a number of months, if not years. The illness renders the patient tired with repeated testicular pain. He was a good employee and wanted to return to his job. When I spoke to his doctor today, the doctor welcomed the fact that he was seeing someone who really wanted to get back to work, whereas people so often come in for a certificate so that they do not have to go back. The doctor said that Mr. Ponsillo's return to work needed to be gradual, at a pace that would not adversely affect him. In the event, the difference of understanding between the doctor, who was expecting a gradual return, and the employer, the Post Office, which had a rigid procedure, led to a complete breakdown of relations between employer and employee, and culminated in him losing his job—unnecessarily, in my opinion.

The issue that I want to cover this evening is how to manage the return to work of an employee after an illness in a way that is not only seen to be helpful to the employee in terms of his return to full health, but recognises the situation in which the employer is placed. Although the case that I am raising relates to the physical illness of my constituent, it is also of interest in respect of any case of prolonged illness, physical or psychiatric, where the employee may at first be unable to undertake the hours and workload that their job normally entails. It is also of interest given that the Government are seeking to encourage more people to return to work after lengthy illness.

From this case, it is clear that the employer had one set of expectations, and the medical staff another. Indeed, at certain points, it was not entirely clear whether my constituent was on sick leave in the eyes of the Post Office. These points are important in large organisations such as the Post Office, which have been trying to reduce absenteeism and sick leave, but incorrect understanding of the situation may mean that time not worked during the rehabilitation period may be recorded and count towards future disciplinary action. It is also clear that the medical advice provided in this case just did not fit Post Office procedures.

The hon. Member for Coventry, North-West (Mr. Robinson), who is here this evening and who employs my constituent's father, is a friend of the family and has worked on the case with me. We found that there was a clear difference between the standard practices of the employer and those asked for by the doctor, with, indeed, the support of the occupational physician, who was acting for the Post Office. The Post Office's employment rules said one thing, while the medical

officer representing the Post Office and the GP representing my constituent were both in agreement about a different set of procedures.

We have tried to reach an amicable resolution with the Post Office and have given it months of opportunity to answer questions about what the procedures should be. On 6 December—we are now in February—we received a letter saying that it would outline the procedures so that we could fully understand them. However, we are yet to receive a further letter.

Mr. Ponsillo was taken ill in January 2003. In August 2003, his doctor judged him to be 85 per cent. better and signed certificates to allow him a graded return to work. The medical expectation was that the patient was officially off sick, but could, if he felt up to it, return to work for up to the number of hours stated on the certificate. Dr. Arnold, Mr. Ponsillo's general practitioner, believed that the certificate was a legally binding document and thus that it was not for the employer to interpret or disregard what was written. A letter that Dr. Arnold wrote to the senior appeals manager of Royal Mail service delivery when Mr. Ponsillo appealed against dismissal—he eventually lost his job—stated:

"I know Mr Ponsillo has had considerable opposition from his manager . . . I did not hesitate in suggesting to him that he sought legal representation for unfair treatment."

Confirmation of that approach was provided in a letter from an occupational health officer for the Post Office, Dr. Guess, who confirmed the need for a gradual return to work. She said that she had made no statement that my constituent was fit for normal duties.

Mr. Ponsillo's line manager went against medical instructions. After the initial six-week period of rehabilitation, the line manager should have ensured that the situation was reviewed, as per the instructions from both doctors. In fact, the occupational physician asked on 1 October for a report to be obtained from my constituent's doctor and to see Mr. Ponsillo in clinic. She subsequently noted in a memo that she made no comment to state that he was fit for normal duties. In response to a query from the line manager, she had advised that the period of rehabilitation was indeed prolonged, but that she would assess the case if requested and review his rehabilitation.

In October, however, Mr. Ponsillo's manager sent him a note stating that he was to return to work full time and confirming that his rehabilitation period had expired. The note went on to say:

"as of the week commencing 6/10/2003 you are to report for your normal work hours."

On 9 October, despite the information provided by both doctors, the manager required my constituent to return to full-time work and warned him in writing that an absence of more than one day would trigger stage 3 action. However, Mr. Ponsillo felt at that time that he was not able to do the hours expected. Indeed, he took two weeks of his holiday to try to speed up his recovery. After that time, there were regular disputes between him and management about the number of hours he was supposed to work and whether he was sick or on holiday. That was extremely confusing for someone who was qualified to work in a sorting office, but not well versed in the finer points of contract and dispute procedures. One of Mr. Ponsillo's supervisors then made the nature of my constituent's illness known to his colleagues, including the swelling of his testicles, so he had to endure the embarrassment of knowing what his work mates were saying.

The situation got worse. Mr. Ponsillo became more and more stressed because he was worrying about how he would cope with doing more hours in his job than he could possibly manage. Sadly, owing to the stress that was caused, he swore at his manager and appeared threatening, so he was summarily dismissed. He appealed the case and although the doctors and both the hon. Member for Coventry, North-West and I made representations, the appeal was upheld, despite the fact that not all medical information was available for the appeal because it was claimed that it had been lost in the office. Losing information about the case seems to be part of the problem.

Mr. Ponsillo did not pursue a case for unfair dismissal because he was advised that if a barrister examined the narrowness of the case—the threatening behaviour to his employer—the dismissal would be upheld. However, had he looked at the wider situation and the stress leading up to the dismissal, the outcome would have been different. Mr. Ponsillo had to make a decision at the time. He was offered a reference that did not say what had happened and decided to take that option, so he lost his job with no appeal.

Had there been clearer guidelines that could have been understood by my constituent, his doctor and his employer, he would still be at work. His GP told me today that his behaviour had been completely out of character. Everybody I know who knows him says the same thing: it has never happened before.

The Post Office uses a procedure known as the Newcastle process of rehabilitation, which has specific guidelines about the hours to be worked and the total number of weeks considered as rehabilitation. It is inflexible and does not take into account the health needs of the individual. It allows only six weeks' recovery time.

In her final report on the case, for Mr. Ponsillo's appeal against dismissal, Dr. Guess, on behalf of the employer, said:

"Mr. Ponsillo tells me that at five weeks back to work he was still only doing half his hours. If he was suddenly asked to do full hours this would not be a usual step in a graded return to work and not what he had anticipated."

We should bear in mind that he wants to go back to work. He is not a malingerer. Dr. Guess went on to say:

"Rehabilitation uses gradually increasing hours and tasks to rebuild confidence and work tolerance after a period of absence with ill health. It is important that the steps are graded and not too large as the latter is likely to set back progress. I suspect that he would also feel anxious and angry as he tells me he believes it was what was advised by Employee Health Services and his GP. It does not seem appropriate to use annual leave to facilitate his recovery and this suggestion is likely to make an employee feel resentful or angry."

There is still a dispute about whether Mr. Ponsillo was expected to use annual leave to further his recovery. There is certainly a difference of opinion with the employer about what is normal practice in the Post Office. Dr. Guess made it clear that had he progressed through his rehabilitation as planned, he would now be working normally. She recommended that a report be obtained and that she saw him in the clinic, but that was not carried out.

[Sue Doughty]

As the House can see, clarity is needed about rehabilitation and graded return to work. We need clear guidelines. Employers need to set review dates so that progress can be assessed, with an agreed plan for the future. It is important that medical views are taken into account. In the Post Office, where there is a clear hierarchy, if a manager tells an employee, "You will do it this way", an employee is unlikely to argue back and challenge authority.

It cannot be right that an employee is uncertain about the basis on which he or she should be working in a graded return to work. It cannot be right that a rehabilitation process is so inflexible that when there is a query as to whether an employee is fit to carry out full-time duties there is no medical follow-up, especially with a major employer. Such things are important at a time when the Government want an increase in the number of people returning to work after illness. We want people to work if they can, but it is counter-productive to fail to recognise their health needs and abilities. I hope this debate will provide the Minister with an opportunity to bring clarity to such situations.

4.53 pm

Mr. Geoffrey Robinson (Coventry, North-West) (Lab): I am grateful to the hon. Member for Guildford (Sue Doughty), with whose agreement I am participating in the debate. It is unusual, but certainly not unfortunate, that there is agreement on an Adjournment debate across the Chamber.

I am pleased to acknowledge my interest in the affair. The young man has been known to me for many years. His father has worked for me for many years. He is an outstanding employee and a man of great integrity. The family are exemplary in all respects, so it is strange that the situation that we are discussing tonight has come out of the blue.

The case concerns a young man who has been dismissed after many years of effective service. He was described as one most speedy and effective sorters in the Post Office operation in Guildford, but he has been summarily dismissed. I shall discuss the circumstances of his dismissal, which I in no way seek to defend, in a moment, but I want to question the chain of events.

The hon. Member for Guildford has provided an accurate chronology, so I have no need to repeat it, but I shall examine the principal events. The young man experienced a severe, embarrassing, debilitating male illness, so he was naturally no longer required to work. Logically and appropriately, he then agreed a programme to take him back to work with his GP, the Employee Health Service, which is a medical body that works for the Post Office, and Post Office management. Up to that point, no real problem had occurred.

The EHS recommended that he be re-interviewed and reassessed on his return to work and that a realistic view be taken. However, he got a letter from his manager, which stated that he should return to full-time work and that he would be dismissed if he took one absence, rather than a normal, progressive continuation of the return to work procedure. First, the Post Office did not comply with the requirement that he must be interviewed again from a medical point of view. Secondly, at that point the young man's doctor said absolutely that the young man should not return to work and should not be further consulted and introduced to the stresses and strains involved.

The letter from the manager, which came out of the blue, said that the young man should return to full-time work, that if he did not like it, he should sleep on the floor and that the so-called Newcastle procedure would be used. I have asked several people, including the young man concerned, Dominic, about the Newcastle procedure, and none of them had ever heard of it. In my industrial experience as an employer—I make no secret of having always been on the management side—one never goes directly against doctors' orders. That is the one thing that one is not allowed to do. Nevertheless, the young man's manager did not care about doctors and said that the young man should return to work.

At this point, the young man made a fatal error. He should have said, "That is not right. I am entitled to a review under EHS procedures. You are going against what my doctor says. This is putting me in a totally impossible position." However, he tried to make a deal. Instead of saying, "I am not fit enough to return to work", he said that he would give up some of his accrued holiday. Who has ever heard of somebody with a doctor's order saying that he should not return to work, who has the EHS saying that his position should be reviewed and who says that he will take accrued holiday to substitute for his absence? I do not like to say this, but that tells me that industrial relations within the Post Office are not what they should be.

The Post Office has entered into a new arrangement, which I do not understand, with the young man, who thought that he was fine. I think that the decision to make a deal was a huge mistake, but it was not his fault. The situation is symptomatic of something being wrong with industrial relations, perhaps just in that depot or perhaps generally in the Post Office.

The key thing that he had to avoid was another day's illness—that has been denied neither by the management nor by him. So when, under these strange arrangements, he wanted some time off work, he phoned up to say, "Look, I'm going to have tomorrow off." The man agreed. Then one of his managers suddenly said, "No, I don't agree." The effect of that—I can see that I have the full agreement of the hon. Member for Guildford—was that he was sacked. Then he lost his cool. He went into work thinking that he would be sacked and said things that none of us would seek to defend.

No impartial person looking at that situation could understand how a procedure was gone through whereby this young man's doctors' orders were ignored, as were the recommendations of the Employee Health Service, which is the medical advisory authority to the Post Office. A completely unconventional and unsustainable arrangement was entered into by managers, who said afterwards that they had behaved entirely correctly. My right hon. Friend the Minister, whom I am pleased to see here today, has no operational responsibility for the Post Office, but all of us in this House have a deep moral responsibility for the way in which Government organisations, such as this one, conduct themselves on matters of working practices and human dignity—even basic human rights, which is what it comes down to at the end of the day.

Perhaps the family feel that they will have to pursue the matter further—I hope not—but the situation cannot be left as it is. A young man has been sacked, after many years of exemplary service, for an outburst that was provoked by the most atrocious, irresponsible—perhaps even illegal—behaviour. I put this question directly to my right hon. Friend: are managers in Government organisations allowed to override doctors' orders with impunity? If so, where is the redress? There is an inequality of treatment here that needs explanation and justification, and we look to her to put it right.

5.3 pm

The Minister for Work (Jane Kennedy): As you know, Madam Deputy Speaker, those of us who have had the privilege of serving as Ministers in Northern Ireland retain a deep and abiding affection for all affairs relating to the Province, so it was with a degree of disappointment that I missed some of the previous debate. I was attending the construction summit at the QE2 conference centre, where we debated issues to do with health and safety at work—interestingly, the subject of ill health received particular attention.

I congratulate the hon. Member for Guildford (Sue Doughty) on securing this debate on a very important issue. I thank her for highlighting the experience of her constituent, and I appreciate that there is interest outside in what is being said here in the Chamber. Although it would be inappropriate for me to comment on the specific case in question—the hon. Lady and my hon. Friend the Member for Coventry, North-West (Mr. Robinson) have given us some detail about the experience of the hon. Lady's constituent—I welcome the opportunity to speak to the House about the wider implications for Government. If I take a broad approach to replying to the debate, perhaps I can say one or two things about the specific points that the hon. Lady raised, which might offer some reassurance to her and my hon. Friend the Member for Coventry, North-West.

I stress that the issue affects many Departments and I may not have all the answers today, although I have developed an acute interest in the subject through my work as Minister for Work. I will ensure that other colleagues, who may have a responsibility for some issues that the hon. Lady raised, take note of our deliberations.

We are closer to full employment in Britain today than at any time for a generation, with 2 million more people in work now than in 1997. However, huge challenges remain. We cannot say that genuine full employment has been achieved when nearly one in every 13 of us is out of work and claiming an incapacity benefit. Many have been forced out of work by an illness or a medical condition, as the hon. Lady described. There are therefore 2.7 million people who might be said to be unable to work.

The United Kingdom loses nearly 39 million working days every year. The Confederation of British Industry estimates that that costs the UK economy approximately £11 billion. Those absences are bad for workers, bad for business and bad for Britain. Managing absences from work due to ill health or disability is therefore critical and we take a keen interest in it. Learning from experience is an important part of Government policy.

Long-term sickness absence is not inevitable. When employers work in partnership with their employees, aided by the right help and advice, sickness absence can and should be effectively managed. For people with many health conditions, effective and timely advice and support would help them manage their conditions before they became intractable. However, only 3 per cent. of companies have access to or use comprehensive occupational health, safety or return-to-work support. That is disappointing.

There are examples of organisations' good practice in managing sickness absence and return to work.

Mr. Geoffrey Robinson: I take the point that my right hon. Friend will not enter into the particulars of the person who has been mentioned. However, I am sure that the hon. Member for Guildford would join me in asking my right hon. Friend to undertake to draw to the attention of the Post Office chairman—a man whom we all know personally—what happened and ask him for his personal response. I know that the hon. Member for Guildford has tried to approach him and get a view from him, but she has not succeeded. I appreciate that my right hon. Friend cannot express a view but if she can ask the Post Office chairman to take a view and let us know it, we would be grateful.

Jane Kennedy: I am interested in that suggestion. I shall make a few comments about the Post Office and the experience that has been described. I shall not ignore it—I can say one or two things about it. I shall also give some thought to my hon. Friend's comments.

I wanted to give one or two examples of good practice simply to show that good work is being done. We want other employers, who perhaps do not use best practice, to learn from that. Rolls-Royce introduced a policy whereby any employee who is absent for more than four weeks receives attention. That includes physiotherapy for both work and non-work injuries. The policy has assisted many employees to stay in work or return to work more quickly. At the same time, Rolls-Royce has improved productivity.

Unfortunately, that approach is far from universal, and a culture can exist whereby long-term sickness absence is accepted as a fact of life. When employers try to do something about it, they and their managers often lack even the necessary skills and support to act effectively.

If people were provided with appropriate advice and support from their employer or GP at the outset of a spell of sickness, were equipped by the NHS to manage their health problem, and perhaps were pressed by the Department for Work and Pensions, for which I am privileged to work, to address other obstacles and helped to find work, I am sure that current employment and health outcomes could be massively improved. That process often starts with good advice on fitness for work and rehabilitation from the employee's doctor—their GP—which might include the fact that the GP feels strongly that the individual needs more time for rehabilitation. The DWP supports hard-pressed doctors in what we acknowledge is a difficult role by providing guidance, support materials and accredited online training to assist them. We recognise, however, that more needs to be done to help doctors to advise their patients.

[Jane Kennedy]

It is also worth remembering that while sickness certificates record the GP's advice to patients about fitness for their usual job, it is the employer's responsibility to determine whether the employee is fit for work and in what capacity. The GP will know their patient well, but will not always be aware of the full details of the workplace situation.

My hon. Friend the Member for Coventry, North-West and the hon. Member for Guildford have pressed me on how the apparent injustice that they describe can arise. The only circumstances in which employers are compelled to take account of the health condition of an individual are those resulting from the Disability Discrimination Act 1995, which affords protection against discrimination for people who are defined as disabled for the purposes of the Act. Under that Act, employers are legally obliged to make reasonable adjustments to aspects of work such as the working conditions or workplace, or to provide specially adapted equipment for people with a disability as covered by the Act. That might include a gradual return to work.

Sue Doughty: I appreciate that the Minister is covering the wider issues as well as the narrower points that the hon. Gentleman and I raised. In this case, however, in which the employee was outside the scope of the DDA—he was at work, he became ill and was still an employee—the occupational health officer was familiar with his case and had asked for, received and carefully read the information provided by his GP and the specialist who treated him, and yet the employer failed to discuss with her whether he was able to do the work that he was supposed to do and how many hours he should be doing it for. In his case, if he got tired, he would experience extreme pain that would cause him to roll on the floor holding himself. He certainly did not want to be put in that situation in the workplace, as it was embarrassing to him. All he wanted to do was get better and do a full day's work but be allowed the space to do it. It particularly concerns me that the employer could continue to ignore the opportunity to get my constituent fit and well and performing as well as he had done previously, as he had been a really good employee.

Jane Kennedy: Back-Bench Members of the House can sometimes comment much more freely about decisions in relation to individual cases. I do not have that freedom. I will, however, take up the point that has been made, particularly in relation to the apparent rigidity of the policies that the Post Office appears to have in place, with the chairman of the Post Office. I am happy to undertake to do that.

Mr. Geoffrey Robinson: We are grateful that the Minister has undertaken to do that, and that is the whole purpose of tonight's debate. Does she agree that it cannot be right that employers override doctors' instructions and views and force somebody back to work, whether indirectly, voluntarily, through some form of Spanish practice, or whatever? I was an employer—you will forgive me for saying this, Madam Deputy Speaker, coming from the west midlands, as I do—and the one thing we never did was override doctors' advice. How can it be that some Newcastle agreement or other arrangement can entitle the Post Office, a national organisation, to do that with impunity? I am relieved that the Minister will take up the issue and seek an answer from the Post Office management.

Jane Kennedy: I want to make it absolutely clear that what I am about to say is not what I believe necessarily happened in this case. It may often be the case, however, that an employer has people with medical conditions working for him or her. People react differently to medical conditions: some people with common medical conditions can go on working, while others find themselves unable to do so. What I have learned while working on this is that there are times when we must challenge the clinicians who advise employees. Sometimes returning to work is a valid option when support is provided. When employer and employee work together with medical advisers, the best outcome will be achieved for the individual; it is when that partnership breaks down that things go wrong, and this seems to be an example of that.

Mr. Geoffrey Robinson: Will my right hon. Friend give way?

Jane Kennedy: I do not want to give way too many more times, but we have a little more time.

Mr. Geoffrey Robinson: My right hon. Friend puts it very precisely: that partnership has indeed broken down. There is no doubt about it. The medical evidence suggested that there should be a review—which was refused—and that the employee was not ready to resume full-time work. That evidence was ignored; some Newcastle agreement was invoked, which was absurd, because no one knows anything about it. I have still not found what it is. The man was ordered to return to work full time, and told to sleep on the floor if he felt tired. The whole thing is ridiculous. Perhaps the plans we have for the Post Office will change the situation, but can my right hon. Friend not see that the arrangements did break down, and do need investigation and rectification?

Jane Kennedy: I am reluctant to go quite that far, but I will say this. We feel strongly that vocational rehabilitation has the potential to help us and other stakeholders to achieve our goals. The experience of the hon. Lady's constituent, as she has described it, is of interest to us, not least because that individual has maintained a positive attitude and a wish to return to work throughout his unhappy experience, but also because it involves what is almost a public sector organisation in which the Government have a clear interest. Following today's debate—and having read the report of it—I will contact the chairman of the Post Office, so that he can reassure himself that its policies are based on experience and best practice.

Sue Doughty *rose—*

Jane Kennedy: I will give way one last time to the hon. Lady, as this is her debate.

Sue Doughty: I am very grateful.

I too have employed people who have returned to work gradually, and I know that these are delicate circumstances. On the one hand, an employer does not want to force someone to work; on the other, the employer has a budget and hopes that the employee will make a full recovery and return to work.

There is, however, a wider issue, which is why I was keen to bring this matter to the House's attention. There are lessons for employers about getting people back to work—not necessarily those covered by the DDA, but others who have had a lengthy sickness. The main issue in this case is how much better it would have been had the manager concerned taken the advice of the organisation's own doctor, and asked for a review. The ongoing period of several weeks could then have been discussed. The case has a wider implication: I do not want other people in other organisations to be deterred, or to be treated in the way in which my constituent was treated.

Jane Kennedy: That experience and anecdotal evidence will help us in considering how to improve the support and advice given to people working with an individual who is experiencing a health problem, and who wants to retain their employment while doing so.

There is some good evidence on restoring function and enabling a gradual return to work, especially for certain specific health conditions, but evidence on what is truly effective vocational rehabilitation is somewhat contradictory and inconclusive. We are seeking to redress that by collecting information that will give us a solid evidential base upon which to take forward further work. There is a change in attitude among not only employers but the medical practitioners interested in this field, and a willingness to engage in dialogue with the Government to try to improve the experience of those going through such difficulties. I am certainly enthusiastic about this development, and I know from my work as chairman of the taskforce dealing with these matters that there is interest in it across government.

We will continue to look at various options, including how statutory sick pay impacts on people in such circumstances, in order to make these improvements. The Government are committed to making changes on a number of fronts to maximise the opportunity for people with disabilities and health conditions to stay in, or return to, work. But this is a shared agenda, and the support of employers and trade unions, as well as of individual workers themselves, is needed if we are to achieve the objective that all who participated in this useful debate share.

I have given undertakings on the specific points raised by my hon. Friend the Member for Coventry, North-West, and I will look into the detail of the case described by the hon. Member for Guildford. I hope that our further work together on this issue will provide a little more clarity and, perhaps, encouragement to the family whose case she has described today.

ROYAL ASSENT

Madam Deputy Speaker (Sylvia Heal): I have to notify the House, in accordance with the Royal Assent Act 1967, that the Queen has signified her Royal Assent to the following Act:

Electoral Registration (Northern Ireland) Act 2005

ADJOURNMENT

Question, That this House do now adjourn, *put and agreed to.*

Adjourned accordingly at twenty two minutes past Five o'clock.

House of Commons

Friday 25 February 2005

The House met at half-past Nine o'clock

PRAYERS

The Chairman of Ways and Means took the Chair as Deputy Speaker, pursuant to the Standing Order.

[SIR ALAN HASELHURST *in the Chair*]

9.33 am

Mr. Eric Forth (Bromley and Chislehurst) (Con): On a point of order, Mr. Deputy Speaker. I beg to move, That the House sit in private.

Question put forthwith, pursuant to Standing Order No. 163 (Motions to sit in private):—

The House divided: Ayes 0, Noes 14.

Division No. 96] **[9.33 am**

AYES

Tellers for the Ayes:
Mr. Eric Forth and
Mr. Nigel Evans

NOES

Conway, Derek
Davies, Geraint *(Croydon C)*
Davis, rh David *(Haltemprice & Howden)*
Fitzpatrick, Jim
Gardiner, Barry
Gillan, Mrs Cheryl
Hawkins, Nick
Mackay, rh Andrew
Maclean, rh David
Mactaggart, Fiona
Marsden, Paul *(Shrewsbury & Atcham)*
Ottaway, Richard
Pound, Stephen
Randall, John

Tellers for the Noes:
Mr. Nick Ainger and
Laura Moffatt

It appearing on the report of the Division that fewer than 40 Members were present, MR. DEPUTY SPEAKER *declared that the Question was not decided in the affirmative.*

Orders of the Day

Drugs (Sentencing and Commission of Inquiry) Bill

Order for Second Reading read.

9.44 am

Mr. Nigel Evans (Ribble Valley) (Con): I beg to move, That the Bill be now read a Second time.

It is with great pleasure that I present the Bill to the House. The use of drugs in this country has reached crisis levels in parts of our society and it affects us all, whether directly, through family members who are caught in the cycle of addiction, or indirectly, through crime that is fuelled by people's need to buy more drugs. All that is going on against the background of a Government who have sent all the wrong signals on drugs. The reclassification of drugs such as cannabis has sent those wrong signals throughout the country and many people now believe that it is safe to use cannabis. The aim of the Bill is to redress those problems, to give more powers to the police and the courts to combat our drug culture, and to look into the effects of cannabis so that the Government can see that the drug that they have gone soft on is actually quite dangerous and harmful.

To summarise for my right hon. and hon. Friends, my Bill has three main strands, which I will consider individually: the use of a mandatory seven-year jail sentence if a dealer is caught selling class A drugs for the third time, the use of a custodial sentence for any adult convicted of selling class A drugs to a minor for profit, and the establishment of an independent commission to look into the effects of cannabis and to make recommendations to the Government on its classification.

Penalties for drug selling are rightly very harsh. Some 85 per cent. of all drug offenders are convicted of unlawful possession, but, although maximum penalties are severe, most offences are dealt with by fines and nearly three quarters of those fines are less than £50. The state of the drug problem in the United Kingdom has shocked me as I have looked into it. In 2002, the Home Affairs Select Committee, in its landmark report on drugs in the United Kingdom, "The Government's Drugs Policy: Is It Working?", found that drugs are easily available. About 4 million people use at least one illegal drug each year and about 1 million people use class A drugs such as heroin, cocaine or ecstasy.

The cost of those illegal drugs has plummeted in recent years, which has made it even easier for people to get their hands on them. The Independent Drug Monitoring Unit reported that the cost of drugs is at its lowest level for a decade. It highlights that, in 1995, heroin cost £80 a gram and that it now costs £35 a gram. That trend also applies to cocaine, which used to cost £56 a gram in 1995, but now costs £45 a gram. A newspaper recently reported that a line of cocaine is now the same price as a cup of coffee bought from Starbucks. That probably says more about the price of cocaine than about the price of coffee at Starbucks.

The trafficking of drugs into the United Kingdom has also continued to increase in recent years because organised criminals and gangs are making huge profits

[Mr. Nigel Evans]

at all the stages of getting drugs into the country. The last figures available show that the number of people arrested for trafficking cocaine has doubled. There has also been a large rise in the number of arrests for cannabis and crack cocaine trafficking, so we have a huge problem in our country and on our streets. Cannabis use has risen by more than a third, ecstasy use has doubled and cocaine use has risen by 250 per cent. over the past eight years.

Evidence clearly shows the amount that drug use has gone up in the past three decades. In 1969, 4 per cent. of people used amphetamines, 2 per cent. used cannabis and less than 0.5 per cent. used other drugs. The British crime survey reported in 2002–03 that a third of 16 to 59-year-olds had tried drugs at least once in their lifetime. It also reports that cannabis is the most frequently used drug in all age groups. About 3 million 16 to 59-year-olds have used cannabis in the past year, with a quarter—about 1.5 million—of 16 to 24-year-olds admitting to using it in the past year.

The European Monitoring Centre for Drugs and Drug Addiction reported in November 2003 that Britain had the highest use of cocaine in Europe, with 7 per cent. of 15 to 24-year-olds admitting to using it recently. Deaths owing to drugs have risen sharply in recent years, too. In 2002, there were 2,685 drug-related deaths in England and Wales—an increase of 19 per cent. compared with the number of such deaths in 1993. That represents 5.1 drug-related deaths per 100,000 of the population in England and Wales.

An obvious side effect for us all in the war against drugs is the effect that the rise in drug use has on drug-related crime. According to my right hon. Friend the Member for Haltemprice and Howden (David Davis) in his speech to the House on 18 January this year, about three quarters of hard drug users commit crime to obtain drugs. In February 2002, the Home Office cited figures from a study by York university showing that the cost of drug-related crime in the United Kingdom could be as much as £19 billion a year.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Does my hon. Friend intend in any part of his analysis to make a comparison with the use of tobacco and alcohol, both as addictive substances and, particularly in the case of alcohol, as contributors to crime? It has always struck me as being rather odd that, in any discussion about drugs, we often tend to ignore the fact that substances legally obtainable in this country can in many ways be just as damaging.

Mr. Evans: I did not intend to point that out because I know very little about statistics that show that people go out to commit crime to fuel their purchases of alcohol or tobacco products. As regards cannabis, for those who mix it with tobacco to use, it is the tobacco that is addictive, which creates the problem of people becoming addicted to cannabis through the tobacco. The smuggling of huge amounts of tobacco and alcohol into the United Kingdom is a major crime, and I declare my interest as the owner of a retail business in Swansea.

Mr. Paul Marsden (Shrewsbury and Atcham) (LD): Does the hon. Gentleman accept that the British crime survey shows that two thirds of violent crime is related to alcohol abuse and use?

Mr. Evans: I concede immediately that there is a serious problem in this country with those who cannot control their alcohol consumption and go on to commit violent crime. That needs to be looked at, particularly in relation to extended licensing hours. We must be ever vigilant against such crime, and I am grateful to the hon. Gentleman for introducing that topic into the debate.

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): My hon. Friend is opening the debate in sterling form, and I congratulate him on presenting his Bill. Does he agree that, despite the problems that are faced in our prisons by prisoners who are dependent on drugs and alcohol, it is a great shame that there are no specific accredited alcohol treatment programmes with ring-fenced funding in any of our prisons in England or Wales?

Mr. Evans: I am grateful to my hon. Friend for her kind comments. I know that she has taken a particular interest in that aspect. We cannot simply lock up people who are convicted of drug or alcohol-related crimes and throw away the key. We must ensure that programmes are properly funded and that they relate to the crime for which a prisoner has been convicted. In the case of alcohol-related crime, we must make sure there are properly funded programmes to help people off their addiction to that product.

More than a million violent crimes associated with the use of drugs are committed every year. Overall crime is up by 16 per cent. and violent crime is up by 80 per cent. That increase is being fuelled by the drug culture. Drug crime and possession has gone up by 4 per cent. Around three quarters of heroin or cocaine users commit crime in order to obtain those drugs. Persistent drug-misusing offenders commit almost 10 times as many crimes as people arrested who do not use drugs. The new English and Welsh arrestee drug abuse monitoring project known as NEW-ADAM provides detailed analysis of the association between drug use and crime. The results of the first two years of the NEW-ADAM programme were published in 2004. The programme involves interviewing and voluntary drug testing of those arrested by the police in 16 custody suites in England and Wales. Arrestees are questioned about their drug use and their offending behaviour in relation to acquisitive crime.

The results are shocking—57 per cent. of arrestees reported having used a class A drug in the past 12 months; 48 per cent. of arrestees reported using heroin, crack or cocaine in the past 12 months; and 75 per cent. of those who had used crack in the past year reported committing one or more acquisitive crimes in the same period. It is our children about whom we should be concerned. More than 50,000 young people in the United Kingdom are addicted to hard drugs. That is 50,000 too many.

According to official figures, almost one in 10 prosecutions fail because of procedural mistakes by the Crown Prosecution Service, and even if a conviction is secured, sentences are often too lenient and fail to reflect the gravity of the offence. That is clearly the case with drug sentencing, and it is why the current punishments are not doing enough to deter people from a life of crime.

The first part of my Bill sets a mandatory seven-year jail sentence if a dealer is caught selling class A drugs for the third time.

Mr. Forth: I am intrigued by the numbers that my hon. Friend is suggesting. Why not a mandatory jail sentence for the second time? I can just about understand that if someone is caught selling class A drugs once, it may have been a mistake or they may be prepared to learn their lesson. Why is my hon. Friend allowing someone to do it three times before they are properly sentenced?

Mr. Evans: I am grateful to my right hon. Friend. He almost sounds as though I am being too lenient.

Mr. Forth: Yes, far too lenient.

Mr. Evans: We will start with the most persistent offenders. Transparency is essential. Persistent offenders are the ones who must suffer, but that does not mean that if we believe that that is not sufficiently effective, we cannot return to the matter in the near future.

Mr. Forth: My hon. Friend has just been telling us about the tragedy of young people taking drugs. Presumably, if someone sells drugs to a young person for the first time, we regard that as being heinous and unforgivable. My hon. Friend is almost suggesting that we allow them a second sale to a young person free, before they are hit properly at the third offence. How can that make any sense?

Mr. Evans: It does not make any sense. That is why the second element of my Bill focuses specifically on the dealing of drugs to young people. I shall make it clear later in my speech that anyone who is caught selling drugs for profit to a young person will receive a jail sentence on the first conviction.

Mr. Forth: Ah!

Mr. Evans: I hope that that reassures my right hon. Friend. Even people convicted on the first offence of dealing class A drugs ought to receive a custodial sentence, in my view, but at the third offence we leave no discretion to the judges. The sentence is a minimum of seven years, and I hope offenders will receive far more if they are caught persistently selling class A drugs.

It may be of interest to right hon. and hon. Members if I set out how the provisions of my Bill differ from the provisions of section 110 of the Powers of Criminal Courts (Sentencing) Act 2000. That can be summarised in three points. The provisions of the 2000 Act relate to all drug trafficking offences, as defined in schedule 2 to the Proceeds of Crime Act 2002. The offences listed include offences under section 4(3) of the Misuse of Drugs Act 1971, but include other offences, such as importation offences. The Bill focuses on the selling of class A drugs.

There is an element of discretion for the court in the sentences in relation to offences under section 110 of the 2000 Act. That is not granted in my Bill. A person caught for the third time will go to jail for seven years minimum. There is a requirement in section 110 of the 2000 Act for the convictions for the previous offences to be consecutive, so that two offences tried at the same time would not be treated as two offences for the purposes of the provisions. That is not the case in my Bill. Every crime will be treated individually.

Drug sellers are the scourge of our society. If we can deter them, we can go some way towards winning the battle. The number of people found guilty or cautioned for drug trafficking offences each year has more than doubled in 12 years. In 1990, 6,680 people were prosecuted or cautioned for trafficking. The figure rose to 14,610 in 2002. In Lancashire in 2002—the most up-to-date figures available—127 people were cautioned for class A offences and 391 were found guilty.

In Lancashire we have a key initiative that has been set up to look into and tackle the problem of the supply of class A drugs—Operation Nimrod, which was set up in April 2002 and is funded through the street crime initiative. Every day Operation Nimrod deploys two undercover policemen to different areas in Lancashire to make test purchases in the semi-open market. They appear as drug addicts and work undercover to get dealers arrested. It can take up to five months to gather enough evidence to prosecute those people, which is clearly a problem. Since April 2002 there have been 541 prosecutions as a result of the operation, and on average dealers are getting three years' imprisonment. Is that enough, particularly in view of the amount of time spent in getting the convictions?

I congratulate that high-profile scheme on what it has achieved and on the recognition that it has received—it recently won a commendation in the Home Office tackling drugs award. The senior investigation officer for Operation Nimrod, Detective Inspector Roger Price, commented that he saw many drug offenders reoffending, and that it would be a "wonderful development" to see drug dealers receive a mandatory sentence of seven years for their third conviction. He also commented on the fact that dealers are now frightened of Operation Nimrod, and said that they cautiously joke with under-cover policemen when they first make contact by saying, "You're not a member of Nimrod, are you?" The fear of prosecution is one of the greatest fears and deterrents. I urge the Home Secretary to look at such schemes and help ensure that they are extended throughout the country. The Bill would provide a deterrent for drug dealers in respect of reoffending. Many do so, and we must prevent that.

I want to deal specifically with drugs and children, which my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) mentioned. We have all heard in the news tragic stories about children dying from taking class A drugs. There was the story of Leah Betts dying after taking one ecstasy pill and the harrowing photos of Rachel Whitear after she died taking heroin, lying on her bedroom floor with a needle

[Mr. Evans]

in her hand, will be with us all for ever. I pay tribute to Rachel Whitear's parents for allowing the photograph to be used in all the newspapers throughout the country, so that people can see that taking heroin is not cool. People should never take it lightly or think that it is fashionable. That young girl lost her life. I congratulate her parents and the parents of Leah Betts on going around the country trying to promote the fact that taking drugs is extremely dangerous.

Celebrities are mentioned from time to time in relation to drugs and the newspapers have recently been full of people such as Pete Doherty. Anybody who thinks that taking drugs is cool needs only to look at the photographs of Pete Doherty to see the appalling effects that they can have on a talented young musician such as him. In yesterday's papers, Naomi Campbell was talking about her drug addiction and the appalling effects that it had on her character. We wish them both well in coming clean of drugs. I have to mention Robbie Williams, whose music I think is brilliant. I was delighted when his song "Angels" was recently made a "Best of the Brits" song at the Brit awards, but some of his recent comments about drugs leave me cold. I hope that he and people like him realise the huge responsibility that they have throughout the country, as a lot of young people see them as role models. It is serious when people such as him make comments like, "I thought drug taking was cool and it was only because I ballooned up and could not control my weight that I gave it up." That is one of the most irresponsible things that he could have said. He clearly does not appreciate the huge responsibility that he has for young people, who, to be frank, would listen to him far more than to me on the issue of drugs. I therefore hope that he will look again at the messages that he and other celebrities, whether they are in the realm of music or of sport, send out and at their effect on young people. They should consider the influence that they can have to the good if they start campaigning and educating youngsters against the use of drugs.

The Department of Health annual survey on drug use, "Drug use, smoking and drinking among young people in England", found that 4 per cent. of all 11 to 15-year-olds reported class A drug use during the previous 12 months. The prevalence of drug use increased sharply with age. Only 8 per cent. of 11-year-olds had used drugs in the past year, compared with 38 per cent. of 15-year-olds. That is why we need tougher sentencing for drug dealers who sell their drugs to minors. We all know that class A drugs are dangerous in the extreme, but their effect on minors is even worse.

Mrs. Gillan: Does my hon. Friend agree that that makes it even more serious that it took the Government two years to bring to the House provision to make it an aggravated offence to sell drugs to children around schools? The Government originally announced that they were going to introduce such measures in 2002, and the Drugs Bill has got through its Commons stages only this week. That is two years that have been wasted by the Government.

Mr. Evans: Absolutely. Such action should have been taken a long time ago. I hope that the police will be given every support in cracking down on anybody who deals drugs to minors, particularly anywhere near schools, where they know young people go. We must be certain that the police will get full support. When parents send their youngsters off to school, the last thing that they would want to think is that their kids will be under any pressure whatever to take drugs. We all know about peer pressure, which is bad enough, but let us ensure that we crack down on dealers who perpetrate crime around schools.

We have talked about ecstasy, whose effects on youngsters can be harrowing. It can cause body temperatures to rise to dangerously high levels, it is linked to liver, kidney and heart problems, and it can activate urinary infection such as cystitis in women. My Bill will tighten the legislation on seven class A drugs: heroin, crack, cocaine, ecstasy, mushrooms, methadone and amphetamines prepared for injection. The aim is to prevent today's young people from becoming tomorrow's problem addict drugs users. The Government's own report, "Drugs Guidance for Schools", states:

> "All pupils, including those in primary schools, are likely to be exposed to the effects and influences of drugs in the wider community and be increasingly exposed to opportunities to try both legal and illegal drugs."

We know that that is not dispute, but the Bill will make it clear to dealers that they now have a choice—they can deal and face a far tougher sentence than before, or they can stop dealing to the most vulnerable in our society, whether near a school or anywhere else.

As part of citizenship classes in schools, children are now taught about the harmful effects of drugs. I applaud the Government's guidance on this matter and the hard work of the educators involved. I also pay tribute to the life education initiative. I am a Rotarian in Clitheroe and, through their charity, the Rotarians support life education in schools throughout Lancashire, warning youngsters not only about the effects of drugs, but about other abuses.

Mr. Stephen Pound (Ealing, North) (Lab): I am grateful to my fellow Rotarian for giving way. I have been following his exegesis with great interest, and there is much that is superficially alluring in what he says, particularly about young people. Where in his Bill, however, does he address the problem that most of the drugs dealt in my part of the world are dealt by children under 16 on bicycles who are connected by mobile phone to some anonymous figure who may not even be in the same country, let alone the same city? What will he do in respect of those drug dealers?

Mr. Evans: Anybody who is dealing for profit to anybody under 18 will be dealt with by the Bill. I appreciate the sensitivity of the issue of young people dealing to young people and, indeed, the abuse of older people using minors to try to get around the law, but that issue will also be dealt with. There will be custodial sentences for anybody dealing for profit.

Mr. Pound: For 14-year-olds?

Mr. Evans: Sentencing will be available through the courts. It will be up to judges to use discretion, because the relevant part of the Bill allows for discretion in

looking at all the effects. Clearly, we want to get to the big dealers—the people who manipulate youngsters to deal their drugs—and they must be in no doubt whatever that, when we get to them, they are going to be dealt with harshly.

Mrs. Gillan: Does my hon. Friend therefore agree that it is a crying shame that, when I sought in the Committee stage of the Drugs Bill to lower the age provisions to take into consideration exactly what the hon. Member for Ealing, North (Mr. Pound) is talking about, and what this House is worried about, the Government resisted the proposal so strongly and left the specified age at 18 instead of looking at lowering it to 16 or the age of criminal responsibility, as the Opposition advocated?

Mr. Evans: I agree. I can see that the hon. Member for Ealing, North (Mr. Pound), who is sensible in most things, could almost be attracted to sitting on the Opposition Benches. Even if he does not come here now, he will certainly be sitting here after May. It is only a matter of time.

I welcome the approach to drug education of schools in my constituency, such as Clitheroe royal grammar school. Their aim is to enable pupils to make informed choices and to make up their own minds to reject drugs by increasing their knowledge, challenging attitudes and developing and practising skills. That is done by providing accurate information about drugs, increasing understanding about the implications and possible consequences of use and misuse and promoting a greater awareness of personal and social attitudes to substances.

The "Talk to Frank" website, which is sponsored by the Government, is imparting sensible information to youngsters and there is a 24-hour helpline. I think that the address is talktofrank.com, and I hope that not only youngsters who are worried about their own drug use, but those who are worried about their friends using drugs, will access the site. I hope that youngsters will use the helpline to get information on how to tackle the problem of dealing with friends who are taking drugs.

Although the percentage of children who use hard drugs is small, we must enact safeguards to protect them from the temptation that awaits outside the school grounds. We must also look outside schools to protect younger people in our society from the pervasive presence of drugs. Approximately 1 million children play truant, 100,000 children are temporarily excluded from school and 13,000 children are permanently excluded. The antisocial behaviour that leads to truancy and exclusions is part of the slippery slope on to drugs that we must try to curb through legislation.

Surveys show that truants and school excludees engage in high levels of poly-drug use, with cannabis, solvents, poppers and amphetamines featuring strongly. Heroin use, which is negligible among school attendees, affects 2 per cent. of truants and excludees on a lifetime basis. The level of consumption of any class A drug once a month during the past year is significantly higher for excludees than for those who routinely attend school. Other research into drug use by school age young people highlights a similar pattern of experimentation, with cannabis use most prominent, followed by the use of amphetamines, solvents, magic mushrooms and poppers.

The links between drug use and criminal activity are well established and acknowledged. For young people living on the streets, lifetime use of the more harmful drugs, such as heroin, cocaine, crack, tranquilisers, steroids, solvents and hallucinogens, is high—four to 10 times higher than for those minors who have never been homeless. For that section of our youth, who are so often the forgotten minority, to be a habitual drug user is a life sentence. Not only must those young people drag themselves off the streets and face the problems that put them there, but they must stop the cycle of desperation that led them to, and keeps them on, drugs. Indeed, there is evidence that drug use in later life is far more likely among runaways and the homeless than among minors who remain under a roof for that period. My Bill will make all drug pushers think twice about whether they want to risk their futures and continue dealing to our youth.

I hope that we all agree that cannabis is a dangerous drug. It is easy for members of the public to forget that cannabis is still dangerous. The Government reclassified cannabis from class B to class C on 29 January last year throughout the United Kingdom.

Mr. Forth: I am puzzled, because my hon. Friend seems to be prejudging the deliberations and outcome of his own commission. He wants us to take his commission seriously—I remain to be convinced—but he wants it to pose the exact question that he is already answering. Why should it waste its time if he has already got the answer?

Mr. Evans: Because nobody listens to me. *[Laughter.]* We are in opposition—I currently speak from the Opposition Benches, but soon I will sit on the Government Benches—and I was upset when the Government reclassified cannabis without reference to an independent commission. I have talked to a number of charities about the effects of cannabis and have made my mind up. I want to set up an independent commission to convince the Government that what they have done is completely wrong. Indeed, when my party gets back into power, we will reclassify cannabis to class B without any hesitation.

Mr. Forth: Will my hon. Friend tell me what would happen if the commission, having deliberated, decided that cannabis was not that harmful and that it would not be a bad thing if it were made legal?

Mr. Evans: My right hon. Friend poses an interesting question, which I have considered. Given the information that I have read about long-term drug takers, I cannot believe that any independent commission that knew the facts would not recommend reclassifying cannabis to class B. I would be staggered if an independent commission decided that cannabis is not that harmful and it would not need to be loaded to recommend reclassification to class B.

The Government sent out all the wrong signals when they reclassified cannabis, because they basically said that it is not as harmful as many other drugs. Cannabis is comprised of more than 400 chemicals and contains more tar and a higher concentration of carcinogens than tobacco. Not only can it cause cancer, but it can disrupt the control of blood pressure, which increases the risk of

[Mr. Evans]

fainting. Even occasional use is bad for people with heart and circulation disorders and for those predisposed to schizophrenia.

The risks of mental illness are clear. Marjorie Wallace, chief executive of mental health charity SANE, has recently commented on the link between cannabis and mental illness, saying:

"We have growing evidence from our 1,000 callers a week that the current culture of taking cannabis makes treatment difficult and adversely affects the prognosis for those who become psychotic."

In January this year, she said:

"While an inquiry would have been welcomed before the lowering of the classification last year—making it more easily available and giving out messages that it is relatively harmless—we would urge the Government to reverse its decision on classification urgently, backing that with a multi-million pound education and awareness campaign on the dangers of cannabis for young people whose brains are developing."

When the Minister replies, I hope that she will say whether the Government intend to introduce a programme advertising the bad effects of cannabis.

Mrs. Gillan: Does the hon. Gentleman agree that the Government message that cannabis is a harmless recreational drug that can be taken freely has backfired? They have had to spend £1 million of taxpayers' money advertising that the drug is still illegal, because of the increase in usage after it was reclassified to class C.

Mr. Evans: My hon. Friend is right and the £1 million did not get the message across that cannabis is still an illegal drug. The newspaper headlines about reclassification indicated that the police would turn a blind eye to cannabis, which has clearly happened in many cases.

The charity Rethink supports my cause. Its chief executive, Cliff Prior, said:

"Cannabis is not risk free. We have known for years that using cannabis makes the symptoms of schizophrenia far worse in people who already have the illness. There is a rapidly growing body of evidence showing that cannabis can trigger schizophrenia in people already at risk—and probably even in people who should only be low risk."

Both those charities support my private Member's Bill.

Cliff Prior also said:

"Rethink would welcome an independent commission to look into the effects of cannabis and to make recommendations to the Government . . . Cannabis is an illegal, but widely used drug, particularly amongst young people, reclassification has confused the issues still further, while most young people may still understand that the drug is illegal, its reclassification has reinforced the existing 'street view' that cannabis is safe and harmless. It is not."

Marjorie Wallace, chief executive of SANE, commented:

"SANE has been campaigning for over 18 years for the government to take seriously the damaging effects of cannabis for those suffering from or vulnerable to mental illness, especially schizophrenia. We fully support Mr. Evans's call for an independent commission to look into the effects of cannabis and its classification."

According to the Metropolitan police, the number of people in London caught with cannabis has increased by one third since the Government relaxed the law on possession, which is a clear indication that the Government's policy has led to a huge increase in the number of people using this harmful drug.

Last week, *The Observer* printed the following story under the headline, "Drug surge follows law change". It stated:

"Demand for cannabis has exploded in the wake of the relaxation of drugs laws, according to senior Scotland Yard officers."

Police in the south-east of England have made a number of massive seizures of cannabis, which has alarmed law enforcement officials, who

"believe criminal gangs are trafficking large quantities of cannabis because they believe police 'have taken their eye off the ball'."

We should not be reassured by huge seizures, which are the tip of the iceberg, because they are indicative of the huge amounts of cannabis in this country. This month, police and customs officers raided a pub in Dagenham, Essex, and recovered a record 1.37 tonnes of cannabis resin worth more than £4 million. In a separate operation a few days later, police stopped a lorry on the A20 near Folkestone, and recovered more than 600 kg of cannabis resin.

The price of cannabis has fallen so much that it has become easier and easier to obtain. It has fallen by 33 per cent. since 1994, and it now costs just £10 for an eighth of an ounce, which is what many young people spend on topping up their mobile phones. That demonstrates the problem that we are up against. About 3 million 16 to 59-year-olds have used cannabis in the past year, and a quarter of all 16 to 24-year-olds admit to having used it in the past year.

The recent case of the murder of Jodi Jones by Luke Mitchell highlights the devastating nature of the drug. On sentencing Luke Mitchell, the judge, Lord Nimmo Smith, said:

"Heavy use of cannabis may well have contributed to your being unable to make the distinction between fantasy and reality, which is essential for normal moral judgments."

That case alone is daunting and worrying. The awful murder that Luke Mitchell committed was attributed partly to his use of cannabis.

The Government's website refers to the huge dangers of cannabis, which I described earlier. It says that the drug can cause heart problems, bronchitis and cancer. Frequent use can cut a man's sperm count and suppress ovulation in women. It states:

"Cannabis can cause a range of mental health problems from short lived and more common problems such as anxiety and paranoid feelings, to less common difficulties with actual psychotic states that may require medical treatment."

Rethink has asked the Select Committee on Health to reconsider the problem of cannabis and I understand that the Government have decided to do more research into its effects, with special reference to psychosis.

It therefore shocks me, given that the Government had publicised the effects, that they even considered reclassifying cannabis. It is testament to the need to establish an inquiry at the earliest opportunity to look into the effects of cannabis and report back to the Government. Reclassification should never have happened without such an inquiry, but it did, and my Bill will establish one.

I hope that the Government will give the Bill a fair wind and at least allow it through today's stage so that it can go into Committee and be examined in more detail. I

know that we do not have much time if the election is held on 5 May but if the Government are serious about tackling drugs, they will know that they must do much more about sentencing and be more effective in sentencing those who deal to minors, and also set up an independent commission to consider the effects of reclassifying cannabis from class B to class C. I have no doubt that, when that commission reports, the Government will consider its conclusions carefully and reclassify cannabis to class B. There is no shame in admitting to making a mistake and taking action. Action is needed now and my Bill will provide for that.

10.22 am

Laura Moffatt (Crawley) (Lab): I am delighted to take part in this important debate. I firmly believe that it is valuable for everyone if we discuss the problems of substance misuse in the House. I am also extremely jealous of the hon. Member for Ribble Valley (Mr. Evans), who came second in the ballot. I do not do the lottery because I never succeed in such matters and I am therefore envious of the hon. Gentleman.

Mr. Evans: I have been a Member of Parliament for 12 years and I have done well in the private Member's Bill ballot five times. I do the lottery and I cannot work out why I have never won.

Laura Moffatt: If I get the opportunity again to be a Member of Parliament and apply in those ballots, I shall be right behind the hon. Gentleman when he puts his name down.

I take a special interest in the subject of our debate because, before I entered the House of Commons, I was a registered nurse and I often cared for people who had to be admitted to hospital for a range of diseases and conditions that resulted from drug taking. Having spent a lot of time with those who were sadly addicted to substances, I firmly believed that it was a complex matter that could not be tackled with simplistic responses. Soon after being elected, I became and continue to be one of the vice-chairs of the all-party group on drugs. We have done much work on considering the problems of addiction.

The hon. Member for Ribble Valley raised some interesting issues. However, his proposed response is too simplistic and does not get under the skin of the problem of substance misuse. I should like to explain why I believe that.

We all use statistics and statements from groups to support our aims and objectives and leave out the less supportive statistics. I should like to say a little about those whose reaction to the reclassification of cannabis is more favourable. I repeat "reclassification"—I am against any legalisation of drugs. The evidence about not only the physical but the psychological effects of cannabis on people is serious and we should not take it lightly. However, I am in favour of reclassification. The Bill is centred on setting up an organisation effectively to support the hon. Gentleman's view that cannabis should not have been reclassified, but I believe that it is important to decouple cannabis from the most serious, class A drugs that regularly kill people.

I take a close interest in my drug and alcohol team in West Sussex. It happens to be one of the best in the country because it is always considering how to get information to young people and ensuring that they understand what it is all about. After reclassification, we were all a little nervous about whether it would promote use among young people because they did not understand that cannabis remained an illegal drug. Of course, that did not happen. The Government's work after their £1 million campaign, in which the drug and alcohol teams participated, showed that 93 per cent. of young people completely understood that cannabis remained an illegal drug. They might have continued to take it, but they understood its classification.

We must consider, therefore, why young people continue to use the drug. After all the years of trying to get under the skin of those who use illegal drugs, we continue to struggle to find solutions, including penalising methods and encouraging people away from use. I took on board the hon. Gentleman's statement about Robbie Williams. We all find it shocking that he was worried simply about getting fat and ugly. I think that he is a bit of all right, so I can understand why getting fat and ugly was a problem for him. However, we are finding that, strangely, young people respond more to messages about body image than to those that say, "You're going to die if you take this." The same applies to smoking. If we tell young women that they will have horrible wrinkles and a saggy bottom by the time they are 40, they start to think about their cigarette smoking. Perhaps the hon. Gentleman's anecdote about Robbie Williams was not as damaging as he suggested, but I understand his concern.

The hon. Gentleman clearly set out two aspects of the Bill. The first element is a "three strikes and you're out" campaign on dealing. We all despise those who make money from the awful trade, out of which it is sadly all too easy to make money. However, I have found that dealing is a complex matter. The dealers with whom I have had most contact in my community—not to buy, of course—are also users. That makes the issue more complex. I hope that I do not appear to be some woolly libertarian who does not take such matters seriously. I am genuinely trying to explain that simply taking punitive measures against dealers does not work. That is why I support doing everything that we can—and everything that the Government are doing—to provide treatment, help and support to users, especially of class A drugs. That is how we encourage people to give up drug taking, so that they no longer have to make money to support their drug use. This is a difficult issue and a simple style of sentencing will not easily make it any better, which is why I am suspicious of that approach. This is not the first time that such an approach has been proposed. Before the 1997 general election, a Bill that was not enacted put forward a similar proposal.

Mr. Evans: The provision on the statute book recommends a sentence of seven years. Sadly, however, since 2002, it has been used only half a dozen times, so the vast majority of people are getting away with these offences. I support what the hon. Lady says, however. If drug dealers who are also drug users are convicted, it is pointless to keep them in prison without the proper rehabilitation, care and treatment that they desperately need, because they will go straight back to taking drugs when they come out.

Laura Moffatt: That is a sensible and coherent response to the problem. However, the difficulty is that,

[Laura Moffatt]

once prison has become part of a drug user's life, it is difficult to break the cycle. Prison is often one of the most difficult places in which to keep people away from drugs, and there is often a reluctance to use punitive measures as a response to dealing and drug taking. I remain convinced that such measures are not the only proper solution for those who deal in and take drugs.

I am not sure that we need a commission on cannabis, because I am convinced that it has long-term psychological effects on people who use it in vast quantities. There is even some evidence that weekly use can cause difficulties. The hon. Gentleman's Bill refers to those who are affected by other people's use of cannabis. That can be especially relevant in regard to driving and to people in the workplace. However, I am wholeheartedly against a strict measure for testing for drugs in the workplace. I firmly believe that a much better approach exists. My local drug and alcohol team have developed a fantastic toolkit to encourage employers not to go straight in with mandatory drug testing but to find ways of supporting their staff and of giving them access to treatment for their drug use. Using the workplace as a forum in that way makes it more of a place of safety for everyone, and helps people to understand that it is dangerous to take drugs in the workplace as it might endanger their colleagues. It also gets across the message that it is important to get them off the drugs, rather than driving them into taking more serious drugs. We have found that that can happen in prison, because cannabis can be detected in a urine sample for up to 30 days, while many class A drugs—particularly opiates—have gone after 48 hours. This is a difficult and complex matter.

I serve on the Joint Committee on the draft Mental Health Bill, and we have paid many visits to places that treat people with mental health problems, as well as looking in detail at why people get into those situations and at the effect of drug taking on mental illness. It is a difficult issue. Does the mental illness come first, followed by self-medication with cannabis to make the person feel calmer and less anxious? Or can there be a dual diagnosis, in which a person takes cannabis and then becomes psychotic? The jury is still out on that one. It is an interesting issue to study. I am not entirely sure that a commission could get to the bottom of it, because there should be a medical response to such cases and it should be medics who look at those issues. There is plenty of evidence to show that there are problems around cannabis use, but it is difficult to determine whether the psychosis has been prompted by its use, or whether it is being used for self-medication by someone who is feeling unwell. But it is the job of the medical profession to make that determination.

Mrs. Gillan: I agree with a lot of what the hon. Lady is saying on this important matter. Does she agree that it is sad that, during the passage of the Drugs Bill earlier this year, the Government resisted amendments tabled by her colleagues on the Labour Benches to involve GPs more intricately in the assessment process for addicts and other drug users? I believe, as I am sure she does, that the involvement of the medical profession is paramount in assessing how people might benefit from a course of treatment or a programme to get them off drugs.

Laura Moffatt: I thank the hon. Lady for that interesting intervention. The opposition to those proposals was on the ground of logistics. I hope that it is obvious from what I am saying that I believe that experts in drug abuse and substance misuse should play an integral part in such processes. Indeed, I firmly believe that they have. We have only to look at the amount of money that has gone into community action against drugs. A GP in my constituency takes a great interest in assisting drug users through the Addaction project, which is funded in part by the Home Office and which allows people proper access to care and treatment. Medics should be at the heart of any discussions and decision making on both treatment and sentencing.

This is an important debate. I had my first opportunity to call out the results of a Division earlier, and nobody at all had come through the Aye Lobby. I was upset about that. I know that there are only 14 of us here, but it is important to get these issues on record. Although I take issue with the components of the Bill, it is important that we discuss these matters in detail.

10.38 am

Mr. Eric Forth (Bromley and Chislehurst) (Con): I am constantly puzzled by the way in which the debate about drugs unfolds. I do not think that I am any clearer on the subject than I was when I arrived in this place nearly 22 years ago. I am puzzled because everyone says what an important subject this is—reference has been made to an all-party group—yet when my hon. Friend the Member for Ribble Valley (Mr. Evans) offers the House an opportunity to debate this vital matter in his well-considered Bill, we find a pathetically and tragically small number of people here. We know the numbers because we counted them earlier; looking round the Chamber, that is sadly reflected. I want to hear no more from my colleagues about how much they care about this subject, because when they are offered an opportunity not only to debate it but to legislate on it, they do not turn up. They do not come to the House of Commons when they have an opportunity to decide whether my hon. Friend's Bill would present a good way in which to deal with the problem that they all say is so important.

Mrs. Gillan: Will my hon. Friend support me in saying how appalling it was that, when we were legislating on this subject earlier this week, the Government allowed a pathetic three hours for Report and Third Reading of the Drugs Bill, which was entirely unsatisfactory. That showed that the Government did not want a reasoned debate on the subject.

Mr. Forth: My hon. Friend makes an interesting point. She is right that on a previous occasion, on which we need not dwell, the Government truncated debate, but the very people who were frustrated on that occasion could have turned up today and had a substantial amount of time for debate. These blessed Fridays are the one occasion on which the Government do not control the timetable, and colleagues had an

opportunity today to discuss the matter covered by the Bill to which she referred. It is an irony that Members undoubtedly felt frustrated by the Government's attitude, but on the very occasion when they could have been allowed lots of time to debate the matter—today—they apparently found it more important to be elsewhere.

My puzzlement increases when I think about the extent to which our policy on drugs, broadly defined, has probably been one of the most consistent and massive failures of public policy for several generations. My hon. Friend the Member for Ribble Valley alluded to that and reinforced the point in his speech. We are talking about substances that are illegal and deemed extremely harmful to those who take them. Even on my hon. Friend's figures, however, they are more readily available than they have ever been, cheaper than they have ever been, the only beneficiaries are the criminal classes, we raise no tax revenue from them whatever, and they contribute considerably to the level of crime. On every conceivable basis and measure, the drug problem has got worse. We have failed completely. Government after Government and decade after decade, to deal adequately with this problem. That must be one of the most comprehensive failures of policy conceivable in the civilised world. I therefore conclude that our policy direction must be almost completely wrong.

We apparently cannot prevent these substances from coming in through our borders. When people sell them, we do not deal with them adequately through the justice and criminal system. We fail to raise any taxes from them, and we also apparently fail to persuade people, be they young people or adults, of the evils of these substances and the fact that they should not take them. There are no positives at all. It is a resounding, consistent, sad negative.

It is suggested that we should try to tighten our border controls, but that does not seem to work. It is also suggested that perhaps we should increase the penalties on people who use, or more particularly sell, drugs. That does not seem to work either, because the penalties are not sufficient or, more probably—I think that this was what my hon. Friend the Member for Ribble Valley was hinting—because the judicial system, for some reason that none of us can understand, fails to use the penalties that are available to it. Perhaps it does so because our prisons are already too overcrowded—I do not know. We therefore have no success in that regard.

Historically, back in the 1920s, our friends in the United States, confronted with what they saw as a similar problem with alcohol, introduced prohibition. In a sense, what we have today is a modern form of prohibition. We are saying, as the Americans said back in the 1920s, that we believe that these substances are wicked and people should not be able to take them, so we will ban them and make them illegal. What happened with prohibition in the United States? Alcohol appeared glamorous as a result, speakeasies sprang up, the criminal classes benefited because they met the demand, and in the end the Americans had to accept the reality that prohibition simply did not work. Surely that is some sort of lesson for us.

If we consider the paradox of the status of alcohol and tobacco in our society, the issue becomes even more problematic. Tobacco, in its own way, is just as addictive and harmful to the people who use it as many, if not most, drugs. Alcohol alters behaviour as well as damaging health and having effects on people's behaviour and relationships in just as bad a way as most drugs. Perhaps for historic reasons, however, alcohol and tobacco are legal substances, freely available and sold legally through shops, including the shop of my hon. Friend the Member for Ribble Valley. They raise tax revenues that go a long way to paying for our national health service, not to say our nuclear weapons and missiles. We also put warnings on alcohol bottles and cigarette packets about the harmful effects of such substances.

In those cases, we say that it is right to tell our citizenry that such substances, although they are legal and we derive huge tax revenues from them, might be, and almost certainly are, harmful to them. We leave it to their judgment as citizens to decide whether to consume them, while at the same time attempting as best we can to protect young people from using or abusing tobacco and alcohol until they are of an age at which they can make a decision. The paradox must be self-evident.

We are therefore struggling with a debate today about cannabis and other drugs and substances against a background in which two categories of substance that are in many ways just as harmful are already freely available in our society. The hon. Member for Crawley (Laura Moffatt) referred earlier to the possible effect of cannabis use on driving. We acknowledge that in our laws, because although alcohol is a legal substance, we say that if one takes it and drives, one is committing an offence. Therefore, a parallel exists between alcohol and cannabis. The debate is all over the place, and it is not taking us anywhere productive.

I pulled my hon. Friend's leg earlier about his proposed commission, and I did so for a number of reasons. I am suspicious about commissions anyway, and even more suspicious of experts, as in most cases the advice that they give us seems to be either wrong or contradictory, usually both, and in the end is usually altered on further investigation. I therefore have an innate suspicion of commissions. When my hon. Friend is prepared, in his usual honest and open way, to prejudge the deliberations of his proposed commission, I get even more suspicious. If we are to have a commission of this kind, I would prefer its remit to be broadened to examine the whole subject of drugs, substances, abuse, consumption and the general effects.

The piece missing from the equation is an adult debate about drugs in modern society. I would go as far as to say—this is usually unspeakable, but I can say it in the Chamber today because I know, with confidence, that it will never be repeated—that surely there is a place for the legalisation of some or all drugs. In many ways, the logic of what I have said would take us in that direction. There should be a debate and argument about whether, were we to legalise such substances and treat them like tobacco and alcohol—to raise revenue from them, put health warnings on them, make them more freely available, decriminalise them and take away the benefits to the criminals—it is at least possible that we

[Mr. Forth]

might deal with the problem in a much more effective way than we do now, when we are completely failing to deal with it.

Laura Moffatt: I am listening carefully to the right hon. Gentleman, particularly in relation to having a sensible debate about legalising drugs. He might be interested to know that the all-party group regularly has sensible debates about the legalisation of drugs. Given the billions of pounds spent in the NHS on people who abuse alcohol and cigarettes, however, does he have any concerns that the same might occur should drugs become legal? I understand what he says about our debate being completely fractured, but does he have such concerns?

Mr. Forth: No, because I think that we would get a positive cash flow. The intriguing thing—the hon. Lady will know this better than I do—is that it is beyond dispute or debate that the revenues raised from the sale of cigarettes and alcohol far exceed the cost to the national health service of treating the ailments that arise from abuse of such substances. Sad to say, I would probably argue that in the unlikely event that we legalised these substances and taxed them—indeed, it is unlikely that we would even consider debating my suggestion—the same point would apply. The tax revenues raised from them would far exceed the cost of treating through the NHS those who used them. That is a reasonable assumption to make, based on the historical evidence of tobacco and alcohol use.

I welcome these opportunities to have such a debate. I thank my hon. Friend the Member for Ribble Valley for this one, and from that point of view I welcome his Bill, but I do wish that we took such opportunities to broaden the debate and turn it into a serious one. The sad truth is that we politicians are afraid of articulating this debate in the way that I am suggesting because we assume that there would be a backlash from the electorate. As a result, with a few honourable exceptions—sadly, one particularly honourable exception, who consistently speaks out bravely on this issue is not here today, albeit for a doubtless very good reason—an opportunity for Members to debate this issue is again being missed. I regret that greatly.

I congratulate my hon. Friend on his Bill and I will support it today, if only because it would provide a proper vehicle for further such debates. If it goes into Committee, as I hope it will, I will try to amend it to broaden the remit of his proposed commission, so that we can go somewhat in my suggested direction. For that reason alone the Bill is well worth supporting, but sadly, today is an opportunity that has been missed.

10.51 am

Mr. Paul Marsden (Shrewsbury and Atcham) (LD): I congratulate the hon. Member for Ribble Valley (Mr. Evans) on his luck and success in coming second in the ballot and, as has been mentioned, on providing another opportunity to talk about this very important subject. I also want to congratulate the hon. Member for Crawley (Laura Moffatt) on showing great insight and thoughtfulness in her speech, based on her previous profession and her involvement with the all-party group on drugs misuse. She has demonstrated her feelings on the subject and made an important contribution today.

As ever, the right hon. Member for Bromley and Chislehurst (Mr. Forth) brings a breath of fresh air to the House. For probably the first time in my eight years as a Member, I am in agreement with him in that I, too, think that we should broaden this debate. It is rather strange that the media and the public seem to get very excited about cannabis, given the facts about the short-term effects of its use. Although I accept that its long-term use can cause some harm, in the greater scheme of things we should be actively debating the effects of alcohol and tobacco. Alcohol kills some 120,000 people every single year and tobacco kills some 40,000 a year. The number of cannabis overdoses can be counted on one hand, and it is clear that the number of deaths attributed to it is none, or virtually none. Of course, every single drug user death or instance of suffering must be taken very seriously. Nevertheless, we need to inject a breath of fresh air into the debate, take a step back and have a proper discussion on the entire spectrum of drugs.

Mrs. Gillan: I agree that we should have a proper debate about drugs; indeed, we are endeavouring to do so. Will the hon. Gentleman clarify the outcome of the debate in his party? Do the Liberal Democrats still advocate the ultimate legalisation of cannabis?

Mr. Marsden: Yes, that is our policy, but we would need to gain international consensus and agreement; indeed, the United Nations convention on narcotics use requires other countries to agree to such a change. It is our policy to work towards that ultimate aim, but we will have to wait and see exactly what is in our general election manifesto, which may be pending, on the policies of any future Liberal Democrat Government. The media get excited and distracted by the mere mention of the word "drug", but in effect I take drugs, as most Members probably do, if we count tobacco and alcohol. So let us have a sensible debate, because sometimes discussion about cannabis use is akin to talking about the colour of the napkins on the dining room table of the Titanic. Instead, let us focus on something a little more important.

On the Bill's specifics, we Liberal Democrats do not agree with mandatory sentencing. We understand the sentiment behind such a proposal and the frustration and amazement that people feel when they read in the newspapers that one judge has passed one sentence and another has passed a completely different one. However, I am not an expert on the law and I believe that such decisions should be left to the experts—the judges.

Mr. Evans: Does the hon. Gentleman understand the huge frustration felt by the police and, indeed, by the victims of the crime associated with drugs? A huge amount of time and effort is put into catching drug dealers, but when they come before the courts and are rightfully convicted, the sentences meted out are pitifully low. Seeing dealers get away with it, in effect, must destroy people's confidence in the judicial system.

Mr. Marsden: I accept that that may be true in certain cases, but overall our judiciary does an excellent job. I

listened to the recent debate about the Home Secretary's proposal that politicians take decisions on matters such as house arrest. I have to say that I am very nervous about the prospect of politicians getting involved in such decisions because that is the thin end of the wedge. I accept what the hon. Gentleman says, however, and we may well need to review the system, but the principle of allowing the judiciary the independence to decide on individual cases on the basis of the evidence before them should be retained.

I do, however, wholeheartedly endorse the hon. Gentleman's comments about a commission; indeed, it is Liberal Democrat policy to establish a commission to examine all drugs. I echo what the right hon. Member for Bromley and Chislehurst said about the need to widen the remit of such a commission to include all forms of drugs. It should not simply review cannabis as a one-off but conduct an ongoing review of all the evidence.

Mrs. Gillan: Presumably, the proposed Liberal Democrat commission—I understand that it would be a royal commission—would not examine cannabis because, as the hon. Gentleman has just established, their policy of legalising it as soon as possible is already set in stone.

Mr. Marsden: On the contrary, I understand where the hon. Lady is trying to lead me, but she is wrong. Although it is our intention to legalise cannabis use, that could not come about because the United Nations convention on narcotics use would have to be amended. We would have to abide by international law, so we would not legislate to legalise cannabis because we could not.

We are also very mindful of the fact that, as I said, such a commission should conduct an ongoing review of the evidence. The long-term effects on mental health in particular—I have a long-standing interest in mental health issues—are not known. More research needs to be done and we need more information and data. If such evidence demonstrated further adverse effects on mental health, such a commission would have to take that information into account in making its recommendations.

I agree with the hon. Member for Ribble Valley that the current drugs laws simply do not work. The UK has one of the highest rates of illegal drug use in Europe. Some 4 million Britons reportedly used illegal drugs in the last year alone, and it seems that those who want drugs have no difficulty in obtaining them. Crime associated with illegal drugs costs the UK £16 billion a year. Such crimes range from burglaries and robberies by addicts trying to feed their habit, to the very serious violent crime, gun crime and associated culture that seems to be increasing, particularly in our cities.

The prison population is at a record level and the increases are largely due to the imprisonment of drug offenders. We want a policy that is effective: we want to see addicts break the cycle of drug taking and crime. We must shift resources from the targeting of users and crack down on dealers. We must find the dealers and ensure that they are punished. The hon. Member for Ribble Valley spoke of making them suffer, although I am not sure that we should go too far in that regard.

Mrs. Gillan: If I heard the hon. Gentleman correctly, he said that most people in prison had been imprisoned for drug offences.

Mr. Marsden: No, I did not.

Mrs. Gillan: Perhaps the hon. Gentleman did not, but that was the impression I gained. According to statistics published in September 2004, the largest group of people in prison had been imprisoned for violence against the person. Over 10,000 people were in prison for drug offences—they constituted the second largest group—but some 14,000 were in prison for violence against the person.

Mr. Marsden: I think that the record will show that I said that the number of people in prison for drug offences was on the increase. I was talking about the recent explosion in the prison population. I am happy to stand by the statistics quoted by the hon. Lady, which demonstrate that a huge number of people are being sent to prison for drug-related offences.

The focus should be on dealers and traffickers, not just on users. As has been said before, if we say—rightly—that we want a tougher approach to drugs, logically we should suggest banning and criminalising alcohol and tobacco, which surely have more harmful effects on society than any other drug group. I would not advocate that, but it is a logical progression. In focusing narrowly on one drug whose effects are minimal, although I accept that they may be harmful—more research is needed—we are wasting an opportunity, and also wasting resources that could allow the police to concentrate on class A drugs. Two or three years ago, the Lambeth project established that, over six months, about three police officers could use resources to focus on hard drugs after they stopped focusing on cannabis. If that were extended throughout the country, it could have a significant effect on the fight against the real hard drugs that do the damage.

Every pound spent on treatment saves £3 in costs to the criminal justice system. If the illegal drug structure is dismantled, there will be less street dealing, fewer robberies and less gun crime. The Liberal Democrats supported the reclassification of cannabis from class B to class C. Although we acknowledge that cannabis may have certain effects, it is clear that the police should target what is really important. We want a tough approach. For instance, we want to create a new offence of dealing and thereby target the pushers. We want a new offence of dealing near schools to protect children, and an offence of pushing drugs near mental health institutions containing some of the most vulnerable people in society. Prevention is always better than cure. We want a greater emphasis on how resources are used, and we want more help for those who are addicted. They should not simply be punished—we want them to stop reoffending, get on with their lives and improve the quality of their lives.

11.4 am

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): I congratulate my hon. Friend the Member for Ribble Valley (Mr. Evans)—known in his home country, Wales, as "Lucky Evans"—on his good fortune in drawing such a high position in the ballot, and on his excellent choice of Bill. Although, like the hon. Member for Crawley (Laura Moffatt), I have never been fortunate enough to do so well in the ballot, we all know of the enormous pressure exerted on Members as soon as their names come up in the lottery. My hon. Friend could have chosen any number of Bills, but by deciding on this topic he has given us the opportunity to discuss drugs that has been sought by my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth). Like my right hon. Friend, I am disappointed that the hon. Member for Crawley is not accompanied by more members of the all-party parliamentary drugs group—and, although I am sure that the Minister will do justice to the topic, I am sorry to see that the Under-Secretary of State for Health, the hon. Member for Welwyn Hatfield (Miss Johnson), is not present, as she is responsible for drug policy.

The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart): As I told the hon. Lady, my hon. Friend the Under-Secretary is in Europe representing us on an EU committee dealing with justice and human rights.

Mrs. Gillan: I know. I had a discussion with the hon. Lady before she left. Nevertheless, her absence reflects priorities. Given the importance of this subject, it would have been helpful if she had been here today, especially as our debate on the Drugs Bill earlier this week was cut off in its prime.

Sadly, I suspect that the Minister who is present has no intention of supporting the Bill, and I doubt that the Government will give it any time. Let me issue a challenge to the Minister. I am sure that people both inside and outside the House are aware that at this point in the parliamentary cycle the Bill could easily reach the statute book well before the general election on 5 May—after which, of course, we shall have a chance to introduce and implement our own policies. Indeed, we saw an example of that this week. The Prevention of Terrorism Bill is highly controversial, but that did not stop the Government from rushing it through all its stages in double-quick time. If the Government were serious about drugs, my hon. Friend's reasonable and clarifying proposals could easily be dealt with in the same way. Will the Minister do that? I hope she will think about it carefully, because these are modest proposals.

The Bill does three things. It imposes a mandatory sentence of seven years on those caught dealing class A drugs for a third time. I tend to agree with my right hon. Friend the Member for Bromley and Chislehurst that that is not tough enough, but it sends a clear message. The Bill imposes a custodial sentence on those caught dealing class A drugs to a minor. I—indeed, all Conservative Members—feel strongly about that. The Bill also establishes an independent—that is the key word—commission to examine the effects of cannabis.

I do not have one friend who is a parent who is not concerned about their child's potential exposure to drugs. I do not know how many parents are in the Chamber today, but I am sure that they feel exactly the same. This is a modern problem born of a complex society, but it visibly destroys families and neighbourhoods irrespective of wealth, creed, colour or religion. It cuts across all boundaries.

We politicians see only the tip of the iceberg—in our surgeries, in individual cases that come to our attention and, sadly, through friends and their children. We may be able to help in a few cases through direct intervention, but we can make a real difference as politicians by constructing a legislative framework that allows the law to protect the vulnerable and punish those who prey on them.

This Bill attempts to do just that by clarifying and reinforcing the laws surrounding the abuse of dangerous drugs. The first provision will ensure that there is no doubt that, if anyone is caught dealing for the third time, there can be no extenuating circumstances. There will be a guaranteed sentence of at least seven years—and it will mean seven years when a Conservative Government come to office. I was alarmed to read that only six hard drug dealers have been given a mandatory minimum sentence since 2000. That is hardly a message of deterrence from a Government who boasted that they would be tough on crime and tough on the causes of crime.

The second provision imposes a custodial sentence on someone caught dealing class A drugs to a minor. Earlier this week, the Government made an admirable attempt in the Drugs Bill to protect children in their school environment from drugs dealers. I commended the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint), on clause 1 of that Bill, which is now going to another place. During the Committee that considered the Bill, she accepted Opposition amendments to strengthen it but did not go far enough in clause 1. Instead of offering full protection to children in and around school premises, she sought to leave in the Bill exclusions about the vicinity of a school and timing exclusions. That means that if a child goes to school premises—a place where that child is comfortable—at 10 o'clock at night or a couple of hours after the school has shut to meet a dealer, the Bill will not protect that child or provide for the aggravated offence. It was a missed opportunity.

I know that my hon. Friend the Member for Ribble Valley has studied the Drugs Bill closely and he agrees that the message to parents, children and, more important, to drugs dealers must not be diluted. The Government Bill has diluted that message. At least this Bill reinforces the message that should come from Government, irrespective of any political position.

I have looked at the provisions for the commission in my hon. Friend's Bill. Again, I throw a challenge to the Minister. I want her to accept the proposal. Unfortunately, earlier this year the Government rejected the reasonable proposal to reclassify cannabis as a class B drug. If the Government have set their face against that, let them have the courage of their conviction that that drug is harmless and let them bring in the commission to establish what they believe they are saying about the use of the drug.

I disagree with the Government's position. I think that they will disagree with even so much as formulating the commission because they have set their face against

any message going out that says that drugs are bad for people. They have bought the harm reduction message rather than the abstinence message. They have been moving in the wrong direction. A Conservative Government would move us back in the right direction.

We should look at the Brixton experiment—the trial project in 2001–02 to caution rather than arrest those who were caught with cannabis. Metropolitan police figures show that between 2001 and 2002, there was a significant increase in the area in drug-related offences. It was alarming. Incidents of drug trafficking increased from 18 to 36, a 100 per cent. increase. Incidents of possession rose from 76 to 242, a 218 per cent. increase. Other drugs offences increased by 300 per cent. Total drugs offences increased by 197 per cent., which is alarming. Many people spoke out against that. Sir John Stevens said: "Children are massively vulnerable." He did not think that anything that exposed children to more contact with drugs should be tolerated. The project did expose more children to contact with drugs. The deputy assistant commissioner of the Metropolitan police noted:

"Our school officers report that children feel that the police are sending mixed messages to young people by on the one hand trying to deter young people from abusing and experimenting with drugs, and yet appearing hypocritical by not strictly enforcing the drug laws."

That is the environment that has been created by the Government. It is against that background that my hon. Friend is proposing the commission. It is something that should bear consideration.

The hon. Member for Crawley made some valuable points relating to the medical profession. I agreed with a lot of her speech. Her position on the all-party parliamentary drugs group is well known. However, I hope that, like me, she was alarmed to read the results of a major study by researchers from the Netherlands, which surveyed 2,500 young people between the ages of 14 and 24. That study, which is I believe was published in an online version of the *British Medical Journal*, followed 2,500 young people living in Munich, Germany. It showed that regular cannabis smoking increased the risk of developing psychosis by 6 per cent. over four years. There was a substantially greater impact on young people who had already been identified by psychiatrists—here I agree with the hon. Lady—as having the potential to become psychotic. The minute they took to regular cannabis smoking, they raised the risk of developing psychotic mental illness by 25 per cent.

That needs to be looked at more carefully. More and more information coming in from the medical profession is pointing to the harmful effects of a marijuana or cannabis habit. It is essential that the Government do not sit back in a relaxed fashion and say, "It is all right if you have it for personal use and have a little bit. The police are not really going to pursue it", because real evidence is starting to come in from the medical profession that those drugs are particularly harmful.

New medical information is becoming available. Another report says that regular users of cannabis could be putting themselves at risk of a stroke. It was published in the *Journal of Neurology, Neurosurgery and Psychiatry* literally a couple of days ago. A 36-year-old patient was a sporadic user of cannabis. The first incident occurred after he took some cannabis—he only drank occasionally and was not a regular user of any other drugs or alcohol. He lost his ability to speak and a few hours later suffered convulsions. A brain scan revealed a patch of bleeding and a blood clot. A year later, again after a bout of cannabis smoking, he lost the ability to talk and experienced hemiparesis on one side of his body. Another brain scan revealed a further blood clot. He stopped using cannabis for 18 months but, unfortunately, fell back on his abstinence. He was unable to recognise sounds and there was more bleeding and damage in the area where the previous bleeding occurred.

With that sort of information coming forward, the Minister has to admit that we need further and better particulars and that the message that has been sent by the Government on that drug does not contain enough warnings to our children and to the people who deal in drugs. As I said earlier this week in the Chamber, there is evidence that there is now far more cannabis being imported into this country and far more cannabis available on the streets the length and breadth of this country. As my hon. Friend said, the price of those drugs is coming down alarmingly. Drug dealers are treating them as loss-leaders to introduce young people—their market for the future—into the drugs culture.

I do not want to delay the House any longer as I want to hear what the Minister has to say. However, I believe that the Government have done a disservice to our society in this area. They have been heading in the wrong direction and many people feel disillusioned and let down by their drugs policy. We want to give peace of mind to parents and security to teenagers so that they grow up free from drug dealing. We want to give families the security that comes from having a coherent, consistent and committed anti-drugs programme. That is what the next Conservative Government will give to this country.

We will maximise on that area because the rewards are enormous. We can bring a generation of addicts back into society so that they can contribute to their communities. We can make sure that our children grow up in a safer and more secure society than the one we have inherited. That is what a Conservative Government will deliver after the next election, but in the meantime—in the absence of that Government, and without knowing quite when the election will come—I have great pleasure in supporting the Bill.

11.21 am

The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart): I join other hon. Members in congratulating the hon. Member for Ribble Valley (Mr. Evans) on raising this important subject in the Chamber. The Government are determined to deal effectively with the menace that drugs cause in our community.

The right hon. Member for Bromley and Chislehurst (Mr. Forth) asked why people were, or were not, here this morning. It seems to me that the Bill's provisions are largely dealt with by existing legislation or can be dealt with in other ways, so hon. Members might be absent because, like me, they do not think that the Bill would

[Fiona Mactaggart]

necessarily move us forward. However, the discussion and unanimity of concern among Members about the harm caused by drugs and our determination to tackle that harm might help us to make progress.

Let me explain why the proposals in the Bill are unnecessary and would not be effective. At first sight, the mandatory sentencing provisions might seem superficially attractive, but I am afraid that consideration shows them to be flawed and redundant. Section 110 of Powers of the Criminal Courts (Sentencing) Act 2000 already requires a court to impose a custodial sentence of at least seven years where a person is convicted of a class A drug trafficking offence—including the offence of supply of a class A drug—that was committed after 30 September 1997. The date is important because of the principle of not imposing a retroactive penalty. If we believe that sentencing provisions have a deterrent effect, it is important that we do not create retroactive penalties.

If, at the time the offence was committed, under the existing Act, the offender was aged 18 or over and had been convicted in the United Kingdom of two other class A drug trafficking offences, one of which was committed after he had been convicted of the other, the court may impose another sentence—that is, one of less than seven years—if it is of the opinion that there are particular circumstances that relate to any of the offences or to the offender that would make it unjust to apply a custodial sentence of at least seven years in all circumstances.

The provisions in clauses 1 and 2 are inappropriate because they remove the discretion of the courts to impose less than the mandatory minimum sentence for a third section 4(3) offence. We believe that the courts must be given discretion to allow for particular mitigating circumstances in those cases where a seven-year sentence might not be appropriate. Examples include cases where there has been coercion or intimidation, where addicts are dealing very small amounts to fund their habit, or where schoolchildren are passing on drugs to their friends. In such circumstances, it is important that while Parliament sets a clear framework, we allow, where mitigating circumstances absolutely exist in a particular case, the judiciary to take those into account.

Mr. Evans: Is not the Under-Secretary staggered by the low level of such cases where the minimum sentence is given? What does she put that down to? There have been a mere half a dozen since 2000.

Fiona Mactaggart: The figures have not been collected for very long and because of the date timing, there is an impact on the number. I do not know the answer; I have asked officials to try to find out the background to the cases but it looks like we do not have that information. In fact, we are trying to remove from the courts and the police the burden of providing vast amounts of information to the Home Office. That said, I do not think that there is evidence to suggest that the courts have used in a cavalier manner the discretion—indeed, it is quite a narrow one—available to them under the Act.

The hon. Gentleman is right to say that not many mandatory minimum sentences seem to have been passed by the courts, but I am confident that the courts would not cavalierly reject the mandatory minimum sentence; actually, they do not have that power and must take into account specific circumstances. That may suggest that what he fears is not happening. I hope that that is the case, but we must drill down further.

In most respects, I have great confidence in the judiciary, although there will be moments of disagreement, inevitably. But I do not think that where Parliament clearly sets out a minimum sentence framework and allows the courts some element of discretion, they would be inclined to discard the framework established by Parliament. Were the courts to do so, my right hon. and learned Friend the Solicitor-General and my noble Friend the Attorney-General have the power to take the accused to court to overturn an unnecessarily lenient sentence. The hon. Gentleman will have seen my right hon. and learned Friend on the Bench beside me and we were discussing that particular point. She said clearly that she and the Attorney-General were very eager to use that power, were there to be inappropriately lenient sentences for drug dealers.

A mandatory prison sentence for a person aged 17 or under for dealing for a profit is unnecessary and unworkable. It removes discretion from the courts and cuts across the role of the Sentencing Guidelines Council. Courts already have the discretion to take into account, as an aggravating factor when considering the seriousness of an offence, the deliberate targeting of vulnerable victims. Let us be clear; "vulnerable victims" includes those under 17. A victim is the child to whom drugs are sold. There is no doubt that children are covered by that offence, as is made clear by the guidelines issued by the Sentencing Guidelines Council in December 2004 regarding the overarching principles to be followed when deciding the seriousness of offences.

Every court must have regard to the guidelines that the Sentencing Guidelines Council issue on the principles of sentencing, including aggravating and mitigating circumstances. That is in its work programme for 2005. Parliament will have the opportunity to comment on that draft guidance before it is published, so there will be a further opportunity to toughen up the impact of sentencing guidance for crimes in which children are victims.

A child who purchases from a dealer is a victim of a criminal offence, as well as being involved in an offence. I am confident that the courts will accept that and that the sentencing guidelines will provide an opportunity effectively to achieve the hon. Gentleman's ambition, which I share, that when a child is the victim of a dealer that should be taken into account when sentencing the dealer. Removing the courts' discretion when sentencing in the sort of cases envisaged in the Bill could mean that a dealer who deals only on a small scale to fund his habit and not for profit, and who may not be much younger than the victim, could automatically end up in prison when a non-custodial sentence involving treatment for drug misuse and reparation activity might be more appropriate. For example, the community order in the Criminal Justice Act 2003 provides the courts with a tough and flexible non-custodial sentence, which may be appropriate in some cases. It will enable the courts to construct a bespoke community penalty tailored to the offender and the offence.

The range of options that will become available from April this year includes participation in a specified activity—for example, to make reparation—and programmes aimed at changing the offending behaviour. The hon. Gentleman referred to the importance of such programmes in prisons, but they can also be used as part of a non-custodial sentence within the new sentencing framework. They can be a mandatory part of the framework and include curfews, exclusion from certain areas—that is often relevant with such offences—residence requirements, drug rehabilitation, including treatment and testing, and supervision. In some cases, such a sentence may be more effective. The hon. Gentleman and the Government share the ambition to find sentences that are effective in reducing drug dealing and misuse, and such a sentence may be more effective than that proposed by the hon. Gentleman.

In the Drugs Bill, the Government are introducing measures to protect young people and further close the loopholes open to dealers. It will make dealing by someone over the age of 18 on or in the vicinity of school premises, when they are in use by young people, an aggravating factor that the court will have to take into account when considering the seriousness of the offence of supply. The hon. Member for Chesham and Amersham (Mrs. Gillan) argued for an amendment referring to the hours when the offence should be applicable. She knows that the purpose of the aggravating offence is to protect young people. To make dealing in the vicinity of a school at 2 am in the morning an aggravating offence would not achieve the ambition that the offence is designed to achieve. That is why we limited the hours during which the offence is available.

Mrs. Gillan: The hon. Lady is poorly briefed because the Drugs Bill provides that the offence occurs only within one hour of the school being used as a place of education for young people. If the school shuts down at 7 o'clock in the evening, the aggravated offence would not apply as early as five past 8. Surely she can see that it would have been much simpler to make the offence an aggravated offence if it occurred in or around a school at any time, without the rider referring to the timing of the usage of the school, which will be a gift to defence lawyers.

Fiona Mactaggart: The purpose is to protect young people and children. I am not of the view that dealing down the road from Herschel grammar school in my constituency at five past 8 in the evening creates a bigger threat to young people than dealing a mile and a half away where there is no school. It does when the young people are leaving school and when they are near the school, and the ambition of the provision is to address that. The hon. Lady is wrong if she thinks that geography is the issue. The issue is the presence of children and young people. The issue is dealers using the school as bait to catch vulnerable young people. It is not buildings that are not actually being used or have not been used by young people for the past hour.

Mrs. Gillan: The Minister has just said that it is irrelevant that the buildings exist as a school. In that case, there is no point to clause 1 of the Drugs Bill. The very premise of the clause is that the school buildings are the attraction for dealers and that is where children need to be protected. Her argument is flawed and I do not think that she fully understands it.

Fiona Mactaggart: I absolutely understand it, and I thank the hon. Lady for patronising me. The point of clause 1 of the Drugs Bill is to protect children, not to protect school buildings. In order to achieve that, we have ensured that the provision connects the aggravation of the offence for sentencing purposes to the times that children are likely to be at or near the school. We have not limited the times to when teaching is actually taking place: we have provided a window either side of such times when children may be around. I have not been made aware of any evidence that children hang around near schools when teaching has finished for the day. If such compelling evidence existed, it would have been discussed in the debate on clause 1, but it was not.

The Drugs Bill will make using a child or a young person as a courier in a drugs transaction an aggravating factor that courts must take into account. The Bill will also close loopholes exploited by dealers by imposing an evidential presumption on them. That change will have a powerful effect, because dealers will be charged with a supply offence if found in possession of a quantity of drugs over a certain threshold. It will allow courts to draw such inferences as are appropriate from an unreasonable refusal to consent to an intimate search, X-ray or ultrasound scan designed to detect concealed drugs. In that way, we will substantially increase the power of courts to deal effectively with the actions of dealers that so damage young people.

The second part of the hon. Gentleman's Bill proposes a commission of inquiry, but I suggest that the proposal is unnecessary. At present, the Government take their advice on such matters from the Advisory Council on the Misuse of Drugs, which is an independent non-departmental public body. The establishment of the proposed commission would in many ways replicate the existing procedures and undermine the authority of the ACMD. We believe that such matters should be dealt with objectively and considered by the best experts in the field.

In March 2002, the ACMD produced its report, "The classification of cannabis under the Misuse of Drugs Act 1971", which detailed the physical and mental health risks of taking cannabis. On the basis of the recommendations contained in that report, the Government reclassified cannabis from class B to class C.

Mr. Evans: Frankly, the report was damning about cannabis and I am still mystified about why it made the recommendations that it did on the evidence that was adduced. A number of subsequent reports have pointed to links between schizophrenia and other psychotic disorders and the use of cannabis. Would it not be useful to establish a commission to examine that new evidence and assess what has happened in the 12 months since reclassification?

Fiona Mactaggart: The hon. Gentleman is right—I was just coming on to the point—that we need to keep this problem under regular review. There is no doubt that new scientific evidence on the impact of cannabis,

[Fiona Mactaggart]

particularly the link between mental health and the drug, has changed our understanding of these matters over the year. It is important that such information is properly reviewed.

The hon. Gentleman initially asked why, given that the report confirmed that cannabis was a profoundly harmful drug, it was recommended for declassification from B to C. Some people might think from reading our debate that the C classification means that the drug is not illegal, but that is not the case. Cannabis is an illegal drug and a harmful substance, but it seemed more appropriate in respect of the nature of the harm that cannabis does for it to be classified together with other class C drugs. The comparison with A class drugs such as heroin was clear. That explains the recommendations of the Advisory Council on the Misuse of Drugs. Other drugs in class C, including GHB, liquid ecstasy and rohypnol, the date rape drug, are harmful, which is why they are controlled under the Misuse of Drugs Act 1971.

The ACMD meets regularly every six months and cannabis is a standing item on its agenda. It does review new evidence and it is charged with providing advice to the Government on these matters. It has produced some influential reports, such as "Hidden Harm" That was an important report that changed our policies. The ACMD has produced thorough examinations of the harmful effects of drugs such as cannabis, ketamine, methylamphetamine and so forth. It produces professional and thorough reports and draws its members from a range of disciplines.

When considering the classification of any drug, the job of the ACMD is to consider the relative harms of the drug. That is not to deny that any of the drugs controlled under the Misuse of Drugs Act is harmful. That is a given. The ACMD is not trying to find ways to reduce controls on drugs. Rather, it is considering as objectively as possible the relative harms of individual drugs and making recommendations about classification. When it believes that a drug should be subject to increasing controls, it will make a recommendation to the Government to that effect. For example, at a meeting in November 2004, the ACMD recommended that the drug ketamine should become a controlled drug. I highly recommend that ACMD's ketamine report, which is now available on the Home Office website. The Government have accepted the recommendations in principle and we shall consult on that matter later this month. With respect to ketamine, the ACMD is recommending increasing controls.

The structure and procedures of the ACMD are contained in primary legislation, particularly in schedule 1 of the 1971 Act, which provides that its membership should include persons with professional experience such as practitioners of medicine, pharmacy and the pharmaceutical industry. It seems to me that this body, which receives nominations from a wide range of sources, including relevant professional bodies, is the right body to keep continuously under review the impact of cannabis. We need to ensure that it does its job.

The hon. Member for Ribble Valley referred to recent studies, such as the one produced by Professor Jim van Os of Maastricht university, which was based on surveys of 2,500 people from Munich between 1995 and 1999. The professor concluded that cannabis use moderately increases the risk of psychotic symptoms in young people, but has a much stronger effect on those for whom there is evidence of a predisposition to psychosis. We should use the evidence of such reports to ensure that we have effective ways of dealing with cannabis.

The ACMD takes the view that the evidence produced since its report on cannabis does not affect the overall weight of evidence in its conclusions about health risks. Regular and heavy use of cannabis could be a contributory factor to individuals developing mental health problems such as schizophrenia, especially when people already have a predisposition to such problems. The ACMD also certainly accepts that cannabis can worsen mental illness that already exists. The question remains how we should best deal with the problem.

Only yesterday, I spoke to Marjorie Wallace, a doughty campaigner on mental illness. She supports the Bill before us, but also recognises that, in dealing with the harm that cannabis produces, particularly among young men, the most important requirement is to educate them about the risks.

I thank the hon. Member for Ribble Valley for his support for the "Frank" campaign. Speaking to young people in ways that they can understand is important. I have with me here some of the leaflets that are available and I have to say that they are not generally directed to middle-aged women such as myself. I am not sure whether citing some of the language used could be unparliamentary, but the major theme is clear: smoking cannabis could "screw you up". It manages to use messages that connect both to the beauty theme mentioned by my hon. Friend the Member for Crawley (Laura Moffatt), the mental health risks and the danger of getting a criminal record. The leaflets inform young people in a range of ways that cannabis is not just okay because it is a class C drug. It is absolutely not okay.

It is interesting to note that, while some people of my generation think that the reclassification of cannabis to a class C drug amounts to something like legalisation, young people do not. The reclassification provided a context in which we could mount a powerful education campaign—the sort of campaign that might prevent more young people from starting to smoke cannabis and getting into the habit of taking it. It is different from emphasising punishment and conviction.

When I was young, I simply thought that bad things would never happen to me. I thought that if I did naughty things, I would never get caught. I thought that I would live for ever. *[Interruption.]* I did not really think that I would live for ever. There is a sense that young people believe that they will not get caught and that it does not matter. Sometimes the ways in which we communicate the consequences of their actions need to be tailored specifically to young people themselves.

We know that our debate is not going to reach young people, but we took the opportunity offered at the time of cannabis reclassification to target credible messages on young people, based on the kind of harm that cannabis does. By that means, we managed to make our message have a more powerful effect. The distinction between cannabis and class A drugs is clearly giving the Government's strategy the right balance and focus. Reclassification has also allowed the police to focus

greater resources on priority areas, such as class A drugs. Resources have been channelled into operations such as closing down crack houses.

The hon. Member for Ribble Valley referred to Operation Nimrod in his area. That is an excellent model. It is by no means unique, but it is a powerful example of how what we have done has helped to free police resources to tackle drugs operations in an effective and targeted way. Estimates from the police show that, since January 2004, there have been one third fewer arrests for possession of cannabis, resulting in a projected saving of 199,000 police hours. Classifying cannabis as class B again would, in effect, divert resources from the policing of class A drugs in order to criminalise thousands of young people for the possession of small amounts of cannabis. Operations such as Nimrod or the joint ACPO-Home Office initiative, Operation Crackdown, which is currently under way and ensuring that the Nimrod approach is widely adopted, would be damaged. There is a scheme to recognise the best drugs operations, awarding commendations and bringing police forces together at a conference to consider good operations and spread best practice. In that way, we can effectively target drug crime.

All that has had a result on acquisitive crime connected to drug misuse, to which hon. Members have referred. According to the British crime survey, there was a 42 per cent. reduction in burglary between 1997 and March 2004. In thefts, there was a 34 per cent. reduction, from 5.6 million to 3.7 million. We have made a difference on the acquisitive crime associated with drug misuse.

Opposition Members may say that if the British crime survey says that, what does recorded crime tell us. I know that they have concerns about that, but the pattern is exactly the same. Burglaries in 1997 were more than 1 million, and in 2003–04 the figure was 818,000. Thefts, excluding vehicles, were at 1,054,000 in 1997; the figure has gone up slightly, but not a lot. We have reached the stage where acquisitive crime is coming under control.

Mr. Paul Marsden: Does the Minister have the equivalent figures for gun crime related to drug use and pushers?

Fiona Mactaggart: They are not in front of me, but I will write to the hon. Gentleman, who is right to indicate that there is a significant problem with gun culture, which is often associated with drug use and misuse. There is a cycle involving those in which the causative factor is not clear, which is one reason why we have made such rigorous efforts to deal with the gun menace and to work not just using the criminal justice system but with civil society, including such groups as Mothers Against Guns, to reduce the gun culture often associated with drug culture. I do not, however, share the hon. Gentleman's view—I do not know whether this is his view, but one might read it as being his view—that legalising cannabis would make any contribution to the reduction of that gun culture.

The general principles set out in the ACPO cannabis enforcement guidance are clear. In general, there is a presumption against arrest, but the police can arrest in specific circumstances, including where an adult is smoking cannabis in a public place. As with all policing, it is for the individual officer to judge the most appropriate response to a specific set of circumstances within the overall framework of the guidance. Clearly, where someone is openly flouting the law, they are liable to be arrested, but our main energy is directed to ensuring that our drugs laws reflect the relative harm of drugs, so that the Government can send an effective and credible message to young people about the dangers of the misuse of drugs.

Mr. Evans: The Minister is making a logical argument, but following reclassification there was a headline in *The Observer* reading "Drug Surge Follows Law Change". The newspaper specifically related the surge to the fact that the law had changed, saying that the police had taken their eye off the ball and more people were taking cannabis. How does the Minister react to that?

Fiona Mactaggart: That story was based on what was said by a single officer in the Metropolitan police. There is no evidence of a surge in imports. *The Observer* referred to one officer, but the Met and ACPO support the policy on reclassification. They changed policing on personal possession, but they did not affect policing on Customs, or Customs policy on importation and dealing. Penalties for those things have not changed at all: we still have a 14-year penalty for dealing. The police have been shown to be effective in targeting dealers and importers. Indeed, perhaps the 199,000 police hours to which I referred earlier have enabled the police to target mass importation of cannabis rather than spending their time arresting users who were smoking with their friends. Frankly, in my view, that is a better use of police time. That action is likely to reduce the harm that cannabis can cause more effectively than anything else.

Our public information campaign, including 600,000 leaflets and radio and television advertisements, has had a real impact on the young people who are the most vulnerable targets for cannabis.

Mrs. Gillan: The Minister says that 199,000 hours of police time have been saved. I presume that that would equate to just one policeman over 20 years, which is hardly an enormous saving in time. Following my intervention earlier this week on the Minister with responsibility for drugs, can the hon. Lady confirm that the amount of drugs seized in the latest crackdown is not as great as the quantities seized back in 1998 and 1999? Has she had the opportunity to study those figures and the reference sources that I gave? Can she give me figures that would disprove those that I cited? Admirable though it is that the police are seizing quantities of drugs, it does not seem that they are seizing as much as in 1998–99.

Fiona Mactaggart: I do not have all the figures in front of me, but I will write to the hon. Lady.

We are determined to tackle effectively the importation of drugs and reduce the use of drugs in our communities. The British crime survey shows a slow but steady decline in cannabis use among young people. Under the present Government, the number of people entering and being retained in treatment has increased.

[Fiona Mactaggart]

We are tackling the supply of drugs in the UK. We are educating young people about the harm that drugs cause us all. We cannot be complacent. There is more to do to make our families and communities safer. However, the measures in the Bill will not contribute to that aim, so I cannot commend it to the House.

Question put, That the Bill be now read a Second time:—

The House divided: Ayes 13, Noes 11.

Division No. 97] **[12 noon**

AYES

Conway, Derek	Marsden, Paul *(Shrewsbury & Atcham)*
Davis, rh David *(Haltemprice & Howden)*	Ottaway, Richard
Evans, Nigel	Stunell, Andrew
Gillan, Mrs Cheryl	Tyrie, Andrew
Hawkins, Nick	Widdecombe, rh Miss Ann
Hughes, Simon *(Southwark N)*	**Tellers for the Ayes:**
Lilley, rh Peter	**Mr. Eric Forth and**
Maclean, rh David	**Mr. John Randall**

NOES

Adams, Irene *(Paisley N)*	Mactaggart, Fiona
Campbell, Ronnie *(Blyth V)*	Pound, Stephen
Colman, Tony	Stringer, Graham
Fitzpatrick, Jim	White, Brian
Harman, rh Ms Harriet	**Tellers for the Noes:**
Lammy, David	**Paul Clark and**
Lilley, rh Peter	**Laura Moffatt**

It appearing on the report of the Division that fewer than 40 Members had taken part in the Division, MR. DEPUTY SPEAKER *declared that the Question was not decided, and the business under consideration stood over until the next sitting of the House.*

David Davis (Haltemprice and Howden) (Con): On a point of order, Mr. Deputy Speaker, the rule of the House is that the vote must follow the voice, and on this occasion the Minister spoke and voted against this excellent measure. I seek your advice on the propriety of Government Whips blocking the No Lobby to prevent hon. Members voting in order to allow a procedural device to destroy this important measure, which obviously has the support of the House today.

Mr. Deputy Speaker (Sir Alan Haselhurst): I am not sure what the right hon. Gentleman means about obstruction. It is not unusual for persuasion to be used until the eleventh hour with regard to votes in this House, and that is not a matter for the Chair. The Chamber is not the only place in which persuasion takes place.

School Meals and Nutrition Bill

Order for Second Reading read.

12.12 pm

Geraint Davies (Croydon, Central) (Lab): I beg to move, That the Bill be now read a Second time.

The Bill is about providing an environment and regime for healthy eating in schools to enable our children to have healthy eating habits for life. It is the Government's responsibility to protect future generations from obesity and bad health, and the Bill is part of that process.

Today, I shall briefly set out the background to the problem of obesity in terms of child and adult health, and mention my involvement with the issue in the run-up to the health White Paper and the recent statement on school meals, both of which represent excellent progress towards a comprehensive strategy on general nutrition and healthy choices in schools. Then I shall run through the elements of my Bill, which contains a menu of practical steps to tighten the school regime in favour of better children's nutrition. In the first place, a food-based approach will be used to screen out many bad meals, but the Bill heads towards a nutrient-based approach, where children will eventually face choices between healthy meals rather than between healthy and unhealthy meals, which is the case at the moment.

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): I have not completely got to grips with the Bill. When I dealt with school meals several years ago, it was suggested that I should try to ban—or at least reduce the amount of—chips in school meals. I took advice from schools, which said that when they banned chips or unhealthy food from the menu, private enterprise stepped in and parked a chip van down the road from the schools and the children patronised it daily. Will anything in the Bill prevent children from having that freedom?

Geraint Davies: Elements in the Bill confront that problem. The basic idea is to enable head teachers to keep children in school and not to institute a comprehensive ban on chips from all meals and all schools immediately, but to take a gradual approach to improving health. I welcomed the Government's reintroduction of nutritional standards after the Conservative Government had removed them altogether 20 years previously.

We want a realistic strategy for health through school meals, but there is a debate about the speed with which we can do that. Many people want an immediate nutritional approach so that, from day one, all school meals are healthy. That is difficult to sustain for reasons that have been given. The other approach is more gradualist but accelerates later, and I advocate that. I am all in favour of only healthy meal choices if that is practically possible. I believe that that will happen in the future, but it cannot happen on day one.

Let us consider the problem that confronts us. Two thirds of the population are overweight or obese. The figure has increased fourfold in the past 25 years. Obese people are expected to live nine years less than average-weight people, which means that the current generation of children are expected to have shorter lives than their

parents. Obesity is therefore a public health issue that has taken on the same proportions as smoking, which is why it is important to grasp the nettle and confront it. The White Paper and my right hon. Friend the Health Secretary's recent statement show that the Government are moving towards a comprehensive approach to tackling the problem. The Bill would accelerate the changes to protect our children's health.

Some 30,000 people a year die from obesity-related conditions. The conditions include arthritis, heart problems, kidney problems, diabetes and various cancers. Since 1991, diabetes has increased by 65 per cent. in men and 25 per cent. in women, and cancer deaths that are specifically related to obesity have increased by 14 per cent. in men and 20 per cent. in women. The problems are therefore enormous.

The economy is also affected, not only by premature deaths but by the 11 million days of work that are lost through back pain, exacerbated or caused by obesity. The cost to the economy and the health service runs into billions of pounds. Our record on obesity is sadly the worst in Europe.

Children face diminished longevity. In the past 10 years, obesity in two to four-year-olds has doubled, and in six to 15-year-olds it has tripled to 16 per cent. Those children have a 50 per cent. likelihood of becoming obese adults and thus dying nine years earlier. Type 2 diabetes is emerging in children—it was previously found almost exclusively in adults. Obesity-related conditions are therefore affecting children. Overweight children suffer other disorders such as psychological problems, which are sometimes linked to bullying, low self-esteem or depression. That undermines their achievement and attainment.

An increasing number of studies show that better nutrients and meals lead to better concentration and attainment and less antisocial behaviour. Those issues are critical. The nutrient balance of children's food—whether it is impregnated with fats, salt and sugar or good and healthy, as well as the overall calorific intake—is going in the wrong direction. The House might be interested to learn that a king-sized Snickers bar contains more calories than a sirloin steak with potatoes and broccoli—I know which I would prefer. It is quite frightening to realise the amount of calories that we can take in without any valuable nutrients.

The national diet and nutrition survey revealed the obvious fact that too much of the wrong food—fat, sugar and salt—was being eaten by adults and, particularly, by children. We need to confront this problem, and it is not enough simply to say, "Oh, well, we'll give children a bit more exercise." Commentators in the industry have said that children's calorific intake is no more than it used to be, and that the problem is a lack of exercise. However, those studies conveniently omit to mention the intake of snacks between meals—chocolate, crisps, Coca Cola or whatever—so they should not be relied on.

I respect the fact that exercise has a role to play. The recommended amount of moderate exercise each day for children is 60 minutes. Some 30 per cent. of boys and 40 per cent. of girls do not achieve that, and people take less exercise as they grow older. The standard of physical education in our schools is lower than that of our European colleagues, and the Government are investigating that and tightening it up. There is also a trend towards people staying at home and watching television or playing on their computer, rather than being out and about. These are important issues to take into account as part of a comprehensive plan.

My focus, however, is on nutrition in schools. Today's schoolchildren represent the first generation in 100 years whose life expectancy is falling. A study in Leeds has shown that children now wear trousers two sizes larger than they did 20 years ago. The obesity rate is predicted to rise to 50 per cent. by 2020, although I am cautious about such extrapolations. In reality, however, the incidence of obesity is going up too fast, and to a dangerous level.

The Food Standards Agency has stated that children are now eating half the recommended amount of fruit and vegetables, and that the vast majority are consuming more than the maximum amount of fat, salt and sugar prescribed for adults. We also have a new generation of adults living on convenience foods rather than handing on food preparation skills to their children. This creates a new challenge for our schools to teach children to prepare food properly—and even to help parents to do so.

The advertising industry tends to focus on where the money is. If I were to say, "Here's a potato. How can I make some money out of it?", I would not be advised simply to sell it. I would probably be told to mash it up with fat, salt and sugar, shape it into a dinosaur and put it into a package, before composing a jingle that would sell it. Obviously, more money could be made that way. It is therefore not surprising that the top 10 food brands spend about £450 million a year on advertising. The top four are McDonald's, Coke, KFC—which used to be known as Kentucky Fried Chicken—and Burger King. They use toys to gain the loyalty of children and to try to build brand awareness among pre-school children so that they will become brand loyalists who will spend their lifetime consuming their products, which could possibly lead to an early death.

Mr. Paul Marsden (Shrewsbury and Atcham) (LD): What is the hon. Gentleman's view of large corporations such as McDonald's sponsoring sports kits or donating money to schools? That clearly influences the choice of products that children will buy in the future.

Geraint Davies: That is an important point. I am not against large corporations per se sponsoring events in schools, but we must think carefully about which organisations do it. There would be a big difference between sponsorship in a school by McDonald's and by a non-food product such as a toothpaste brand, for example—perhaps I should not mention names—if one could show that the toothpaste helped to prevent decay. Head teachers and governors should be careful about this, but I certainly do not think that it is a good idea for corporations promoting a lifetime's loyalty to consuming high fat, salt and sugar products to be allowed to sponsor schools. My approach is therefore slightly mixed, but I hope that it is clear.

The issue of protecting children has been raised. Another issue is whether children should be protected from being bombarded in pre-school television

[Geraint Davies]

schedules with imagery suggesting that eating unhealthy food is "cool". I am glad that the Government are now considering that.

These problems have been known, and the Government are beginning to address them through the health White Paper, to which I was pleased to contribute on issues of advertising, targets for salt, sugar and fat and controlling clarity of labelling so that consumers know what they are eating. A great deal of labelling lacks clarity, and the highest consumers of low-nutrient products are least likely to look at labels and make such judgments. We need to make it easy for people to know what is good or not good for them, or what should be eaten in moderation.

During the emergence of the health White Paper, I put forward a number of other ideas: making certain types of food, such as chips, unavailable in schools at certain times; controlling vending, which is a sort of Trojan horse of fat, sugar and salt to people who are trying to introduce a healthy food regime in schools; and keeping children in at lunchtime to increase participation in a healthy food regime. I have now compressed those ideas into the Bill, which I put out just before the Secretary of State made her welcome statement on raising school meal standards. I was also a supporter of the children's food Bill put forward by my hon. Friend the Member for Stourbridge (Ms Shipley).

The Secretary of State has issued minimum health specifications for processed foods such as burgers, sausages and cakes in terms of salt, fat and sugar, which I welcome, on the way towards tougher nutrient-based standards in 2006. She has introduced the idea of a schools food trust, giving independent support and advice for parents and schools, which the Bill specifically mentions. I shall refer later to my desire for a more pushy, comprehensive approach from that schools food trust to deliver standards rather than simply giving advice. She also mentioned the need for parents to have a greater role in terms of empowering parents to examine menus. I shall deal with that later in terms of the need to give parents the tools to bring about a healthy regime rather than talk about it without the knowledge needed to deliver that change.

In November 2004, the health White Paper introduced vocational qualifications for school caterers. In July, local education authorities were given specifications for catering contracts to help get nutrition on to the agenda, as previously many LEAs were simply buying to a price as low as 37p per child, so the nutrient value of those meals was increasingly small. There is an argument for including nutritional value as well as cost in that tendering process. From September 2006, tougher minimum standards for meals and nutrient-based standards will be considered, of which I am also in favour. In the first instance, my Bill mentions food-based standards, with the aim of not having chips or deep-fried products on certain days. I welcome the aspiration, however, to move to a more scientifically driven, nutrient-based analysis, which is implicit in clause 7 in terms of nutritional standards and my recommendation that Ofsted should play a role in nutritional standards and measurement.

Legislation is needed at some point, partly due to the extended school days. At the moment, education legislation does not cover the new breakfast clubs, after-school activities and so on.
There is a new opportunity to make progress on some of these ideas. I hope that some of those contained in the Bill will be embraced in that process. Indeed, that is the Bill's purpose.

Vending, which the Government have been looking at, is also addressed. The health White Paper showed that there was a demand among parents for a whole-school approach to healthy eating, including vending. It is refreshing to learn when we ask the public that they are in many respects ahead of the Government in pushing for such an approach.

My proposals are about not a nanny state, but a public duty of care. In my view, the public agree with me that any Government should protect our children in the school environment in which they are educated and prepared for life. School is not a social club where people can choose whether to learn or to loaf about, so nor should they be able to choose to consume untold amounts of unhealthy food. A regime should be in place through which they can learn about eating healthily—and, hopefully, they in turn pass on that knowledge to their children.

The Government have made other progress, but I will not refer to it all because if I did we would be here all day. However, I welcome the provision of free fruit or vegetables for four to six-year-olds who attend nursery. I hope that that will be extended because children need four or five portions of fruit or vegetables a day. According to one standard, at least one of the starchy foods—bread, potato, rice and pasta—should not be cooked in oil or fat. That is a fairly minimalist standard to adopt, but only 83 per cent. of schools deliver on it. In other words, the remaining 17 per cent. do not offer an option that is not completely immersed in fat or oil.

One of the Bill's innovations is the concept of unavailability. Instead of simply requiring that a certain amount of healthy food be available, it requires that certain foods shall not be available on certain days, especially deep-fat fried vegetables and the like. It prescribes that, in the first instance, two days be fat-free, but the head or board of governors of a school could choose to provide healthy meals for the entire week, as Jamie Oliver wants. I support that idea as well, but this provision is a more modest approach to meeting that ambition.

The Bill requires the unavailability of food low in nutritional standards for a minimum of two days, but as I said, that can be extended. Interestingly, the Health Committee found that many schools offered a cafeteria-style approach, and the Consumers Association said that the majority of school lunch menus read like a fast-food menu. That is cause for alarm and a reason to make certain types of food unavailable.

The aim is to improve food standards with a move towards a nutrient-standard approach. I hope that the Government will accept such a system by September 2006; currently, they are prepared to look at doing so. I commend what Jamie Oliver is doing. He wants all meals to be healthy, which is the ideal, but as the Opposition mentioned earlier, a problem arose in a school in Hull in that regard. It provided healthy meals

free to everybody, but unfortunately the children and/or their parents boycotted them. They simply did not consume them and took lunchboxes to school instead. That underlines that we must be realistic in making the transition from unhealthy to healthy food.There is also the question of how tasty healthy foods are. My guess is that the healthy food in Hull was not cooked by Jamie Oliver and that it was not as attractive as it might have been. We need support in that regard.

I understand that, initially, Jamie Oliver experienced a problem with take-up of his healthy food—until it poured with rain. The kids could not be bothered to leave the school and to go to the local chip shop, so they ate his food. After that, the participation rate started to improve.

That brings me to another central feature of the Bill: the power of head teachers to stop children leaving school at lunchtime. Obviously, I cannot impose rain—even I cannot do that—but children could be gated. If parents and governors allowed it, the school could keep the children in, which would make more of them eat school meals and would spread the fixed costs over more meals so that more could be invested in catering facilities and training. The Local Authorities Catering Association and its head Neil Porter have been going on about the need for more investment to raise nutritional standards. I do not for a moment rule out more investment, but by keeping children in we would cover the overheads in time.

Such a move would also be welcomed by local communities, as antisocial behaviour often takes place outside schools at lunchtime. It should be encouraged by the Government and local authorities and embraced by schools. It would be up to individual governors and heads to deliver it, but I am sure that it would be supported by parents and local communities.

Jamie Oliver says that he is spending just 37p per school meal. The average investment is 45p. The largest private sector provider, Compass, tenders for only 55p. If we add labour costs of about 65p, a margin of about 8p and administrative costs of about 15p, we end up with a price of £1.30 or £1.40 per meal. If raising the food cost from 40p to 50p would make a massive difference to the nutrient content, that would be an investment worth making. Incidentally, public schools spend twice as much on ingredients. I am not saying we should necessarily do the same, but Mr. Oliver is clearly finding it difficult to deliver on 37p, so we should consider such action if we want better nutrition.

We have a long way to go. A number of local education authorities, including Buckinghamshire, Hertfordshire and Kingston, do not even have facilities for preparing hot meals, which is disgraceful. We need more investment in training, equipment, eating space and better food. Local authorities that have "died" in terms of delivering any meals at all, let alone nutritious meals, may need support, but we should adopt a targeted approach rather than just saying, "Here's the money, chaps" and bailing them out. Over time, participation rates should pay for higher fixed costs.

I support the nutrition-based approach that is being considered for September 2006, and the Bill is consistent with that. I also support the children's food Bill, promoted by my hon. Friend the Member for Stourbridge, and I support what Jamie Oliver is aspiring to do—get junk food out of schools. As well as being consistent with those ideas, however, my Bill allows the gradual elimination of chips, although not necessarily an immediate ban in all schools, which could lead to boycotts and an exodus. It also provides for minimum standards accredited by Ofsted, so that parents know that those standards are being delivered rather than just seeing plates of food.

There has been a move towards power for parents and schools to choose to keep children in at lunchtime, and in some schools that is already happening. I think the Government should encourage it, although I realise that some schools will have limited space and a limited number of teachers available at lunchtime. However, we and parents should encourage that change. Local education authorities should facilitate it. Parents want it and we should encourage them to demand it.

The Secretary of State has pressed for greater parental control. I am all in favour of that. Under clause 7, Ofsted could provide parents with the objective reality of the nutritional standards being delivered at the school, so that they can put pressure on caterers to deliver better standards. Unless the parents have a clear measurement of nutritional standards in the Ofsted report, they cannot enforce better, healthier standards for their children.

Peter Bradley (The Wrekin) (Lab): I am sure that my hon. Friend is right. Many parents, myself included, would like to see higher standards of nutrition and healthy eating in schools, but does he agree that children, particularly if they can be attracted to the healthy eating habit, may expect higher standards of nutrition in the home? One of the problems is that, with too many parents, if they were handed a leek they would not know what to do with it. *[Interruption.]* Even though there are few Members in the House, I was sure that would provoke some interest. In educating schools and education authorities, we also need to educate parents as to the benefits of a healthy diet. A major task needs to be undertaken. I hope that that point will find some sympathy with my hon. Friend.

Geraint Davies: I agree—it is a key point. The delivery of nutritional standards at home is a central problem. Indeed, some parents call for the nutritional standards at home to be available in school. They think, "Why should Johnny not eat this pre-prepared convenience meal at school? That is what we eat at home." The question is, what should be done about that? My focus has been on delivering nutritious meals in school, but the Government should go further than that in their relationship with the parents. Now that Jamie Oliver has delivered this menu of nutritious meals at affordable prices, there are many opportunities for such menus to be available to everyday families, including mine and possibly my hon. Friend's.

A lot of families are on a budget and face time constraints. They think that the easiest thing to do is to bung the meal in the microwave. If they know that a tasty, nutritious and attractive meal within budget has been designed to be prepared on-site in a school and can be prepared in a limited time, say 20 minutes, they may want to offer that sort of menu option to their children and family over a period of weeks. There is hope. We can now begin to go to families to enable them to provide

[Geraint Davies]

more nutrition, rather than to take the easy route of low cost, high salt, high fat and sugar impregnated convenience food. It is a great challenge and a central point. I agree with what has been said.

There is a role for the Government and schools to reach out in the community as well. That being said, this is not about a top-down nanny state—it is an empowerment of families, parents, pupils and governors to enable them to have the tools to deliver nutritional benefits which, down stream, will mean less obesity and fewer health problems associated with bad nutrients and bad meals.

The Secretary of State has announced the new school food trust, which is mentioned in the Bill. The idea of that is to provide independent support to schools and parents. It will comprise a collection of people from food industries, caterers and nutritionists. I agree that it is a valuable body to set up. The Bill, I hope, makes it clear that it should have some teeth. Clause 4 says that its purpose should be not just to provide advice, but to

"improve the standards of school meals."

There is an issue about delivery of standards, rather than hoping for the best. That organisation should be accountable and expected to deliver, alongside Ofsted, on school nutritional standards, with pressure coming from parents, too.

We have a duty to act to ensure that the changes that parents want take place. One of those relates to vending, which can be the Trojan horse that delivers products of bad nutritional value into schools. Obviously, many schools rely on vending machines—£10 million of revenue comes from them. A survey commissioned by *The Guardian* found that 70 per cent. of parents wanted vending machines taken out of schools. Vending is an important issue. The net calorific increase for children during the day is from in-between snacking, which is central to the problem.

Some vending can provide nutritious, tasty and healthy food. I spoke to the biggest non-branded vending caterer, Compass, which pointed out that its machines, which are healthy, would deliver as much revenue as branded and less healthy machines. In my view, nutritious products can be delivered through vending, but we should not have a free-for-all of chocolate, crisps and fizzy drinks impregnated with sugar freely available throughout the school day to our children. The Government have moved forward with the idea of best practice. The healthy schools programme will give accreditation to healthy schools, but not if the vending facilities are not appropriate. We can see how that goes, but we should ensure that there is no unhealthy vending in schools.

On the question of schools that provide breakfast, lunch and after-school meals—allowing parents to participate in the labour market—parents want an assurance that their children will be looked after under a regime of nutritious, healthy food, rather than what is provided now. That is why we need legislation to help to deliver nutritional standards. We await that and I hope that the Government will incorporate some of these ideas in that legislation. In the meantime, we must encourage and support parents in meeting the challenges and put pressure on schools to drive up participation in school meals and the nutritional standards thereof.

I have welcomed the changes that the Government have made so far in terms of exercise, the health White Paper and school meals. I am glad, like other hon. Members, to be part of that drive towards a healthy change. I believe fundamentally that we should keep our eye on the prize—that, over time, we can deliver better nutrition, health, behaviour, attainment and a better future for healthier children who live longer and achieve more. That is worth all our efforts. After all, Britain's future is our children's future; let us make that future a brighter and healthier future for all.

12.47 pm

Mr. Paul Marsden (Shrewsbury and Atcham) (LD): I congratulate the hon. Member for Croydon, Central (Geraint Davies) on his good fortune in gaining a high position in the ballot and on proposing this important debate and Bill. The Bill is laudable in its aims and Liberal Democrats would not oppose it at this stage, although we would like to see amendments tabled if it progresses. The subject is too often overlooked.

As a parent myself, I know that there is often a sense of frustration. We expect our children in school to receive the best quality education and the best quality food. Too often, as the hon. Gentleman said, one sees vending machines supplying some of the worst possible foods and clearly sub-standard food is provided in canteens—assuming the school has a canteen. He rightly pointed out that some schools cannot even serve hot food and I hope that the Minister will explain what is being done about that. We want schools and local education authorities to have autonomy to make their own decisions, but surely children in Britain in the 21st century should be able to look forward to hot, decent food.

Overall, the Bill is laudable, but I foresee complications in trying to stop children from going to certain places. I would have thought that legislation already provides powers to ensure that children do not stray off site without permission from their parents or teachers and unless they are supposed to be elsewhere. It is difficult during lunch breaks to specify where children should be. I would also be concerned if children were told to stay indoors at lunchtime because, as the hon. Gentleman said, we want them to take more exercise and to be involved in more sporting activities, so we want to encourage them to do other things.

Geraint Davies: The point is that, with the authorisation of the governors and the head, the children would be kept within the school perimeters during the lunchtime break. The idea is not to keep them indoors. Like the hon. Gentleman, I want exercise to be encouraged at lunchtime as part of a good health regime.

Mr. Marsden: I am grateful for that clarification, but I stress that we must consider the matter in the round. The hon. Gentleman has been at the forefront of the

campaign for better nutritional standards and it is to his great credit that what he is doing today and what he has previously done will, I hope, push it up the Government's agenda.

The standard of food available to children in schools is a postcode lottery. My two young sons attend a primary school in Shropshire and I sometimes wonder what they are being fed. Their meals cost £1.45 each with options that vary daily. I know that the catering staff do their level best with what is available, but the nutritional standards do not seem to be the highest. No doubt I shall receive letters after that comment, but I stand by it.

The hon. Gentleman made an important point about vending machines, to which clause 5 refers. It is significant that large corporations can have great power and influence. I am thinking particularly of McDonald's because, only a few weeks ago, my 6-year-old was running around during football training wearing a jacket with the McDonald's logo on it. McDonald's had obviously sponsored the kit and, afterwards, my son, perhaps coincidentally, asked to go to McDonald's. I worry about such creeping influence in schools. They want more resources and extra income and may be forced to accept sponsorship and donations from companies that I deem not to be totally responsible nor the best sponsors because they may have an unfavourable influence over children, particularly concerning food and its nutritional standard.

Overall, the Bill is welcome and its principle is good. I may disagree with some aspects of it, but I hope that it will progress well.

12.54 pm

Mr. John Randall (Uxbridge) (Con): I, too, congratulate the hon. Member for Croydon, Central (Geraint Davies) on the Bill and for giving us the opportunity to discuss an important subject. I suppose that I should declare an interest as someone who visibly likes good food.

My mother was a school meals organiser-for the late-lamented Middlesex county council at the end of the war and immediately afterwards when there was a lot of deprivation and difficulty in ensuring that children received proper nutrition.

The hon. Member for The Wrekin (Peter Bradley) made the important point that we need to foster a culture of good nutrition, not only at school but at home. I pay tribute to my wife who has worked hard so that our children now actually enjoy nutritious meals. That makes everything a lot easier.

As a parent, I am irritated when we go out somewhere to eat and the children's meals offered include some of the most ghastly options, such as chicken nuggets that have not seen a chicken for some years. We need to tackle the problem everywhere, and that is why it is difficult to achieve change only in schools. As other hon. Members have said, if it is only at school that nutritious meals are force-fed to children, they will be put off even more. Nor would that endear school to children.

Geraint Davies: The idea behind the Bill is to take one step at a time, and to do something rather than nothing. I could have introduced a Bill to ban chicken nuggets, but the idea is to take one step at a time—not to force feed anyone.

Mr. Randall: Well, I disagree with the hon. Gentleman in that I do not think that it is possible to legislate good intentions. I agree with the aspirations behind his Bill, but I have seen from other legislation that it is not always that easy just to say that things must be done.

My hon. Friend the Member for Chesham and Amersham (Mrs. Gillan) mentioned earlier the problem of children going down the road from school to the fish and chip shop, and the same applies to the vending machines. If children cannot get chocolate out of the vending machines in schools, they could go to the shop down the road, although I accept that the hon. Gentleman would try to restrict children's ability to leave school to do that. I have some sympathy with that view, but I am not sure how easy it would be to put into practice.

I, too, welcome some of the initiatives by the Government, especially the free fruit and vegetables for four to six-year-olds. That has been used effectively in my constituency and, if possible, I would like to see the scheme widened. It is a question of getting the children used to such items, because some of them have not come across some of the fruits and vegetables before. I also welcome the initiatives on physical activity in schools, although more could be done. I know that the issue is being considered.

I have an example from my constituency of the problems involved. At Longmead primary school in West Drayton, the caterers decided to try to follow the guidance on introducing more nutritious food. Unfortunately they found that the children did not find the meals as appetising. Demand fell, and the caterers faced insolvency. The then chairman of governors of the school, Mr. Frank Manning, requested some help from the local education authority, because the school was very keen to increase the nutritional value of the meals. The LEA thought about it for a while and came up with an inflatable broccoli, which was its answer to promoting nutritional values. If we are to take such matters seriously, we need a serious commitment to help those who are trying to increase the nutritional value of school meals.

Geraint Davies: Does the hon. Gentleman accept that what follows from that is not that we cannot deliver nutritional standards, but that we face a challenge to provide tasty meals that children will eat? That is the very challenge being confronted by Jamie Oliver. Surely it should be our ambition to square that circle, if it can be done.

Mr. Randall: I would agree with that, but my problem—it is probably connected with cynicism—is that I do not believe that the hon. Gentleman's Bill would achieve that because it is too prescriptive. In my seven or eight years in the House, I have seen many attempts to regulate people's lives through legislation. As in this case, the legislation may be well intentioned and have a desirable outcome, but it may not represent the best way forward. Conservative Members accept that there is a big problem with the nutritional value of

[Mr. Randall]

school food and we are in favour of improving it. However, we believe that the best way to achieve that is to provide more money directly to schools and grant them the freedom to spend it themselves.

1.1 pm

The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg): I congratulate my hon. Friend the Member for Croydon, Central (Geraint Davies) on his presentation of the Bill. It deals with an issue that has, quite rightly, aroused considerable attention from the press and elsewhere. It is the fourth private Member's Bill related to school food in just over a year. On Wednesday, we saw the start of a new TV series on school dinners presented by a famous chef and I understand that dinner ladies play a major role in the series. I realise what an outstanding job they do because my mother was a school dinner lady when I was at school in the 1970s. The press have been hot on this story, producing articles with titles such as "Cool dinners", "Please, sir, can I have some more?" and "Junk the fatty school dinners". Clearly, it is a high-profile issue at the moment.

While I welcome the debate and the interest generated in this topic, I believe that the legislation is unnecessary. The Government have a good record in taking steps to deal with the problem and we will continue to take action on it. Our approach is based on wide consultation to establish consensus on the best way forward, rather than issuing central directives. We are empowering schools, pupils, parents and communities to lead the way forward from the bottom up according to local circumstances, rather than through a top-down approach that tries to make one size fit all.

What are the Government doing at the moment? In association with the Department of Health, the Department for Education and Skills has invested £2.5 million in the food in schools programme. In the recently published White Paper "Choosing Health: Making Healthier Choices Easier", we made a commitment to improve the food and drink available in schools. As part of the food in schools programme, we have been running healthy eating and drinking pilots to look at good practice in terms of the food available in schools outside of school meals, such as drinking water, and that supplied by tuck shops and cooking clubs. The results of the pilots will be available very soon.

In 2001, the Government set minimum nutritional standards for school lunches for first time in 20 years. We monitored standards in secondary schools last year and the results were poor. Even where healthy options were available, pupils were not making healthy choices, so we placed a duty on local education authorities to provide guidance for parents on catering standards.

To address those shortcomings, we announced a raft of measures. Our aim is to make every school a healthy school by 2009. In April, a new vocational qualification for school catering staff was introduced to help them promote and deliver healthy food. Like teachers and classroom assistants, high-status school cooks are a fundamental part of the whole school team.

By July this year, we will have provided more help for schools and LEAs in drawing up catering contracts to provide healthy school meals services and offer healthy food in vending machines, tuck shops and breakfast clubs. From September 2005, healthy eating is to be part of the Ofsted school inspection process. There will also be a revision of primary and secondary school meals standards—focused on reducing fat, salt and sugar and increasing consumption of fruit and vegetables—leading towards tougher minimum standards from September 2006. We are developing standards relating to processed foods used in school lunches, and they will be implemented this year. We shall also extend school lunch standards to cover all the food on school premises.

The hon. Member for Shrewsbury and Atcham (Mr. Marsden) referred to hot food, but it is not necessarily more nutritious than cold food, and it is for LEAs to take the decision on the food supplied.

Mr. Nigel Evans (Ribble Valley) (Con): The Minister mentioned introducing a pilot on cooking in schools. Is he referring to teaching all youngsters in schools the skills required? I cannot cook for the life of me and never did cooking at school. It would be useful if skills were available to all children, irrespective of academic ability.

Derek Twigg: The hon. Gentleman is right to say that we should spread cooking skills in schools. I did not have any great cooking skills then and still do not. I do not know whether his have improved since then.

Mr. Evans *indicated dissent.*

Derek Twigg: No.

The involvement of parents is important. They have a right to expect a good education for their child, but play a crucial role in that themselves. They must accept that they have responsibility for ensuring that a child behaves well and attends school, but parents can expect schools to promote healthy eating and living to complement what parents are increasingly emphasising at home. All that is part of increased parental involvement in ensuring the quality of everything that happens within the school gates. As my right hon. Friend the Secretary of State said a couple of weeks ago, parents will be in the front line of a new drive to improve the quality of school dinners.

Gregory Barker (Bexhill and Battle) (Con): On improving quality, one area has not been touched on. Local procurement of fresh produce is terribly important, but the mire of Government regulation on procurement, a lot of which comes from the European Union, makes it incredibly difficult for many schools to buy locally the produce that they want rather than having to go through lots of ridiculous tendering processes. Will the Government do anything to cut that red tape, allowing schools actively to discriminate in favour of fresh local produce?

Derek Twigg: I understand that there are examples in various parts of the country where local food is brought in. There is a good one in Gloucestershire.

Parents are demanding healthier food throughout the school day, not only at lunchtime but at breakfast clubs and breaks. That means vending machines and tuck shops, and schools are responding by limiting consumption of high-sugar carbonated drinks and

high-sugar snacks with high levels of additives. The development of the parents' website, the toolkit and the school fund trust will give more information and help persuade parents that they can make a difference. Good schools already look to involve their parents as much as possible. That is a two-way relationship: parents can help the schools to drive up food standards, which will make it easier to make sure that their children eat healthily at school.

Peter Bradley: The process has to be two-way. A health visitor told me that she would be delighted if some parents in one part of my constituency, where coronary heart disease and cancer are extraordinarily high, not least because of the lack of a balanced diet, would, once a week, buy just a packet of frozen peas from their local food store. That tells us the challenge that is before us. It is not just about parents demanding higher standards at school but about all of us trying through public education, Sure Start and other initiatives to build a culture in which there is a place for convenience food but the link is properly established between a balanced healthy diet, which will support local growers and producers and contribute to the health of local communities, both among children and their parents.

Derek Twigg: I completely agree. It is important to promote healthier eating throughout the community and that is a two-way process in terms of the involvement of parents in schools. In my own constituency, good projects have brought in parents, particularly from disadvantaged communities, to get good advice that has been used to achieve better and healthier eating.

In that context, parents can also benefit from increased support and guidance. Children are more likely to be aware of the importance of healthy eating and living if their parents are. One strand of food in schools will provide advice on healthier packed lunches. According to the Food Standards Agency, three quarters of an estimated 5.5 billion packed lunches brought to school every year fail to meet basic nutritional standards.

Geraint Davies: What, if anything, is my hon. Friend going to do about the school lunchbox problem? He said when he began that he was against my Bill because it is a top-down approach, yet I agree with everything that he has said. What I am saying seems to be consistent with what he is saying, so will he say specifically what in the Bill is a top-down approach with which he does not agree? The Ofsted approach, to enable parents to have the power to measure the success of schools and put pressure on them through, for example, gating and participation, should be encouraged now by the Government under existing legislation.

Derek Twigg: My hon. Friend pre-empts me. I shall refer to those specific points later.

Our new policies on children's centres and extended schools have provided scope for schools to take a lead in helping families with children to prepare and cook better. The number of growing and cooking clubs is increasing. Together with increased visits to city farms and the countryside, those clubs are making a huge contribution to helping children to understand better where food comes from and the benefits of fresh or locally sourced food.

We welcome the debate because we want to engage the wider community. The food industry, caterers, nutritionists and food interest groups can have a major role to play in setting up a new independent school fund trust. That would enable the industry to make a valuable contribution to improving food and drink provision in schools. Working together in that way, we can set the agenda. The trust will be in an ideal position to give independent advice and support to schools and parents to improve the standards of school meals.

Yesterday, we issued a consultation letter to the food industry, caterers, nutritionists and many others who can make a difference to school food. The letter covered many of the issues that I have just described, but it also asked for their views on the new charitable school fund trust. We want the trust to drive through reform with the help and support of a full range of stakeholders as part of the drive to emphasise the key importance of consultation as we work together to set the future agenda, and I want to spend a little time talking about the importance of that to pupils.

Taken together, the measures will ensure what we all want: a better meal and a better deal for school children. We are already building on what is there. Every four to six-year-old—nearly 2 million children—is eligible for a free portion of fruit or vegetables every school day. Current minimum nutrition standards in secondary schools ensure that at least two items from food groups such as fruit and vegetables, and sources of protein, are always available during lunch service. There is education on healthy living and eating during personal, social and health education, science and sport lessons. Sport is particularly important to the overall improvement of the health of young people and children. The Government have allocated some £1.5 billion to improve sport and PE in school.

The aim is that schools will offer healthier food to their pupils throughout the school day. Parents will play a bigger part in ensuring the highest standards for school meals. The food industry will be able to play its part in setting a healthy food agenda. All in all, pupils will be able to choose healthier food and have the support that they need to make the right choices. The aim must be for them to be able to do that at any time, inside or outside the school gates.

I now come to the specifics of why the Government will oppose the Bill. I welcome the debate and the interest that my hon. Friend Bill has generated. We feel that, although we should of course back a lot of the issues that he wants to raise, we cannot back the Bill and the Government are already doing quite a lot. We are already moving forward with improvements to school food and nutrition and, at this stage, we do not need unnecessary legislation to sustain that progress.

I want to give a number of reasons why we should oppose the Bill. First, we are already considering ways to educate children in healthy eating habits and to help every school ensure the highest nutritional standards for the food that it serves up. There is a lively debate about whether we should adopt nutritional standards based on food groups, as the Bill advocates, or standards based on nutrient intake, as advocated by the Caroline

[Derek Twigg]

Walker Trust and the Scottish Executive. We have commissioned an expert group to advise us on the way forward—a way that is nutritionally robust, but also manageable for schools. We hope that Members will agree that that aspect of the Bill is premature, as the expert group will not report until the end of the year. When it does, we already have legislation that we can and will use to introduce tougher standards that schools are willing and able to implement.

Introducing legislation that puts the onus on the local education authorities to ensure minimal standards is not the way to go. Two of the principles of the new relationship with schools are that we reduce bureaucracy and encourage both independence and collaboration where required, because each school is best placed to make the most appropriate decisions for its pupils.

I note that the Bill envisages putting the school food trust on a statutory footing. In my view, that is unnecessary. We are drawing up the necessary legal documents at present and believe that the trust can operate effectively in the normal framework of charitable and company law.

We cannot persist with a culture in which a central directive tells schools everything that they can and cannot do, such as exactly what a vending machine can and cannot sell. One size does not fit all. We are committed to giving schools the flexibility, autonomy and support that they need to make the day-to-day decisions for themselves. They know the needs, interests and attitudes of their pupils and what needs to be done to secure the best education for every child. Our role must be to provide a framework, guidance and support that they need to make those decisions. I want to make it clear that we do not support the sale of food and drink in vending machines if it has a poor nutritional content, particularly if it is high in salt, fat and sugar.

We are producing guidance for schools through the food in schools programme and that will be available soon. I know that major suppliers of vending products and catering services are re-examining their approach to vending, in consultation with schools. The important thing is that schools take a holistic view of the full range of provision to ensure that vending sits comfortably with that broader policy.

It is up to schools to determine the lunchtime policy that works best for them. That is not a matter for legislation. Schools that require learners to remain on site at lunchtime and offer constructive activities and appropriate supervision during the lunch hour find that learning behaviour and attendance are better as a result. Supporters of the Bill have a valid point in that too many secondary school pupils are consuming unhealthy food purchased from premises around the school at lunchtime and we know that some pupils eligible for free school meals opt to do that rather than eat in school. But lunchtime management is up to individual head teachers, and heads must consider cover arrangements carefully to keep them in line with the school work force agreement.

Lunchtime activities can be part of extended services, which are essential to the drive to give every pupil the opportunity, provision and support to fulfil their potential and make the best choices for themselves in school and beyond. School leaders know best where they have the capacity and resources to offer high quality and enjoyable activities in a secure and stimulating environment.

Mr. Paul Marsden: I understand that we do not want to introduce unnecessary regulation, but given the patchy and sometimes appalling quality of food in schools, how will the Government monitor the situation with the aim of improving it nationwide, without incurring extra bureaucracy for individual schools?

Mr. Eric Forth (Bromley and Chislehurst) (Con): Send the Minister to taste it.

Derek Twigg: I am not sure about that.

We have a healthy eating project together with the Department of Health, we have issued strict guidance to schools and we are working with them to ensure that those standards are reached. We also have the schools food trust. Those measures should help to achieve the major improvement that we want to bring about.

We must have a smarter accountability system, where intervention is in inverse proportion to success. A key component of that smarter accountability system is greater emphasis on self-assessment, getting schools themselves to identify the areas where they need to improve.

On the point raised by my hon. Friend the Member for Croydon, Central, Ofsted inspections will be shorter and sharper. The new inspection regime that we are introducing will mean that Ofsted captures pupils' well-being and health in its reports. We are working out the detail and will announce in due course the approach that will be taken, but we are certain that it must be in the broader context of food in schools, not focused solely on school lunches. We cannot take unwanted bureaucracy away from schools with one hand, and give it back with the other.

We cannot rely on Ofsted alone. Children eat a meal at school each day. We need parents and schools together to ensure that there is good food every day and that food provision is kept under continuous review. After all, the school meal is only one aspect of provision and it is vital that we get vending, snacking policies and packed lunches right as well. Schools are accountable to parents. That is where real pressure can come from and we are empowering parents to exert that pressure.

We need to take action and we are already responding. We must maintain our confidence in our school leaders to make the right decisions. They are doing an excellent job. Heads and governors know what is best for their school. They see their pupils daily, know their backgrounds and are aware of local circumstances. We are giving them the appropriate framework, tools and support to make the necessary decisions. We have to remove unnecessary burdens, so that they have the time and space to make the key decisions that result in a good school. Unnecessary legislation makes everyone's job harder.

We are involving parents, because they have a key dual role to play, demanding and helping to provide high standards. We are engaging the food industry, because its experience and expertise can make a valuable

and vital contribution. The result that we all want is to provide every child not just with the opportunity to eat well and live a healthy lifestyle, but with the support and self-knowledge to make healthy choices in school and for the rest of their life. I ask the House to oppose the Bill.

Question put, That the Bill be now read a Second time:—

The House divided: Ayes 6, Noes 9.

Division No. 98] **[1.19 pm**

AYES

Davidson, Ian	White, Brian
Evans, Nigel	
Gilroy, Linda	**Tellers for the Ayes:**
Hughes, Simon *(Southwark N)*	**Geraint Davies and**
Ottaway, Richard	**Mr. Paul Marsden**

NOES

Campbell, Ronnie *(Blyth V)*	Stringer, Graham
Colman, Tony	Widdecombe, rh Miss Ann
Conway, Derek	
Fitzpatrick, Jim	
Forth, rh Eric	**Tellers for the Noes:**
Harman, rh Ms Harriet	**Paul Clark and**
Hawkins, Nick	**Mr. Nick Ainger**

It appearing on the report of the Division that fewer than 40 Members had taken part in the Division, MADAM DEPUTY SPEAKER *declared that the Question was not decided, and the business under consideration stood over until the next sitting of the House.*

Right of Reply and Press Standards Bill

Order for Second Reading read.

1.30 pm

Peter Bradley (The Wrekin) (Lab): I beg to move, That the Bill be now read a Second time.

This is an unexpected opportunity to promote my Bill. I extend a word of sympathy to the hon. Member for Brecon and Radnorshire (Mr. Williams), who cannot be here today. I believe that his wife is ill disposed. Not ill disposed—I mean indisposed. She may be ill disposed—*[Interruption.]* Yes, she may demand a right of reply and I should be pleased to give it to her. However, I make the point not only so that we can send her our best wishes but because, when my name was drawn out of the ballot, I received letters from all over the country from people who beseeched me to take up the Bill that the hon. Member for Brecon and Radnorshire adopted. I do not want those people to believe that the hon. Gentleman has gone on his holidays or is failing in his duty to promote that measure. It will be considered in the House in due course.

I am grateful for the opportunity to introduce the Bill. We live in an information age. We have never had more access to information, and even information that we do not seek rushes towards us on the super-highway. In a democratic society, we rightly place great importance on citizens' participation in national and community affairs. We have more opportunity than ever to contribute to decisions about how our lives are governed and we base them on the information available to us. It is therefore important that the information on which we base our judgments is true. It is essential that a free flow of information should underpin our democratic way of life. However, when information is untrue or inaccurate, our opinions and decisions may be distorted, sometimes deliberately, to serve the interests of those who wield considerable power, including media corporations. That happens too frequently.

People need to believe that what they are told is true.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Ha!

Peter Bradley: The right hon. Gentleman guffaws—I believe that that is the right description.

Mr. Forth: Snorts.

Peter Bradley: I gave the right hon. Gentleman his right of reply and he corrected my inaccuracy. I do not know why he snorted—perhaps he will have an opportunity to explain later. However, people need to believe what they are told. That is my view as a Labour Member, but perhaps it is not shared by those on the Conservative Benches.

Mr. Nigel Evans (Ribble Valley) (Con): Does the hon. Gentleman agree that people should be able to believe what the Prime Minister tells them?

Peter Bradley: Let me develop my point, because I hope that we can agree on some principles without dividing on our political and tribal associations. People

[Peter Bradley]

need to be able to believe that what they are told is true because our system of government—no matter which party forms the Administration—is based if not on consensus, then on consent. It is based on the premise that people can trust that the Government of the day make their decisions and act in good faith.

The hon. Member for Ribble Valley (Mr. Evans) mentioned the Prime Minister. Perhaps he had in mind the controversy over the so-called "dodgy dossier". We do not have access to the information that Prime Ministers and their advisers have. When decisions that affect all of our lives are made, we need to be able to place our faith in the good intentions of those who have such access precisely because we do not. That is why I attach huge importance to the principle of trust, although that trust must be based on a belief that what we are being told is true.

Mr. Forth: Would the Bill extend protection to those who are smeared by the Government? There have been many cases recently in which vulnerable individuals have suffered as a result of Ministers and those in their Departments saying the most disgraceful things about them. Would such people have a right of redress under the Bill?

Peter Bradley: The right hon. Gentleman makes an interesting point. He is a very experienced Member of the House, and he spends far more Fridays in the Chamber than I do. He must have seen the title of my Bill: it refers to a right of reply to material that is published in newspapers and other publications. It does not, for example, seek to replace the libel law. If someone is libelled, they have recourse through the courts, although it is not always easily available to them. Its limited scope is one of the merits of the Bill.

The important, and uncontroversial, principle that the Bill seeks to establish is that if we cannot trust the information that forms the basis on which we make judgments and form opinions, our form of government is critically undermined. I want to discuss the relationship between trust and truth, as that will explain why I want to promote the Bill.

I understand that we might not be too far away from a general election. Recent trends have shown falling turnouts, a phenomenon that should concern us all. The press frequently insist that the fact that people are becoming disengaged from politics is the fault of the politicians, who have forfeited their trust. It is interesting, however, to note that newspaper sales are also tumbling dramatically. Compared with five years ago, 1.75 million fewer newspapers are now being sold every day. Why should that be so?

Last year, the Committee on Standards in Public Life undertook an interesting survey—it sent its findings to hon. Members, so they might be familiar with them—and found that only 27 per cent. of the public trusted Members of Parliament. Even more revealing was the finding that only 7 per cent. trusted tabloid journalists. Another, more encouraging finding was that 47 per cent. trusted their own Member of Parliament. I am sure that we all feel reassured by that statistic, but what it tells me is that the closer people are to events and personalities, the more likely they are to place their trust, and the more remote they are, the more difficulty they have.

Despite the loss of trust in politicians as a class, however, and despite the decline in trust in journalists, 64 per cent. of people said that their opinions were shaped at least in part by what they read in newspapers. So, when citizens are invited to decide who runs the country in a few weeks' time, we could have the strange state of affairs in which their judgment of politicians they do not trust will be based on what they read in newspapers they do not believe. That is a problem for all of us—politicians, the press and the public—and we need to take action to arrest the downward spiral.

Politicians are accountable, and we will find out at the general election whether the people to whom we are accountable want to put their cross in our box. We are also accountable in other ways: Ministers are accountable to the scrutiny of the House, and each of us is accountable to the standards commissioner. The press is not accountable, however. Journalists are not accountable for what they write, and there is very little redress if what they write is wrong or untrue. My Bill does not propose in any way to curtail their freedom or infringe their rights. It is fundamental to our liberal democracy that politicians should not have the last word and that the press plays a central role as a check and balance against our excesses or our temptation to exceed acceptable limits. I want the press to continue to be free to publish without fear or favour, but I want the Bill to establish a new right for the public to correct inaccuracies that misrepresent, damage or mislead them. I do not wish to curtail press rights other than the right to misrepresent individuals and mislead the public. The press should not have an unfettered freedom to misinform or deceive.

We all understand that there are intense pressures these days on journalists. We live in a 24-hour news culture, with increasingly powerful global media corporations in competition with each other, and newspapers and publications forced to compete with the internet. All that imposes pressure on newspapers in particular to out-scoop, out-sensationalise and outsell their rivals. In those circumstances, it is inevitable that corners get cut.

We are all familiar with the problems that politicians encounter with the press—the ferreting out of facts has given way at least to some extent to creating perceptions about facts. It is so much easier to create a perception than to undertake the time-consuming and exhaustive research that is infinitely preferable. We see newspapers reflecting prejudices rather than presenting news to their readers. We see a blurring of the distinction between the reporting of events and the editorial line that the newspaper takes on those events. We see less room for proper debate in the pages of newspapers or for the reporting of debates, including debates in the House of Commons. We see a much keener appetite to denounce those who come forward with ideas rather than to explore and contribute to those ideas. We are also seeing an unhealthy phenomenon, particularly in Sunday papers, in which agenda-setting political stories are based on a series of unattributed and often fabricated quotes in order to generate controversies that otherwise would not exist. All that is very unhealthy.

Our response as politicians is frequently to spin our side of the story and to come forward with a soundbite that we believe might capture a headline. We see lobby groups and in particular single issue groups tempted to

take up ever more extreme positions, and to think up ever more dramatic stunts to get themselves into the newspapers. As the standard of debate declines, people's faith in what they read in newspapers also diminishes. There has been little sign of change for the better. It is now 15 years since David Mellor famously warned journalists that they were drinking in the last chance saloon, and little has happened to stop the bingeing.

This is not just a question of values, principles and what underpins democratic life; inaccurate reporting has victims. It is interesting that 94 per cent. of those who complain to the Press Complaints Commission are what it classifies as "ordinary people"—not celebrities or politicians, but ordinary men and women, and some 56 per cent. of their complaints are about inaccuracy.

Inaccurate reporting, casual indifference to the reputation of others, and not having the time or inclination to check facts or to corroborate them destroys people's reputations, damages their livelihoods and turns their lives upside down. Legion case studies have been put together over many years, particularly by MediaWise, to illustrate the damage that can be done to the lives of individuals who are the subject of media attention that is less scrupulous than it ought to be. They have no adequate recourse or redress. As I suggested in my response to the hon. Member for Shrewsbury and Atcham (Mr. Marsden), they might be able to take their case to a libel court, but in doing so they have to be pretty confident of ultimate success. They also have to be wealthy and very patient. The risks are very high.

In fact, in such circumstances most people do not want monetary compensation; they simply want the record set straight, and quickly. The PCC is their only other means of achieving redress, if redress it is. Last year, it received more than 3,600 complaints—just under 40 per cent. more than in the previous year. It adjudicated only 23 of those complaints and upheld just 11, or 0.3 per cent.

Mr. John Randall (Uxbridge) (Con): Is it not true to say that some of the complaints were sorted out—in other words, mediated on—without recourse to judgment?

Peter Bradley: The hon. Gentleman anticipates the point that I was about to make and he is absolutely right: some of them were mediated on. It would be interesting to know how many of those cases were resolved to the satisfaction of the complainant. The hon. Gentleman knows as well as I, or anyone who has had dealings with the PCC, that the truth of the matter is that if and when a newspaper finally agrees to correct, apologise for or retract an inaccurate report, such an apology is featured several weeks after the offending article appeared and is probably lost somewhere in the acrostic crossword. In other words, it might satisfy the PCC's provisions, but it does not satisfy the complainant and it does not go very far towards redressing the wrong. It certainly is not a proportionate correction—if a correction is achieved at all.

For those reasons, in my view and that of many others, the PCC does not work. Frankly, I would suggest that it is not meant to work. It is, after all, a creature of the press. It is funded by the press and many of its board members are representatives of the press—another reason why it does not command the confidence that it should. I am not suggesting for one moment that those who work for the PCC do not try their best in difficult circumstances to serve the public, but I am afraid that the results achieved are not impressive.

The Bill is very limited in scope. It seeks only to establish in this country a citizen's right that is enjoyed in at least 10 other European democracies. The French have had a right to reply in statute since 1881, and the Finns have had such legislation since 1919. Both have a vibrant public domain and vigorous newspapers and journals that are free to comment as they see fit—free, in the great old tradition, to publish and be damned.

My Bill seeks simply to establish a right of reply for those who believe that they have been disadvantaged by what has been printed in a newspaper or periodical. The editor or his delegate has three days in which to respond to the complaint. I accept that that is a demanding time scale, but it is right that it be demanding. When somebody is—as they see it—maligned or disadvantaged in the press, they need redress quickly, on the basis that justice delayed is justice denied.

The Bill requires a newspaper that agrees to publish a correction to do so prominently, in an editorial or on the news pages. If an individual cannot reach agreement with a newspaper, he or she can take the complaint to an adjudicator, who will have 14 days in which to reach a conclusion. If the adjudicator rules against the newspaper, it will be obliged to publish a correction, but will have the right—as, indeed, will the complainant—to appeal against the adjudicator's decision to the press standards board. The board will have a relatively short time to reach its own conclusions, and it will have the right to enforce them if the publication refuses to co-operate.

The board will have to maintain a database of corrections. We are all familiar with not just the damage that inaccurate reporting can cause, but the amplification of that damage when other newspapers or periodicals—or perhaps the same one—recycle the misinformation weeks, months or even many years later. The board will have powers to undertake research into trends in journalism, and to work with the press to develop a body of standards.

I am glad to say that many journalists support the Bill, recognising that it does no damage to their rights and freedoms. The Campaign for Press and Broadcasting Freedom says:

"The bill would introduce a very moderate measure of redress through a simple, quick and accountable system. It would also support journalists by encouraging and promoting the best traditions of journalism, thereby improving press standards."

MediaWise says:

"Having a Right of Reply on the statute book would keep editors on their toes. They have nothing to fear if they demand fairness and accuracy of their reporters, acknowledge when mistakes are made, and allow appropriate redress, swiftly and prominently . . . citizens who believe they have been wronged here, are regarded as supplicants rather than as equals. This Bill acknowledges that press freedom is a responsibility exercised by journalists on behalf of the public, which is one of our founding principles.

There would be no need for legislation if all newspapers were willing to set the record straight promptly and prominently when the inevitable, occasional mistakes occur."

[Peter Bradley]

Jeremy Dear, general secretary of the National Union of Journalists, says:

"it's not just about the individuals—it's about the whole readership. An inaccuracy in print misinforms the readers, and they have a right to be told the truth.

A simple measure requiring factual inaccuracies to be corrected would be a step in the right direction. The NUJ would not support anything that restricted press freedom or allowed the state to determine what gets into print. There is no attempt to correct opinions or even descriptions—just the facts."

I am very grateful to those organisations and many of their members for that important endorsement. I too think that if the Bill were enacted, standards in our newspapers and periodicals would rise very quickly. I believe that there would be not more but fewer complaints, and I hope that fewer cases would be taken to the courts.

Mr. Forth: Can the hon. Gentleman tell us why none of the Bill's sponsors has bothered to turn up to support him or it? He seems to be in a rather lonely position. Although he has cited support from people who are, no doubt, important and influential outside the House, we are legislating here today. Where are his friends?

Peter Bradley: I am grateful to the right hon. Gentleman for turning up himself, and indeed I am very glad that I am here. There was a possibility that I would not be: I was told that there was little prospect of my being able to make this speech. As the right hon. Gentleman may or may not know—I mentioned it at the beginning—another Bill was scheduled to occupy the House, but it had to be pulled in unfortunate circumstances.The right hon. Gentleman will know—if he does not, perhaps someone should tell him—that most MPs have constituency duties and obligations on Fridays, even if he may not attach much importance to serving his constituents in his constituency. If he thinks that I am lonely in not having my supporters here, he is even lonelier in the conviction that he apparently holds on that matter. Therefore, it is not extraordinary that my supporters are not here, but they include Conservative Members—

Mr. Forth: Where?

Peter Bradley: The right hon. Gentleman may want to look at the Bill itself. He will see the names of Conservative Members, Liberal Democrats as well as Labour Members of high standing in the House. The fact they are not here is not strictly relevant.

As we are on the subject and we have a little more time, the right hon. Gentleman may want to talk to some of his colleagues about Government legislation. Dare I mention the Clean Neighbourhoods and Environment Bill, which we debated in the House quite recently? I sat on the Committee that considered it. It was extraordinary that while 18 Labour Members wanted to debate measures that will have a direct and beneficial impact on the lives of their constituents, at times there was not a single Member on the Opposition Benches—for legislation that is likely to pass into law. Despite the best efforts of some of his colleagues to huff and puff about what they regarded as the limited time made available to debate the Bill, when it came to debating it they were nowhere to be seen. Before he reprimands the supporters of my Bill for being in their constituencies on a Friday, he may like to have a word with his Front Benchers and some of his colleagues. I am sorry that we have diverted somewhat from the Bill, but I am glad that I have had the opportunity to set the matter straight.

Newspapers have rights—and those rights must be protected—but so do the people whom they write about. As I said, individuals have a right not to be misrepresented and the public have an important right not to be misled. The Bill creates a new citizen's right of protection against the power of the press when that power is abused, either by design or, more often than not, by default.

I do not believe that any responsible journalist need fear the Bill. Only the worst, the least professional, the least scrupulous will be inconvenienced by it. Many will welcome it because they recognise that, in protecting the reputations of others, it will do much to restore their own. The press has a key role in keeping politicians honest but, if it expects high standards of us, it should meet those same standards. The Bill is a modest measure, but I believe that it makes an important contribution in rehabilitating the reputation of both press and politicians. Surely that is not just in our interest but in the general public interest.

Therefore, I hope for the support of other hon. Members, and in particular I hope for the support of the Government. As I say, this was an unexpected opportunity to speak to the Bill. I hope that I may be equally surprised by the response that I hear from the Minister.

1.58 pm

Mr. Paul Marsden (Shrewsbury and Atcham) (LD): I congratulate the hon. Member for The Wrekin (Peter Bradley). Following on from what the right hon. Member for Bromley and Chislehurst (Mr. Forth) said, I am quite happy to be counted as a supporter of the Bill. I may not be named on the back of it but I am happy to say that the Liberal Democrats support it. It is a modest measure but it is long overdue. In the same way that we have a free press, we should have a right of reply that is part of legislation. Everyone, including the humblest of citizens—not just the rich and famous, who are able to take journalists, newspapers and the media to task because they can afford it—should have that right of reply.

If this were in any way a measure to stifle the freedom of the press and its freedom of speech, obviously, I would oppose it. But it is clear that the Bill is trying to give back to citizens something that should be rightfully theirs.

In our democracy, it is essential that we have a free press that can unearth the facts and wrongdoing and can provide important scrutiny of the Government of the day, as well as of large corporations and organisations. But, as the hon. Gentleman said, the press must abide by the highest professional standards. The vast majority do, and the broadsheets—some are now compact editions—such as *The Times*, *The Independent*, *The Daily Telegraph* and *The Guardian* have exceptionally

high standards of journalism. Likewise the BBC, Sky, CNN and many more organisations do us a great favour in providing quality news coverage for the British people.

However, there have been enormous abuses and I for one have been at the receiving end of them; I declare an interest. If the Government support the Bill, what will they do about further abuses that cannot be prevented by this specific and narrowly focused Bill? For instance, when journalists impersonate police officers and attempt illicitly to find information, as I came across, or if they take photographs of someone's children—

Mr. Randall: Presumably impersonating a police officer is an offence. Did not the hon. Gentleman report it to the police?

Mr. Marsden: The *News of the World* employed a gentleman to impersonate a police officer. He gave a false name, and I reported that to the police who said that in the circumstances they could not prove the case. They added that impersonating a police officer was "a grey area." I thought that was appalling. The journalist was trying to find out personal information about myself which he wanted to use to ascertain where I was, causing an enormous security scare. That is the sort of level they will go down to—in the gutter—to try to smear people.

The Bill is a modest measure, proposing that when the press does such things and misreports the facts, people should have a right to reply. It is time to end the abuses, and I hope that the Government will not only support the Bill, but look at other ways of tackling the abuses committed by this tiny minority of journalists. The PCC is a pretty toothless being, which, while well meaning, does not do what it should be doing. Obviously the Liberal Democrats will support the Bill.

2.2 pm

Mr. John Randall (Uxbridge) (Con): I congratulate the hon. Member for The Wrekin (Peter Bradley) on giving us the opportunity to discuss this matter. We have heard that it is a modest measure. If this Bill is modest, thank goodness it is only one measure. I am afraid that the Conservative party does not think this Bill necessary or desirable. In fact, it is a rather lengthy Bill, which will be a gift to lawyers.

The Bill would replace the Press Complaints Commission, which has been successful as a mediation service, with a rather complicated adversarial one to address a non-existent problem. The Conservative party supports the right of the press to regulate itself, which is a crucial part of our press freedom. Too many of our freedoms seem to be disappearing under this authoritarian Labour regime, which we hope will not continue to run for more than a few more weeks.

2.4 pm

The Parliamentary Under-Secretary of State for Education and Skills (Derek Twigg): I congratulate my hon. Friend the Member for The Wrekin (Peter Bradley) on his presentation of the Bill.

The Government strongly believe that a press that is free from state intervention is fundamental to our democracy. The history of a free press in this country dates back to 1695, when Parliament decided against renewing the Press Licencing Act 1662, which, earlier in the century, had suppressed all newspapers except official publications. We believe that no laws should specifically restrict press freedom. The Government should not intervene in any way in what a newspaper or magazine chooses to publish. We support self-regulation and the basis of the Government's relationship with the independent Press Complaints Commission is support for effective self-regulation. Newspapers may not publish whatever they like, but must abide by the law, as we all must, and that includes laws covering defamatory material.

We acknowledge that with freedom comes responsibility. In recognition of their responsibilities, newspapers chose to restrict their historic right of free speech, which is now guaranteed by the Human Rights Act 1998, by signing up to the voluntary code of practice, which is overseen by the PCC. The newspaper industry recognises that society has expectations of it that it does not place on individuals. Those expectations go beyond the industry's legal duties, which is why they must establish a code of practice. Consequently, newspapers already work under tighter restrictions that the rest of us.

What is the extent of the problem? It is important to note the context of this debate. Every week, the nation reads 162 million copies of newspapers. In 2003, the last year for which full statistics are available, a record number of 3,649 complaints were made to the PCC. That represents a rise of 39 per cent. from the previous year, but a large number of them were about matters for which the commission had no remit—for example, advertising standards, taste and decency. When those letters were sifted out, the actual increase was a more conservative 7 per cent. and 56 per cent. of complaints concerned accuracy. I do not want to diminish the importance of those complaints, but we must keep a sense of perspective. Bearing in mind the vast number of publications, the number of copies distributed and the articles that they contain, the number of complaints is relatively small.

In addition, the PCC continues to monitor customer satisfaction by asking all complainants whether they were satisfied with the way in which their complaint was handled. For example, in 2003 the PCC surveyed 800 people who had used its services and received 414 replies. Of those, 62 per cent. said that their complaint had been handled satisfactorily or very satisfactorily. That included cases in which the commission found no breach of the code and in which one might expect some hostility to the PCC.

The MediaWise figures quoted in support of the Bill suggest that 64 per cent. of people surveyed were unhappy with the PCC's performance. However, I gather that of the 230 questionnaires sent out by MediaWise, only 107 went to people who had used the PCC. Only 52 usable replies were received, and of those only 35 had made complaints within the PCC's remit. It is clear that the statistic of 64 per cent. is based on a very small, and not necessarily representative, sample.

It is important to have accuracy and I am not suggesting that everything in the garden is rosy. There is no room for complacency and I have great sympathy for those who suddenly find themselves in the media

[Derek Twigg]

spotlight, particularly if that is not their choice, and it must be particularly difficult if they feel that information is inaccurate, or even defamatory.

It is right that, in support of the PCC code, we remind the industry from time to time that accuracy is of the utmost importance to its standing among the public. The importance that the PCC accords to accuracy is reflected in the fact that the need for accuracy is enshrined in the first clause of the code.

That is the background against which we considered the Bill. As I said, we cannot countenance any restriction of the freedom of the press. My hon. Friend the Member for The Wrekin and others have argued that the proposed new board would not interfere with the principle of press freedom. However, I disagree, not least because, under paragraph 2 of schedule 1 of the Bill, the members of the board would be appointed by the Government. Is it right, as a matter of principle, that a board comprising Government appointees should be able to decide appeals made against the actions of the press? I do not think so.

Peter Bradley: Can my hon. Friend name a handful of boards of national quangos that are not appointed by the Government? Is that not the accepted principle? If he is suggesting that the integrity and independence of the board would be doubted, the conclusion is that one should doubt the independence and integrity of members of other boards.

Derek Twigg: The majority of PCC members are lay members, and I shall return to that point later.

Clause 24 would place a duty on the board to prepare and issue codes of practice to editors and others responsible for editorial material. Although the Bill specifies that those codes should address matters relating to the right of reply in particular, the board would not be constrained from addressing any other issues. That could lead to great confusion. Which codes of practice should editors follow—those issued by the board or by the PCC? The Bill also states that such codes of practice would have to be subject to consultation with the Secretary of State. The prospect is of a board appointed by the Secretary of State, with a duty to issue codes of practice regulating the press's behaviour, the contents of which would have to be the subject of consultation with the Secretary of State. However, we are told by my hon. Friend that the Bill would not constitute interference with a free press.

Peter Bradley: We now have a panoply of safeguards, such as the appointments commissioner and the Nolan principles. I am concerned that my hon. Friend should suggest that because the Secretary of State would appoint the members of the board, they would not be seen to be independent. However, my hon. Friend would not make the same judgment on hundreds of other national, regional and local boards that are also directly or indirectly appointed by the Secretary of State.

Derek Twigg: The issue is whether one favours self-regulation or not, and the Government do, as I shall explain in more detail.

The Bill calls for the creation of a new, publicly funded quango. Given the duties included in the Bill, a significant sum would be needed each year for its running costs, let alone the funding of reviews, the collection and maintenance of databases and the research that would be necessary. However, the Bill does not say to what purpose the research would be put. The industry is hugely successful and profitable, so can it be right to ask the taxpayer to fund a body to consider complaints when an industry-funded, independent body already exists for that purpose? That is especially pertinent given that the figures I have cited show that most people are happy with the present arrangements.

Peter Bradley: We are all familiar with the present concerns about Sudan 1. Does my hon. Friend think that the Food Standards Agency should be funded by the food industry alone, or is it properly funded by the public purse to ensure that the public can have confidence in it?

Derek Twigg: There is a specific argument on that point, which I wish to continue to explore.

A survey of 2,058 adults conducted by MORI in 2002 found that 64 per cent. of those interviewed believed that the industry should continue to fund the regulatory body, and only 12 per cent. thought that the cost should be met by the taxpayer. Moreover, the proposals in the Bill are more complex than the present system and would be less equitable to complainants. For example, complaints would have to be made within 14 days of publication. The present arrangements allow a month, but a significant number of people do not manage to meet that deadline. It is likely that more would be excluded by a shorter deadline. The Bill would require publications to respond within three days, but that allows inadequate time for investigation should any dispute be involved. Another layer of bureaucracy would be imposed in front of the adjudicator who would determine whether a right of reply should be granted.

If either the publication or the complainant disagreed with the adjudicator's decision, they could appeal to the board, but as the board would be responsible for the appointment of the adjudicator, its ability to hear appeals independently would be in doubt.

Peter Bradley: My hon. Friend makes the same point repeatedly without responding to my interventions. Who funds Ofcom, for example? Is it the media corporations or the public purse?

Derek Twigg: I suggest to my hon. Friend that there is a particular issue about press freedom and the way in which we monitor and manage it, and use the code of practice. That is why this issue is different and I shall continue to explain that as I proceed with my speech.

The fact is that, in the Government's view, the PCC's code of practice already provides a satisfactory means of redress for those who feel they have been misrepresented in the press. Clause 1 of the code requires that

"a significant inaccuracy, misleading statement or distortion once recognised must be corrected, promptly and with due prominence."

A failure to do that would be a breach of the code. The PCC already fulfils the role of an adjudicator. Its independence is guaranteed by a lay majority of 10 to

seven, its chairman is independent of the industry, and its staff have no connection to the industry. When the code has been breached and no satisfactory remedial action offered, the PCC will require a newspaper to publish, in full and with due prominence, a critical adjudication of the editor. That does not require a lengthy and costly legal battle.

It is significant that no editor has ever refused to publish the PCC adjudication and adherence to the PCC code is written into many editors' contracts. Furthermore, the complainants have the right to appeal on procedural grounds to an independent chartered commissioner, who can ask for the matter to be reconsidered.

As far as the maintenance of a database is concerned, the PCC currently publishes details of all its adjudications on its website, and it contains summaries of all resolved complaints, including details offered by the newspaper in each case. The PCC also publishes an annual report that provides an analysis of its work over the preceding year, as well as a bi-annual report providing a summary of its cases.

To conclude, I am afraid that the Bill would establish statutory regulation by the back door and I suspect that, once a board was established, there would inevitably be calls to extend the scope of its remit. After all, the need for accuracy is only one part of a larger range of issues considered by the PCC, and there will be others who argue with a passion equal to that of my hon. Friend the Member for The Wrekin and his supporters, that their particular concern can be addressed only through statutory means. Once we have breached the principle of press freedom—let us be clear about this—we will find ourselves on a very slippery slope.

Mr. Paul Marsden: We do not currently allow an unfettered right for the press to write whatever they want. Law and regulation is already in place, so the idea that this is the first time since the 17th century that our precious freedom of speech has been compromised is utter rubbish—and the Minister knows it. He is squirming around, trying to find tentative reasons to justify his position. For goodness' sake, why cannot he actually answer the specific questions put to him by the hon. Member for The Wrekin (Peter Bradley) about the appointment and running of the board? Can we have a little more openness and honesty from this Minister?

Derek Twigg: I have already made it clear to the hon. Gentleman that there is a fundamental disagreement here over the regulation of the press and press freedom. I have set out my and the Government's position on the issue. There will be disagreements, but we believe that the current procedure and regulations in place—I am sure that things can always be improved—provide the best way forward.

Peter Bradley *rose—*

Mr. Paul Marsden *rose—*

Derek Twigg: To conclude, the Government have no intention of presiding over the end of more than 300 years of press freedom.

Peter Bradley: Will the Minister give way?

Derek Twigg: No, I am drawing to my conclusion and I ask the House to oppose the Bill.

Question put, That the Bill be read a Second time.

The House divided: Ayes 6, Noes 12.

Division No. 99] **[2.17 pm**

AYES

Banks, Tony
Davidson, Ian
Gill, Parmjit Singh
Gilroy, Linda
Hawkins, Nick
White, Brian

Tellers for the Ayes:
Mr. Paul Marsden and Peter Bradley

NOES

Colman, Tony
Conway, Derek
Evans, Nigel
Fitzpatrick, Jim
Forth, rh Eric
Harman, rh Ms Harriet
Johnson, Miss Melanie *(Welwyn Hatfield)*
Lammy, David
Ottaway, Richard
Randall, John
Stringer, Graham
Twigg, Derek *(Halton)*

Tellers for the Noes:
Paul Clark and Gregory Barker

It appearing on the report of the Division that fewer than 40 Members had taken part in the Division, MADAM DEPUTY SPEAKER *declared that the Question was not decided, and the business under consideration stood over until the next sitting of the House.*

Manchester Health Finance (Census Data)

Motion made, and Question proposed, That this House do now adjourn.—*[Paul Clark.]*

2.29 pm

Mr. Graham Stringer (Manchester, Blackley) (Lab): It is now established without a shadow of a doubt that the 2001 census was a total shambles. The Public Accounts Committee, the Treasury Committee, the Office of the Deputy Prime Minister Committee and a large number of academic studies have shown that the 2001 census was not carried out accurately. After receiving a number of reports, the Office for National Statistics had to adjust the figures upwards by almost a million people—a million men who, it had claimed, had gone to the Balearic islands at the time of the count. That was one of the ONS's ludicrous suggestions.

The million people who had been missed as a result of the census being maladministered were not evenly distributed around the country. It is worth noting that the enumerators were not paid, helplines were not set up accurately and there was evidence that some enumerators had dumped the follow-up forms in waste paper bins, where they were found afterwards. The whole process was chaotic. The areas where people were missed were, by and large, poorer areas, inner-city areas and areas that had high numbers of students or ethnic minorities.

When we in Manchester looked at the list, we realised almost immediately that the census was inaccurate because there were more people paying council tax in the city than Mr. Cook from the Office for National Statistics, who ran the census, believed lived in Manchester. That would lead one to the ludicrous proposition that people were volunteering to pay council tax even though they did not live in Manchester. It was an absurd situation. When we checked accurate lists for the number of children of school age in Manchester, the lists accounted for many more children than were counted in the census, and likewise when GP lists were checked. It was obvious that there were fundamental flaws.

After much argument with Mr. Cook of the ONS, it was agreed that there would be a property matching exercise. That exercise showed that at least 26,200 people had been missed. One can only establish a minimum. My personal belief is that the figure should have been even higher, but the figure of 26,200 was agreed by the Office for National Statistics and Manchester city council.

I understand that Mr. Len Cook has now left his job and is going back to New Zealand, presumably to practise counting the numerous sheep there. It was not a happy time for Mr. Cook at the ONS. He had sectors of the economy shrinking when, in fact, they were growing. He made fundamental errors in the calculation of pension funds and carried out the most inaccurate census in 200 years, so I am very pleased that he is on his way out of the public sector payroll. There are lessons for Ministers, particularly Treasury Ministers, about how, when something goes wrong, they deal with an obviously incompetent official.

Once the figures had been established, it was clear that there were two areas of direct impact where Government funding streams are directly related to population. One is local government, administered by the Office of the Deputy Prime Minister, and the other is health. After some discussion with the Minister of State at the Office of the Deputy Prime Minister, it was agreed that there would be an adjustment to the revenue support grant settlement. It was agreed that the money that would have been paid relating to those 26,000 or so people in Manchester would be paid. I think that 16 or 17 other councils, including Westminster, most prominently, as well as Derby, Plymouth and others, were similarly affected.

I thoroughly expected similar treatment from the Department of Health, because the funding of the health service is also simply and directly related to population. Before I deal with that point, however—I have had a number of discussions with Health Ministers about the issue, for which I thank them—I want to mention another issue that I do not think has been thoroughly understood in respect of the census and health funding. I refer to the part of the census form that asked about self-diagnosed disability. People could say on the form that they were suffering from allergies or that their children suffered learning disabilities or behavioural problems, and some of the health funding follows that self-diagnosed illness.

Where people were missed by the census, there could be no self-diagnosis, so the funding will never come to them, even if they had allergies or their children had other problems. There is also some evidence that those in more affluent areas and better-educated people filled in the forms in more detail. When we look now at the funding flows in respect of allergies and similar self-diagnosed conditions, we find that areas such as Surrey and Barking are getting more money than poorer areas such as inner-city Leeds or inner-city Manchester. I do not think that that issue has been thoroughly discussed, but it is important and it arises directly from the way in which the census was handled.

As I said, I expected the Department of Health to say, "Yes, you can have the money", which amounts over the funding period 2003 to 2006 to about £21 million for the three primary care trusts in Manchester. In my meetings and correspondence with Health Ministers, they have said no. I think that they have done so for two reasons, which I can summarise from that very long correspondence. The first reason, which is undoubtedly true, is that the Department had used the best known figures in coming to the settlement. I cannot dispute that, but I do not think that it is a reason for not making changes when the figures are known to be in error. Secondly, it was pointed out that there had been large increases in funding over the period and that, since that time, there has been an even larger increase in funding, while the proportion involved is relatively small. That is true, but I do not think that it is an answer to the basic point about equity: why that £21 million should not come to Manchester and other primary care trusts that have been similarly affected.

Virtually all the affected primary care trusts are in the poorest parts of the country. Just after his appointment in February 2004, the Secretary of State for Health said:

"One of the facts I heard when I became Secretary of State has truly shocked me. The fact that a boy born in Manchester lives eight and a half years less than a boy born in East Dorset is a staggering failure and a disgrace and is palpably unequal."

I can only wholeheartedly agree. In Manchester, the areas that have lost the £21 million—I am not proud of this, but it is a fact—are top of the list in terms of cancer, heart disease and heart attacks, and their mortality and morbidity rates are among the worst in the country. Similarly, the other primary care trusts affected tend to come from the poorest areas.

It would be fair for the Department of Health to pay that money, because those people exist and have not received funding through the system and because the areas affected are poor. It is strange that one major Department replaces lost funding while another does not. Replacing the lost funding would also help achieve the Government's targets on health inequalities, to which the Secretary of State is completely committed.

It is true that the Secretary of State's settlement to primary care trusts on 9 February was generous. It brought every PCT in the country to within 3.5 per cent. of target, and I have no doubt that it was the best settlement in the history of the NHS. In his statement, the Secretary of State said:

"A key factor in distributing funding fairly is the count of the number of people served by each primary care trust."—[*Official Report*, 9 February 2005; Vol. 430, c. 1503.]

Who could disagree with that? If it is true from 2006, however, it is absolutely true from 2003 to 2006.

I will finish with two points. First, It could be argued that, because every PCT has been taken to within 3.5 per cent. of target from 2006, the money from the census is there. In many cases, however, PCTs are in deficit because of underfunding, so some of the money from that generous settlement in 2006 will not go directly to the care of patients and into the health service, but be used to pay for a deficit caused by underfunding, because the Office for National Statistics did not do its job as accurately as it might have done.

Secondly, I and the Health Ministers to whom I have spoken do not disagree about the facts of the case. What is the intellectual or political justification for continuing to withhold £21 million from the health care budgets of those three PCTs in Manchester when it has been established that, had the ONS done its job properly, the money would have followed?

I can think of no precedent for one Department saying that it will adjust figures because it got the facts wrong and another Department saying that it will not. That is not fair. It is not good administration but arbitrary administration. The Secretary of State said that the settlement is generous, and I agree with him, but this money is not allocated personally like an elderly aunt giving her own money. The money is public money that people in Manchester are entitled to see in their services, but they have not received it. If the ODPM has recognised the situation, it must be an arbitrary and unfair judgment not to replace the money. Not only will the impact be felt over the three years but, because the extra money will pay for deficits, it will be felt for five or six years. I therefore appeal to my hon. Friend the Minister to be as positive as possible in responding to the debate. Although £21 million is not a huge percentage of the primary care trust budget, it represents a significant amount of health care anywhere in the country.

2.45 pm

The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson): I congratulate my hon. Friend the Member for Manchester, Blackley (Mr. Stringer) on securing the debate and I acknowledge the considerable interest that he and hon. Friends in his area have in issues that affect the national health service, including the subject of today's debate. They have raised them with Ministers on several occasions, both recently and over a longer period.

I want briefly to deal with some specific issues, but I am sure that my hon. Friend agrees that we should first acknowledge the good work that is being undertaken in the city of Manchester and in the Greater Manchester area generally, and pay tribute to all the staff who are involved in providing health services in the city and the wider conurbation. Several colleagues in the health team had the pleasure of visiting them at the end of January and seeing the wide range of facilities and projects in the Greater Manchester area.

My hon. Friend raised concerns about the impact of the 2001 census on health funding in Manchester. As he rightly said, I cannot respond on some of the issues to which he refers as they are matters for the Treasury and the Office for National Statistics. However, I am aware that several colleagues have raised the issues on a number of other occasions.

The key to distributing funding fairly is the count of the number of people that each PCT serves. It is important that the best available population data are used for PCTs to meet the health needs of their populations. The aim is to enable each PCT to commission similar levels of health services for populations in similar need.

For the 2003 to 2006 round of allocations, which was announced in December 2002, the decision was made to use population estimates based on the 2001 census. Those were the most robust population data available at the time of announcing the allocations, if we bear it in mind that the alternative was updated figures from the previous decade or so. The Advisory Committee on Resource Allocation, which oversees issues relating to equity and the allocation of resources to the NHS, supported the decision to use the population estimates.

Since the announcement of the 2003 to 2006 allocations, the Office for National Statistics has made a series of revisions to the initial 2001 population estimates. The biggest change to the figures, to which my hon. Friend referred, were to those for Manchester, which has experienced an increase in population of some 26,200. I appreciate that it will come as a disappointment to my hon. Friends, but the decision has been made not to revisit the 2003 to 2006 allocations. We do not make retrospective changes to revenue allocations because of the uncertainty that that would introduce into PCT funding in general.

My hon. Friend asked about the intellectual rationale for that. It would create considerable uncertainty if the goal posts were moved retrospectively at the same time as future figures were presented to the PCT for planning. It would make life difficult. Money has to come out of a finite budget and when it has already been spent and allocated, finding the retrospective money could cause problems. I fear that my hon. Friend is wrong to say that other areas would not have similar claims, albeit

[Miss Melanie Johnson]

sometimes on grounds other than the ONS statistics and the census figures, such as, data lag when there is a rapid increase in populations. We therefore have to make the best estimates that we can at the time. We may well have made different decisions about pace of change and movement to targets had different data been provided. The changes that my hon. Friend assumes might not therefore have happened.

We are confident that using the data in the 2003 to 2006 allocation was the right thing to do because they were the best data that we had at the time. For the latest round of allocations covering 2006–07 to 2007–08, the Advisory Committee on Resource Allocation recommended using 2003-based population projections as a basis. Although these population data are again based on the 2001 census, the census has been revised to correct the earlier undercounting in areas such as Manchester. This means that we now have a more accurate count of the population. In addition, these figures take account of the challenges faced in areas with growing populations. We are therefore using the best available population data, which take account of the undercount and of changing trends in population.

I want to describe the picture of the health services in the Greater Manchester area, so as to set this issue in context. Waiting times are falling. No patient now has to wait more than nine months for in-patient treatment. That compares well with 1997, when more than 8,000 patients were waiting for in-patient treatment. In March 1998, more than 23,000 patients were waiting over 13 weeks for an out-patient appointment. Our latest data show this figure to have fallen to 3,536 patients. Furthermore, 99.8 per cent. of urgent referrals for suspected cancer are now seen by a specialist in two weeks in Greater Manchester. We have also seen a large increase in the numbers of consultants, GPs, nurses and health care assistants since 1997, and the list of capital developments and improvements to the equipment of the major services is too long to go through in the time available to us today.

My hon. Friend mentioned health inequalities. He will realise that the Secretary of State and I—in my capacity as the Minister responsible for the northern region and for the public health agenda, including health inequalities—are keen to see that such inequalities are addressed. He is right to cite the different figures for life expectancy in Manchester and in those areas in which people are better off. The main causes of death in Greater Manchester are cancer and coronary heart disease, and the death rates involved are significantly higher than the rate in England as a whole.

I am sure, however, that my hon. Friend will be content that, overall, we are making massive improvements in driving down deaths from cancer, with a 12 per cent. cut in such deaths across the country since we have been in Government, and a 27 per cent. reduction in deaths from coronary heart disease across the country over the same period. However, inequalities such as those that my hon. Friend outlined are unacceptable, which is why we have established the biggest programme to tackle health inequalities ever seen in this country. I want to put it up in lights that it is very important for us to make progress on this issue. Indeed, our performance targets reflect the need to address inequalities. We have identified the areas most at risk from health inequalities, and the Manchester area is one of them. The three Manchester PCTs are part of the so-called spearhead group of 88 PCTs in which we are focusing on driving that progress forward.

My hon. Friend has been generous enough to acknowledge that the latest round of allocations represents a record level of extra investment. In the Manchester area, this equates to an average increase of 9 per cent. for 2006–07 and 9.4 per cent. for 2007–08—an average of 19.5 per cent. over the two years. As a result, there will be record increases in funding in the Manchester area. The Central Manchester PCT will receive an increase of £62 million; North Manchester PCT will receive an increase of £50 million; and for South Manchester PCT, the increase will be £51 million. So considerable increases are going into the Manchester area.

We have ensured, however, that we reflect the fact that there has been some discrepancy in regard to what has been done. The Minister of State, Department of Health, my right hon. Friend the Member for Barrow and Furness (Mr. Hutton), has had correspondence with my hon. Friend the Member for Manchester, Blackley, and I believe that he has also met him to discuss these subjects on a number of occasions. My right hon. Friend wrote to my hon. Friend recently to explain that we had done something on what is called the capacity adjustment for the two years, 2006–07 and 2007–08, which has led to an additional £20 million a year going to the Manchester PCTs. That adjustment would previously have ended with 2006, and has been extended and made recurrent for 2006–07 and 2007–08. We have reflected that as far as possible in terms of additional money, and a sizeable additional amount is going into the Manchester area. In addition, both the 26,000 extra people and the capacity adjustment have been reflected, and full account has been taken of the deprivation and health inequalities needs of the Manchester area, which, as my hon. Friend rightly says, are enormously important and need to be addressed.

The current position is that we use the best available data to make revenue allocations. For the reasons that I have given, we cannot revisit the allocations for 2003 to 2006. We have now used the updated population data for 2006–07 and 2007–08, and correct revisions for the undercounting in areas such as Manchester. Allocations for 2006–07 include projected increases in populations, which means that we have included the best available population data. As my hon. Friend rightly acknowledged, we have also made a record additional investment in the health service. We know that the Manchester health service does a fantastic job generally on a number of fronts, and my right hon. and hon. Friends were very impressed on their recent visit. I trust that the primary care trusts and other partners will work together with local MPs to use this record amount of money to continue to improve the health of the Manchester population in the next few years.

Question put and agreed to.

Adjourned accordingly at three minutes to Three o'clock.

House of Commons

Monday 28 February 2005

The House met at half-past Two o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

MESSAGE FROM THE QUEEN

ELECTORAL COMMISSION

The Vice-Chamberlain of Her Majesty's Household (Jim Fitzpatrick): I have to inform the House that the Address of 10 January praying that Her Majesty will reappoint as electoral commissioners Pamela Joan Gordon, for the period of two years, and Sir Neil William David McIntosh KBE, for the period of three years, was presented to Her Majesty, who was graciously pleased to comply with the request.

Oral Answers to Questions

WORK AND PENSIONS

The Secretary of State was asked—

Financial Assistance Scheme

1. **Adam Price** (East Carmarthen and Dinefwr) (PC): What his current estimate is of the levels of assistance that will be provided by the financial assistance scheme. [218081]

The Secretary of State for Work and Pensions (Alan Johnson): I refer the hon. Gentleman to the written statement on the financial assistance scheme made on 22 February by the Minister for Pensions.

Adam Price: No one should doubt the Secretary of State's sincerity on this issue. Does he accept, however, that although the intention of last week's statement was no doubt to provide peace of mind, it has created another level of uncertainty? In order to dispel that, will he tell us at what level the cap will be set? When will we know for certain which companies are eligible, and how much money will be left at the end of the day for the 50,000 people who are beyond three years from retirement?

Alan Johnson: First, we envisage that the cap will be the same as that in the Pension Protection Fund—£12,000. That is our intention. Secondly, I understand that there is uncertainty for other people, but because we will not know absolutely what the assets and obligations are until all the schemes involved have been wound up, we had to make a choice. The temptation was to say nothing until the arrival of that happy state, which is some months away, but following representations by both Government and Opposition Members it was absolutely right to give some comfort to people who were three years away from their scheme age retirement. I am unable to say anything more until we have the final details of the schemes involved.

Miss Anne Begg (Aberdeen, South) (Lab): Following last week's news, the workers of the Richards pension scheme in Aberdeen were delighted to find that they were to be included in help from the financial assistance scheme. Notwithstanding what the Secretary of State said in answer to the previous question, can he can give us any idea of time scales? When might all pensioners in such schemes have an idea of what they are going to get and when they are likely to get it?

Alan Johnson: Our intention is to lay the regulations in the spring, to be in a position to have Royal Assent by around July, and then to give a six-month period for people to apply. The list of almost 400 schemes that we published last week is indicative, not definitive, and some schemes may not be on it. We hope that when the application process is completed and we have full details of all those schemes, which is impossible until those particular pension funds have been wound up, we will be in a position—it should be around the beginning of next year—in which to be absolutely sure about what we can offer and to have the scheme fully in place.

Mr. David Willetts (Havant) (Con): Will the Secretary of State confirm a simple point of arithmetic? If the scheme's entire £20 million annual budget were spent on the 15,000 people whom we understand he wants to help, would they get £1,300 a year each—which is not much—and how much would be left over to help the other 50,000 or so victims of pension wind-ups?

Alan Johnson: I had better immediately correct an error that I apparently just made. I said that the cap under the financial assistance scheme would be the same as for the Pension Protection Fund. I apologise, Mr. Speaker, for misleading the House. The cap under the PPF is higher; the cap under this fund will be £12,000.

We have a sum set aside that we think, on the basis of our original calculations, will be enough to give proper compensation to people who are in this situation; that is what we want to do. On 22 February, we announced that the scheme review will now include the finances of the scheme. That process will begin with the next spending review and starts next year. We also said, because this is an issue of great importance to all those affected, that we would not force them to buy annuities, and that we would run the scheme from the DWP, which means that we take the risk rather than the individuals involved. I accept that the full details will have to be laid out at some stage, but I hope that people appreciate that no one has ever tried such an exercise previously. We are taking private sector schemes from 1 January 1997, piecing together all the information on their assets and the gap between their assets and their obligations, and trying to provide help from the centre—from Government. That is a difficult and complex process,

which means that we will not be in a final position to give the sort of details that hon. Members obviously want until some time in the future.

Mr. Willetts: But last week the Secretary of State called for consensus on pensions whenever possible. Can we at least get a consensus that £20 million divided by 15,000 people equals £1,300 per year? I would have thought that all hon. Members could agree about that. Does he accept that many victims of pension wind-ups are working that out and asking, "If we're not in the first 15,000, what is there for us?"? Talking about a review is not good enough. Does not he accept that, if a review is all he can offer, he will leave 50,000 victims of pension wind-ups facing desperate uncertainty? Would not it be far better instead to offer to use banks' unclaimed assets, as the right hon. Member for Birkenhead (Mr. Field) originally proposed, to help those people?

Alan Johnson: I do not accept that. Conservative Members failed to vote for a Second Reading for the Bill that provided the basis for the legislation. If I understand the argument of the hon. Gentleman and his colleagues correctly, they would have stripped away the FAS from the measure and introduced another Bill. That means that we would be starting the process of getting the necessary legislation only now, with the result that people would have had to wait far longer.

Some of the schemes go back to the days when the Conservative party was in power. It never contemplated offering compensation to people in the position that we are considering. [HON. MEMBERS: "Never had to."] Conservative Members claim that they never had to. The number of redundancies associated with the problem is the lowest on record. It was at its highest under the previous Government. There were plenty of people in that position under the previous Government. We have acted to rectify that, whereas they did nothing.

Kevin Brennan (Cardiff, West) (Lab): I congratulate my right hon. Friend the Secretary of State on acting first in the interests of those in the most immediate need, as many of us called on him and his predecessor to do in the many debates on the subject. The hon. Member for East Carmarthen and Dinefwr (Adam Price) described the announcement as a betrayal in the press. Does my right hon. Friend agree that that is nonsense? Is not it the case that opening the door to the possibility of more funding for the FAS means that people can at least see some light at the end of the tunnel?

Alan Johnson: I agree, and I again pay tribute to my hon. Friend for his role in the campaign following the problems at Allied Steel and Wire. If the announcement is a betrayal, I think that working people need a few more such betrayals, given the assistance it provides to people, some of whom I met last week, who believed that they would never get anything. Some of those people are now in their early 70s.

Few people expected us to be able to provide a scheme, and when we did Opposition Members spread cynicism throughout the country and said that it would provide nothing substantial. Now that it has, their next trick is to spread more cynicism and say that people will get no assistance. We are determined to help people in the position that we are discussing. We are probably the first Government even to attempt such an exercise, and I am proud of that. It is far from being a betrayal.

Mr. Steve Webb (Northavon) (LD): The financial assistance scheme offers 80 per cent., whereas the Pension Protection Fund gives 90 per cent. The Secretary of State has admitted that the cap will be half the level of that for the PPF. There is a third aspect to the problem. Will he confirm that, once the pensions are in payment, they will be frozen until the recipient dies? If so, they will fall in real value year after year. Does he think that that is adequate?

Alan Johnson: The hon. Gentleman is cynicism personified. Yes, the cap has been set at a lower level than that for the Pension Protection Fund, but it is a level at which we estimate that 95 per cent. of people will qualify. It is right that resources should be focused where they are most needed, and that taxpayers do not end up funding pensions paid to executives of failed companies that might have led to the company failing in the first place. Of course the PPF is in a different position: it is an insurance scheme that we are setting up for the future. People cannot insure their house once it has burned down, and we have always made it absolutely clear that the FAS will not be as generous as the PPF. We said that from the start. We also said from the start that we were looking to provide some assistance in an area in which the Government do not have a responsibility to provide compensation. So we are providing assistance in these circumstances. The hon. Gentleman's point is that the PPF scheme guarantees more than the FAS does, but everyone has known that from the start—it is hardly news to anyone involved. It is about time he gave us some praise for seeking to resolve this issue in a way that gives people some meaningful compensation.

I was asked about the issue of freezing last week. Not all the schemes involved were index-linked. To index-link the financial assistance scheme would take resources away rather than concentrating them in the area that we think best for giving people maximum compensation. We shall not index-link the FAS, because many of the schemes involved were not index-linked in the first place.

Mr. Derek Wyatt (Sittingbourne and Sheppey) (Lab): My constituents at ASW in Sheerness are thrilled with this announcement. Kent people who had asbestos-related illnesses in Chatham had to wait 18 years for compensation, as did people with lung disease who had worked in the mines in Kent, yet we have done this in two and a half years. Given that the Secretary of State has now opened the door to the £400 million, will the amount being put in be reviewed every three years, or will he consider putting in £100 million a year over 20 years so that everyone knows that there will be adequate funding for the pensioners?

Alan Johnson: I congratulate my hon. Friend on his involvement in this issue. He makes a very good point about the compensation offered to miners. He might also have mentioned the compensation provided to trawlermen by this Government. Those issues were all thought to have been lost a long time ago. I also

reminded the House last week about the extra money that we put into the Aberfan fund after people had sought to get it from the Conservative Government for 18 years. When I raised that issue last week, Conservative Front Benchers said, "But Aberfan happened under a Labour Government." I suppose that that was their reason for not allowing the money to go into the fund during the 18 years in which they were in power.

On my hon. Friend's question about the triennial review process, we plan to look at the amount available in the next spending review, at which time we shall have full details of all the schemes. That should prevent us from having to have further reviews every three years.

Incapacity Benefit

3. **Mr. David Borrow** (South Ribble) (Lab): What steps he is taking to encourage people claiming incapacity benefit back into employment. [218084]

6. **Mr. Stephen McCabe** (Birmingham, Hall Green) (Lab): What steps he is taking to encourage people claiming incapacity benefit back into employment. [218087]

The Secretary of State for Work and Pensions (Alan Johnson): We are committed to ensuring that significantly greater numbers of people on incapacity benefits are helped into the labour market. Pathways to work is the most significant initiative designed to meet this objective. We have recently set out our plans for fundamental reform of incapacity benefits in our five-year strategy. We want to create a new framework of support for people who can return to work, while offering greater security to those who probably cannot.

Mr. Borrow: Although my constituency has full employment, hundreds of people who are still on incapacity benefit there would like to get back to work. Will my right hon. Friend join me in congratulating the staff of the Leyland Jobcentre Plus office, who have helped more than 90 people back into work since April last year? Will he also look at ways of helping them to provide even more support to help more people back into work in my constituency?

Alan Johnson: I join my hon. Friend in congratulating the staff at the Leyland office. It is a tremendous achievement to get 90 people off incapacity benefit and back into work in an area that is not part of our pathways to work project, given that pathways areas have double the success rate of non-pathways areas in putting people into jobs. Without the expertise, dedication and almost evangelical approach of front-line personal advisers, we would not achieve such results, so I pay due tribute to the staff involved and to my hon. Friend for taking such an interest in these issues in his constituency.

Mr. McCabe: While I welcome the aims of my right hon. Friend's policy, I also seek two assurances from him. First, will he do all that he can to ensure that bureaucrats do not reinterpret those aims, as seems to have been the experience of my visually impaired constituent, Steven Buckley? He is doing everything he can to get to work, but the access to work people seem to prefer him to give up his job. Secondly, will my right hon. Friend give me a categorical assurance that there will be no attempt to limit the period for which people can claim incapacity benefit?

Alan Johnson: I invite my hon. Friend to write to me about the specific incident that he mentioned. Obviously I am not denying that problems arise in the system, but I think that in general we get the balance just about right between those who need assistance and those who will probably not be able to work again.

I can reassure my hon. Friend that we will not introduce time-limiting of incapacity benefit. That is not part of our five-year plan, and not part of anything that the Government propose.

Paul Holmes (Chesterfield) (LD): Will the Secretary of State confirm that, according to his plans, by 2008 new incapacity benefit claimants will receive a lower holding benefit but will be able to increase it to a higher rehabilitation support allowance if they successfully complete a work-focused interview and establish an action plan for seeking work? Is it not the case, however, that in two thirds of the country they will not benefit from the assistance of the pathways to work scheme, which provides more support?

Alan Johnson: The hon. Gentleman is wrong on two counts. The holding benefit will be the same as the current benefit, which is about £54 a week, the same as jobseeker's allowance. Whereas the current benefit applies for 26 weeks, however, we plan to achieve completion of the personal capability assessment in 12 weeks. We are already achieving that in pathways to work areas. The process will become much quicker.

As for the move to other benefits, the idea is to ensure that pathways to work is in place throughout the country. That underpins the whole plan, and we will not introduce the new procedures until it has happened. The point is important, and I am glad that the hon. Gentleman raised it. What we have said is that by 2008, when a third of the country will be covered by the pathways to work scheme, we intend to have in place legislation enabling us to change to the new system—which must be primary legislation—as well as training for GPs, occupational health provision overseen by the Health and Safety Executive, and linking rules so that people who take the huge step of giving up incapacity benefit know that they can return to the same position. All those proposals are crucial to making this a success. After 2008, we will roll out the rest of the pathways to work scheme and implement our proposals fully.

Mr. Paul Goodman (Wycombe) (Con): We have published proposals to build on the Government's new deal for disabled people, expanding the role of the voluntary sector. Our proposals would reduce the number of existing claimants by 400,000 over the course of a Parliament. Would what the Government recently announced reduce the number by more than that, or less?

Alan Johnson: I find it difficult to take those proposals seriously. Today I wrote to the hon. Member for Havant (Mr. Willetts) to try to clarify the position. It appears

that the Conservatives are saying that they will take 65,000 staff out of Jobcentre Plus, close 600 offices, and give those on the new deal a better deal while ensuring that less money is available to provide that better service. I am afraid that the hon. Gentleman's figures do not add up.

Conservative Members do not seem to realise that a third of the Jobcentre Plus programmes are already in the private sector. Their figures do not take that into account. We expect to return far more people on incapacity benefit to work than would be possible under a half-baked proposal to close offices and cut schemes but improve services at the same time. We know the Conservative party's record, and we expect it to be replicated in the unfortunate event of their return to office.

Ms Dari Taylor (Stockton, South) (Lab): Last week I had the pleasure of visiting my local Jobcentre Plus office and Stockton Blind People's Voice. I was there when Blind People's Voice introduced to all in Stockton its "into work" project. Its members were very pleased about much that Ministers are saying, but they wanted me to ask a question. Does not going into work require an enormous leap of confidence for blind and other disabled people? They ask for that to be acknowledged, so that they can work and receive benefit, but can work for as many hours as they can manage rather than a statutory number of hours. If they can work for four hours, that should be accommodated until they can manage 16 or more. I should greatly appreciate a response to that question.

Alan Johnson: I remind my hon. Friend—I accept her interest in these matters—that we have changed the permitted work rules precisely because of some of those issues. We need to see whether we need to do anything further. People with the most severe disability want to reconnect with the world of work. They were previously thought to be incapable of doing anything but sit at home. She is absolutely right. We need to use their skills and talents. That is what the Disability Discrimination Bill is all about. That is what the changes in the permitted earnings rules are all about. We need to go even further perhaps to make it easier for those people to take what is, as she says, a very difficult step.

Miss Julie Kirkbride (Bromsgrove) (Con): The Secretary of State is right to say that more people in the United Kingdom should be economically active both for their financial benefit and to have something to do with themselves during the day. In answer to a previous question, he recognised that for many people it will be quite frightening to go back to work. There will be great anxiety as to whether they can go back to what they previously did, which is more comfortable, if it does not work out. Can he set out in more detail at what point people who find that their attempt to go into the labour market does not work will be able to go back to their more comfortable life, as they will see it, on incapacity benefit?

Alan Johnson: The hon. Lady raises one of the crucial issues. Now in the pathways to work experiments, we are reaching out not to people who have been on IB for 12 months, who were part of the initial pathways to work, but to people who have been on IB for longer—for up to two years. Ten per cent. of people participating have been on IB for much longer and are volunteers. The crucial aspect is the £40 a week in-work credit to allow them to get over that problem. Because of the linking rules that my right hon. Friend the Chancellor announced in the Budget, they will have the opportunity to go back to where they were if it all comes to grief, rather than going through the whole IB process again. That only needs to apply for a certain amount of time—

The Minister for Work (Jane Kennedy): Two years.

Alan Johnson: Up to two years, as my right hon. Friend reminds me. If someone has managed to get past those barriers and to be in work for two years, we can safely say that they are back in the world of work and on the road away from that terrible existence on the princely sum of £74 a week, sitting at home disconnected from society. I hope that the hon. Lady accepts that we are seeking to tackle what she is right to say is a real and relevant problem.

Child Support

4. **Mr. Mark Hendrick** (Preston) (Lab/Co-op): If he will make a statement on the operation and performance of the new scheme of child support arrangements since March 2003. [218085]

10. **Angela Watkinson** (Upminster) (Con): What his latest estimate is of when he will approve the transfer of all old cases to the new system at the Child Support Agency. [218091]

13. **Dr. Nick Palmer** (Broxtowe) (Lab): If he will make a statement on progress in the transition to the new Child Support Agency system. [218094]

The Secretary of State for Work and Pensions (Alan Johnson): Under the new scheme, just under a quarter of a million applications had been cleared by September 2004 and over 33,000 first child maintenance premium payments had been made.

As I said to the Select Committee on Work and Pensions, this area is at the top of my agenda. We have been working hard with Electronic Data Systems to overcome the computer difficulties. I intend to report back to Parliament following the next software release. We know that much more work still needs to be done and I am keen that we should explore a variety of improvement solutions.

Mr. Hendrick: My right hon. Friend will be well aware that the arrangements for child maintenance payments from March 2003 were meant to get payments flowing quickly and regularly. Two years on, like many of my colleagues, no doubt, I still regularly find cases of incorrect levels of assessment, delays in adjusting assessments and payments, and a system that seems to

penalise those willing to pay, rather than those unwilling to pay, causing much distress to many. How quickly will that situation change?

Alan Johnson: My hon. Friend can ask me how quickly the situation will change. I am afraid that I cannot give—

Mr. Nigel Waterson (Eastbourne) (Con): He does not have a clue.

Alan Johnson: I think that that is a better description of the Conservative party when it was in power. When it comes to failures in the Child Support Agency and to computer failures, it built up a certain amount of expertise in its 18 years in power.

As I said in my initial answer, the first stage is to get the computer system right. I will report to Parliament. Indeed, the Work and Pensions Committee, whose Chairman, the hon. the Member for Roxburgh and Berwickshire (Sir Archy Kirkwood), is present, has asked for a report to Parliament in the spring. It is right that I report to Parliament when the final software upgrade has taken place, because we will then know whether we have got the computer system right. If it is right and up and running properly, we can plan accordingly and transfer the old cases across to it. I hope to be in a better position to provide a precise time scale when I report to Parliament in the spring.

Angela Watkinson: The Secretary of State will know that many absent fathers trapped on the old system are paying so much of their income in CSA payments that they barely have enough left to live on, and certainly not enough to take advantage of their access rights. The best advice that the CSA can offer them is that they give up their jobs and go on to benefits. Clearly, that is to nobody's advantage—not the men themselves, nor the children nor the community at large. This situation cannot go on. Something has to be done about it urgently.

Alan Johnson: I would be surprised if anyone from the CSA advised such a person to go on to benefits. I know that the hon. Lady recently wrote to me about a case involving the CSA, too, and I should point out that if any such advice has been given, it is wrong and should be countered. In terms of the difficulties experienced with the CSA, no one should be exempt from criticism—neither me nor anyone in this House—except the CSA staff, who have tried hard to cope in very difficult circumstances. They should be applauded, but if there are occasions when the wrong advice has been given, I want to know about them so that we can deal with the situation immediately.

Dr. Palmer: Does the Secretary of State not agree that even if the new software works as we hope it will and the transfer of old cases begins, the process has taken substantially longer than we hoped? Moreover, does he also agree that the transition disregard of only £10 a week each year—the intention behind it was to allow recipients more time to anticipate the change—is perhaps no longer appropriate? We have been anticipating such a change for year after year, so it will come as no surprise to anyone. Once we get the new system up and running, should we not implement the changes a little faster?

Alan Johnson: We should implement the changes as fast as possible. The £10 disregard is an important part of the new system—it is not intended as some form of compensation and nor is it dependent on the new system's being introduced more quickly. In fact, it is a very important component and it was agreed to in all parts of the House when the relevant legislation was passed. We are very keen to ensure that as many people as possible can take advantage of the £10 disregard, and to remind people that under the old system a £1,000 payment is available for single parents who take up work. That is an important element of the original CSA scheme.

Sir George Young (North-West Hampshire) (Con): Where the CSA has agreed that substantial arrears are payable to the parent with care, why cannot a manual payment be made, rather than waiting for the computer programme to be fixed?

Alan Johnson: Provision is made for manual payments. Indeed, our staff are working on four different systems: the old scheme on the old IT, the new scheme on the old IT, the new scheme on the new IT, and clerical cases. The purpose of that last approach is to deal with such problems where there is no alternative to a manual method. If the right hon. Gentleman would like to write to me about the particular case he has in mind, I will look into it.

Mr. Frank Field (Birkenhead) (Lab): Given EDS's track record of failing to deliver on its promises, what fall-back position do the Government have if EDS fails yet again?

Alan Johnson: As my right hon. Friend knows, we have withheld payments in respect of EDS until the system is right. In fact, to be fair to EDS, our Pension Service system, which it also runs, has been working very well. However, we want to ensure that the scheme is operating properly for the people whom we care about most—the children involved—and we will ensure that until that is so, the money will not be released to EDS. Indeed, we will withhold a substantial amount.

Mr. Tim Boswell (Daventry) (Con): As the Secretary of State has already made it clear that he has been working closely with EDS, he will recall that it said last October that by the end of the year it would have given the agency the tools to do the job. Is it not now increasingly clear that the main problem is not just computers that do not work, but a management culture that is dysfunctional and an outcome that is based on discrimination between old cases and new cases, which is increasingly unacceptable? The chief executive has been given his cards, but he is apparently still working, so would it not be appropriate if Ministers, who appear to lack any political will or sense of urgency about this matter, were given their cards promptly, too?

Alan Johnson: I shall respond to a little of that. The hon. Gentleman knows that Her Majesty's official Opposition take the rather pathetic course of packing a Back-Bench Select Committee with their own Front Benchers—something that I always find rather distasteful and unnecessary—so Conservative Members know that we have been round the track on all of this. The hon. Gentleman is right about EDS having said last year that the computer software would be installed by the end of the year. It will not, but we hope that it will be in place by the next phase in the spring.

The system is working sufficiently well to make a decision on termination difficult, but not well enough to deliver the standards that our customers expect—that is the problem. It does not mean that we have removed the so-called nuclear option of changing the provider. That will be kept in play until we are absolutely sure that the new system will work. Changing providers can cause problems; it could mean making children who need the money wait even longer, so we must take that into account as well.

Incapacity Benefit

5. **Andrew Selous** (South-West Bedfordshire) (Con): If he will make a statement on his policy on the number of new claimants who will be entitled to receive the new higher rate of benefit following incapacity benefit reform. [218086]

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle): We expect the clear majority of new claimants to be on the rehabilitation and support allowance, as most people come on to an incapacity benefit with potentially manageable conditions. Disability and sickness allowance will focus on those with the most severe impairments where the health problem or disability will form a very significant obstacle to getting back to work.

Andrew Selous: What proportion of the current 2.7 million incapacity benefit recipients would be entitled to the new higher-rate disability and sickness allowance if the new rules were applied to them, as they will be in 2008? Does the Minister expect the proportion of new claimants eligible for disability and sickness allowance to be significantly different?

Maria Eagle: The distinction will be made using a functional assessment, and the current percentages, if we use the current personal capability assessment as a guide, are about 80 and 20. I do not expect them to be significantly different in future, but the point of the new programme is that it will provide significant extra help for those on rehabilitation and support allowance and for those on disability and sickness allowance, should they wish to take advantage of it. The much more supportive environment and additional help provided by pathways will provide an extra financial incentive so that many of the 1 million people currently on sickness and incapacity benefit who tell us that they want to work will have the chance to do so, and it is about time that they did.

Mr. Tom Harris (Glasgow, Cathcart) (Lab): Representing a constituency in a city where one in five of the working-age population claim incapacity benefit, I welcomed the Secretary of State's statement to the House last month in which he outlined the changes. However, I have to say that I am not optimistic that these new incentives alone will encourage enough claimants back into work. We have heard about the carrots, but can my hon. Friend the Under-Secretary tell the House which sticks the Government considered using and why they have not been used?

Maria Eagle: I do not think that it is appropriate to talk about using sticks when we are dealing with disabled people. Many such people have been written off largely because the previous Government threw them on to invalidity benefit and abandoned them for years. What they need is help and assistance, not sticks. Through pathways, 90,000 people have so far been helped and 9,000 people have moved into work; and it is easy to forget that 200,000 people have been helped into work by the mainstream new deals. We are learning how to help these people and it is about time that we extended those lessons across the country. That is what Labour intends to do, unlike the Conservative party, which wants simply to privatise—

Mr. Speaker: Order.

Lawrie Quinn (Scarborough and Whitby) (Lab): May I congratulate my hon. Friend the Under-Secretary and the staff of the Department for Work and Pensions on the great help that has been afforded to many of my constituents to get them back into work? In an earlier answer, my hon. Friend referred to additional help. Can she say something this afternoon about those rural constituents of mine who have not only mobility problems, but transport problems in getting to work, and therefore need extra help? What assurance can she give them that she will ensure that they have the opportunity to play a full and active part in working life?

Maria Eagle: We want the changes to build on the experience and support that our personal advisers can give to individuals. The importance of various interventions will, as my hon. Friend suggested, vary from place to place. The advisers' discretionary fund enables our staff to make the best use of the money available to provide that assistance according to local conditions. In a rural area, some of the money might be used to ensure that transport is available. Ensuring that our front-line staff have discretion means that the system will be sufficiently flexible to enable people to be helped, whatever part of the country they live in.

Lone Parents

8. **Iain Wright** (Hartlepool) (Lab): What steps he is taking to encourage lone parents to move into employment. [218089]

The Minister for Work (Jane Kennedy): We are giving lone parents more choice and more help than ever to move off welfare and into work. We have introduced compulsory work-focused interviews to ensure that lone parents are aware of the help that they can get to move into work.

Since its launch in October 1998, the new deal for lone parents has helped almost 300,000 people into work and contributed to the increase in the lone parent employment rate to a record high of 55.8 per cent.

Iain Wright: I thank the Minister for her reply. May I suggest that the proposed increases in the minimum wage from £4.90 to £5.35 next year will have a huge impact on lone parents? On Saturday, I was talking to a single mother who works 16 hours a week. She claimed that, taking child care costs into account, the net effect on her weekly income is 53p. Notwithstanding the increases in the national minimum wage, what additional steps will the Minister take to ensure that lone parents are not penalised for wanting to work?

Jane Kennedy: I am grateful to my hon. Friend for what he said about the minimum wage. We are keen to ensure that work pays for lone parents and others and to encourage people to move from welfare into work. The level of the minimum wage is an important calculation in that.

As the hon. Gentleman is aware, through the tax credit system we are enabling many more families who are in work to access the real benefits of that system. Almost 6 million families were benefiting from child tax credit and/or working tax credit in December 2004. We intend to do more. We will be piloting the payment of an extra £20 a week on top of normal income support, but there will be a condition. We want to engage with lone parents to encourage them to move into work and we must ensure that, in doing so, they see real benefits from that move.

Mr. Gwyn Prosser (Dover) (Lab): Will my right hon. Friend acknowledge the contribution made by the hard-working staff in job centres in getting lone parents back into work? With the new deal, unemployment in my constituency has been cut by 61 per cent. and youth unemployment has been slashed by 93 per cent.

Will my right hon. Friend also acknowledge the vigorous campaign that is being fought in Deal by constituents, Dover district council, Deal town council and the citizens advice bureau to stop the proposed closure of its excellent job centre by the management in Kent? Will she acknowledge that the essence of job centres' duties is to remove barriers, and will she note that my constituency faces more than 1,000 job losses as we speak?

Jane Kennedy: I am aware that my hon. Friend raised the matter during business questions last Thursday. He knows that we are due to meet to discuss it on 7 March, when we can explore the exact circumstances in his constituency and the reason behind the decision to change the distribution of offices and the way in which staff are employed. He knows that, ultimately, those are matters for the chief executive of Jobcentre Plus.

The House will know that given the major investment in Jobcentre Plus, in the new systems and in the whole revolutionary process, the active engagement in encouraging people into jobs will make a massive difference to my hon. Friend's constituents. We should not be confined to delivering services through buildings alone, and they are now delivered in a wider variety of ways.

Civil Servants

9. **Mr. Michael Jack** (Fylde) (Con): If he will make a statement on proposed work force changes in his Department and the expected effect on civil service employment in Fylde. [218090]

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle): As part of its efficiency and modernisation programme, the Department plans to reduce staff numbers by 30,000, redeploy an additional 10,000 posts to front-line services and relocate 4,000 posts from London and the south-east by 2008. There are some 8,589 full-time equivalents in the Lancashire West area, which includes Fylde. Staffing levels in the Fylde area will be affected by the changes, but until further detailed work force planning is completed it is not possible to say what the precise effect will be.

Mr. Jack: I thank the Minister for that answer. I have had discussions with the PCS union about one of the items that is clearly being considered by her Department, namely the movement of some 500 people from the programme service division to locations such as Manchester, Salford and Warrington. The union expressed concern about the costs involved in that movement, as no office facilities are currently available outside Fylde for those jobs. The union also believes that some of the skills issues that may be informing the proposed change can be addressed locally through good links with local universities and colleges. Can the Minister look again at the proposal to ensure that it is justified, and will she write to me with details of it?

Maria Eagle: I am happy to do so. It is not in our interests to make changes that end up costing more. These are efficiency savings, not attempts to spend more money on employing fewer people. I am happy to give the right hon. Gentleman that undertaking.

Sir Archy Kirkwood (Roxburgh and Berwickshire) (LD): Will the Minister acknowledge that the issue is one of the biggest facing the Department between now and 2008? Does she accept that the uncertainty about people's jobs in the long term is affecting morale? I understand that the Department still needs to do a little more work before it knows the final number of staff reductions, but when does the Minister anticipate being able to end some of the uncertainty by saying where the job cuts will be made?

Maria Eagle: My right hon. Friend the Secretary of State has made regular statements to the House, and we expect to be able to give more details soon. It is important to do the work in conjunction with our staff and trade union representatives. I fully acknowledge that any such change affects people's well-being and leads to concern for their jobs. We want to ensure that we minimise that uncertainty by making staff and the House aware of what will happen as soon as possible.

Benefit Decisions

11. **Mr. Edward Leigh** (Gainsborough) (Con): When his Department's decision-making and appeals action plans will be implemented; and how progress in making

the improvements to benefit decision-making arrangements set out in the plans will be measured and reported. [218092]

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Eagle): We are already implementing the plans across the Department. Progress will be measured in several ways, such as local and national monitoring, customer surveys and the work of the independent standards committee, which will report on progress in its annual report. We will also inform the National Audit Office of our progress.

Mr. Leigh: In its 12th report of 2003–04, the Public Accounts Committee found that half of the decisions on disability living allowance and attendance allowance contained errors. What progress has been made since then and will the Department be able to achieve the target of reducing the error rate to a quarter of decisions?

Maria Eagle: I acknowledge the difficulties in decision making on the DLA. That is partly because qualification for the benefit is subjective. We are taking steps to improve training and to ensure that we get more consistent decisions, and we hope to make substantial progress over time. The disability and carers service makes more than 1 million decisions every year, only 8 per cent. of which are appealed; therefore, many of the decisions are correct and satisfy the claimants.

David Taylor (North-West Leicestershire) (Lab/Co-op): In relation to the 8 per cent. of decisions that are appealed, can the Minister tell the House what plans she has to speed up the appeal process and to review the location of appeals? In some parts of the United Kingdom, such as the east midlands, it can be quite difficult for appellants actually to get to the appeal.

Maria Eagle: I acknowledge that sometimes there are issues when our customers have to go to specific locations. We are piloting enhanced reconsideration processes, which aim to prevent cases that may be appealed from getting as far as the appeal process. We think that it can make a difference if we head off the appeal by checking again, in conjunction with the customer, that we got the decision right. One of the main reasons for a change in decision at appeal is that new evidence is presented that was not available to our original decision makers. A better and more informed reconsideration process could stop many of those appeals from going ahead, and that could be an effective way forward.

Dr. Julian Lewis (New Forest, East) (Con): I am very concerned about the Minister's response to my hon. Friend the Member for Gainsborough (Mr. Leigh). He stated that the National Audit Office found mistakes in 50 per cent. of cases. The Minister's response was that only 8 per cent. of decisions are appealed, which suggests that more than 40 per cent. of people, some of the most vulnerable, who are on the DLA or attendance allowance, are receiving the wrong amount of money. Surely she should be taking a rather more urgent approach than she seems to be taking today.

Maria Eagle: I deny that there is no urgency in the Department's response. The subjectivity of the DLA and attendance allowance—where our decision makers are trying to discover the impact of a condition or disability on the capacity of the individual either to look after themselves or to move around—means that the situation is inherently difficult to pin down. There is no doubt about that; I think that it would be acknowledged by everybody. It is a difficult process in which to make significant improvements, but that does not mean that we are not trying to do so. We are, and I hope that in future we will be able to make much more progress.

Personal Debt

12. **Mr. Siôn Simon** (Birmingham, Erdington) (Lab): If he will make a statement on his Department's strategy to assist people to manage personal debt. [218093]

The Parliamentary Under-Secretary of State for Work and Pensions (Mr. Chris Pond): The best way we can stop people getting into debt is to make sure that we help them get into work and increase their incomes, so the extra 2 million jobs that we have created and the rise in the national minimum wage announced last week, to which my right hon. Friend the Secretary of State has already referred, are important in the over-indebtedness strategy. A joint Department of Trade and Industry and DWP action plan on over-indebtedness was published in July 2004, aimed at increasing levels of financial capability and access to affordable credit and encouraging a savings culture to avoid over-indebtedness.

Mr. Simon: Admirably Churchillian though the Minister's attitude is—that the best way to stay out of debt is to earn more—in an age when gaining a credit card seems to have become a rite of passage and it is still possible, especially in working class communities, to borrow £500, repay £5,000 and still owe £10,000, can my hon. Friend tell us a bit more about what the Department could do to educate younger people to be as suspicious of strangers offering free money as they ought to be of those offering free sweets, free drugs or free anything?

Mr. Pond: My hon. Friend is right to highlight the dangers, especially for young people, of finding oneself heavily in debt as a result of taking up offers that sometimes seem too tempting to refuse. The strategy to which I referred is cross-departmental and is intended both to increase education about financial resources and to ensure that affordable sources of credit are available in communities where, due to low income and financial exclusion, which we are seeking to address, people find that the only available sources of credit are very expensive and draw them further into debt. We are also working with agencies outside Government; as Members know, the Financial Services Authority has a financial inclusion strategy. We need to ensure that we address the problems faced by the relatively small minority of households that are in debt and for whom such debt can be extremely dangerous.

Mr. Nigel Waterson (Eastbourne) (Con): Does the Minister accept that the Government have created a society where it is easier to borrow than to save and where savings have almost halved since 1997? Is it any wonder that personal debt has spiralled out of control and pension savings, in particular, are hopelessly inadequate?

Mr. Pond: No, I do not accept that. Part of the strategy, as I explained, is intended to encourage a culture of saving—a culture that was badly damaged during the 1980s. Most of us consider credit to be something that helps us to balance our income and expenditure over time. A small minority of people—those in the 7 per cent. of households who find that their debt is such that it can be considered as over-indebtedness—need additional support and assistance, but most people's level of credit is quite sustainable. Our policies of economic stability, full employment, low inflation and low interest rates have ensured that far fewer people find themselves heavily in debt than did when the Conservative party was running the show.

Ms Karen Buck (Regent's Park and Kensington, North) (Lab): Law centres, citizens advice bureaux and other advice agencies are often the first line of defence for vulnerable people who have got themselves into debt, yet in many areas, including my constituency, the grant reduction by local authorities and the end of regeneration programmes such as the single regeneration budget have caused budget cuts in those services, sometimes leading to long queues up the road of people waiting for advice, as at Paddington law centre. Will my hon. Friend liaise with his fellow Ministers in the Office of the Deputy Prime Minister and the Lord Chancellor's Department to review the capacity of advice services to meet the needs of vulnerable people in personal debt?

Mr. Pond: I assure my hon. Friend that we are doing precisely that to ensure that the sources of advice are available. Of course, guidance is available to our own staff to identify those sources of advice for customers with debt problems. Since April, Jobcentre Plus personal advisers have been able to pay for the provision of debt advice, but we need to ensure that people are aware of the advice that is available and that we do everything possible to ensure that the agencies that provide that advice are sustainable.

Pension Protection Fund

14. **Mr. Peter Lilley** (Hitchin and Harpenden) (Con): Whether public sector *(a)* pension schemes and *(b)* pension scheme members will be required to contribute to the Pension Protection Fund. [218095]

The Minister for Pensions (Malcolm Wicks): A scheme that is eligible for protection under the Pension Protection Fund will have to pay the levy regardless of whether it is a public sector scheme. However, most public sector schemes, including those with a Crown guarantee, will not come within the ambit of the PPF.

No statutory provision requires schemes to pass on the costs of the levy to their members. How the costs of the levies are met will be for scheme trustees to decide. It is worth remembering, however, that we expect the levies to average out at about £20 per member per annum and only £10 in the first year.

Mr. Lilley: I am grateful to the Minister for that reply. I understand the Government's reason for not asking taxpayers to underwrite the Pension Protection Fund—many taxpayers are not members of pensions funds—but how do they justify not asking members of public sector pension funds, which are underwritten by the taxpayer, to contribute to the PPF when they require members of private sector schemes to do so? Surely, we as Members of Parliament are beneficiaries of that unfair discrimination, and we all ought to contribute to the protection scheme.

Malcolm Wicks: Let us remember that the PPF is coming into being because of the tragedy and scandal whereby pensioners are left bereft when a company goes bust and a scheme is underfunded. A common-sense comparison would suggest that most people in public sector schemes—the civil service and those in local government—are not likely to see their scheme go bust, although some non-departmental public bodies do not have a Crown guarantee and will pay a levy. Such bodies include the Arts Council, the Legal Services Commission, Remploy and the royal household.

Mr. Dennis Skinner (Bolsover) (Lab): What advice can the Minister give to several hundred ex-Anglo United workers who have been robbed blind by their employer now that Anglo United, which used to be called Coalite, has finished? Is he aware that, in a previous answer, he suggested that Anglo United was not in the scheme that was announced on 22 February? Why was it not included? Why is it not included in the protection plan? Surely the Government should find a way to try to protect the few hundred workers at what was Bolsover Coalite—their previous employer has robbed them blind.

Malcolm Wicks: I hope that my hon. Friend will allow me to write to him about that scheme. The financial assistance scheme covers 380 pension schemes. I do not know the particulars of the scheme that he mentions, but the House must be very careful not to ask the taxpayer to underwrite schemes with solvent employers because some people may seek to dump pension liabilities on the taxpayer or the new PPF.

BILL PRESENTED

Mr. Speaker: Order. I understand that the hon. Member for Stroud (Mr. Drew) has been held up because of the snow. Therefore, the notice for the presentation of his Bill will take place at some other time.

Prevention of Terrorism Bill (Programme) (No. 2)

3.30 pm

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): I beg to move,

That the following provisions shall apply to the Prevention of Terrorism Bill for the purpose of supplementing the Order of 23rd February 2005—

1. Paragraphs 3 and 4 of that Order shall be omitted.

2. Proceedings in Committee of the whole House and any proceedings on consideration shall (so far as not previously concluded) be brought to a conclusion six hours after the commencement of proceedings on the Motion for this Order or at 10.00 p.m., whichever is the later.

3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion one hour after the commencement of those proceedings.

In programming today's business, the Government are, of course, very conscious of the speed with which we are having to consider this legislation, but we have tried, as far as possible, to ensure the maximum time available to the House to consider its provisions. Clearly, we are in this position today because of the House of Lords judgment that was made on 16 December. That judgment set out the reasons why it was considered that the existing part 4 powers were not compatible with the European convention on human rights. Therefore, it is necessary for us to have a new legislative framework in place by 13 March.

Mr. Edward Garnier (Harborough) (Con): When the Minister or her officials drafted the timetable motion that we are now discussing, did she or did she not know how many amendments and new clauses would be tabled? Indeed, did she know the contents of the provisional selection of amendments by the Chairman of Ways and Means?

Ms Blears: I am not aware that we had that information at the time that the programme motion was drafted. However, I can try to assure hon. Members that we will seek this afternoon to have as full a debate as we can on the amendments and new clauses that have been tabled.

Several hon. Members *rose—*

Ms Blears: I will give way again in a moment.

Today, we have guaranteed six hours of debate in Committee or until 10 pm, whichever is the later. We have agreed to an hour's extension to the business to protect the time for debate on Third Reading, and also to Opposition requests that no knives are placed on the debate in Committee so as to try to retain the maximum flexibility to consider the amendments that have been tabled.

Andrew Mackinlay (Thurrock) (Lab): Can my hon. Friend clarify the position? I understand that we have been told to listen with bated breath to the Home Secretary this afternoon, when he will show that he has been listening to the debate and will come forward with alternative proposals. However, those alternative proposals or amendments will not be before the House

today; they will appear on a promissory note saying that he will introduce them in the House of Lords. Is that correct? If it is, it really is bad form. We should have allowed a day or two to elapse so that the House of Commons could discuss the amendments rather than there being a promise that they will be introduced in the House of Lords.

Ms Blears: My hon. Friend will have to listen to today's debate as it unfolds and to the Home Secretary. I have said on many occasions that we have been listening very carefully to the strength of feeling—not just on the Government Benches, but on the Opposition Benches. I have no doubt that, as the debate develops today, we will see that matters are being taken fully into account. I am sure that my hon. Friend can make his points at that stage.

Several hon. Members *rose—*

Ms Blears: I will give way in a moment.

We need to have a legal framework in place by 13 March. Otherwise, without the renewal of the part 4 powers, we could face the prospect of looking at the possible release of detainees without any legal framework to provide some controls in respect of those detainees. That is why it is important that we consider this legislation today with some urgency.

Mr. Dominic Grieve (Beaconsfield) (Con): The hon. Lady referred to the Opposition's view on knives in the programme motion. When the Government approached us to suggest that there should be knives in the programme, we did not even know the programme on which knives were to be imposed. It is not entirely correct to suggest that the Government have acceded to our request. It is true that they have not imposed knives, but they would not have known where they should fall.

Ms Blears: As I said, we are trying to ensure that there is sufficient flexibility to enable the various points that hon. Members have raised to be considered.

Sir Patrick Cormack (South Staffordshire) (Con): Even if one accepted what the hon. Lady said about the deadline, why could we not have had two days this week to consider such an important Bill?

Ms Blears: A decision has been taken to consider the Bill today and we need to make progress with it. I entirely accept that its passage is very swift, but the time available will enable us to scrutinise the big issues of principle that remain matters of contention.

Several hon. Members *rose—*

Ms Blears: I am sure that we can have a good debate this afternoon. [HON MEMBERS: "Will the Minister give way?"] I will give way to hon. Members in due course, but not on the basis that they are shouting at me.

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): My hon. Friend is well known for her flexibility and tolerance. Given that this is a basic and important question of not only the rights of the House of Commons, but those of every United Kingdom citizen, surely it would not be beyond the bounds of possibility for the Leader of the House to come to the other parties through the usual channels and ask for this week's programme to be rejigged so that we could have at least one more day to consider the Bill. Failure to do that will at least leave the Government open to the interpretation that they are frightened of free speech.

Ms Blears: My hon. Friend is absolutely right that we will be discussing serious and fundamental matters today and the Government are not afraid of that debate or unwilling to enter into it constructively. The programming of the Bill has been considered by the usual channels and the Leader of the House, so I suggest that we press on with the business.

Peter Bottomley (Worthing, West) (Con): The hon. Lady said that she did not know how many amendments and new clauses would be considered. By her calculations, how many minutes—or seconds—will be available to discuss each amendment and new clause?

Ms Blears: At the last count, about 160 amendments had been tabled, although I am sure that there are more now. As the hon. Gentleman well knows from his extensive experience in the House, some matters are more complex than others and some take longer to discuss. Some matters can be dealt with relatively quickly, but sometimes the shortest amendments take the longest time to discuss because they are more fundamental than others.

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): The hon. Lady has already conceded that she did not know the number of amendments and new clauses to be considered at the time at which the revised programme motion was tabled, so what conceivable grounds has she to say that the programme motion gives anything like sufficient time or that it is based on proper information?

Ms Blears: As I said, I was aware of 160 extensive amendments when I left on Thursday afternoon. Without the use of knives, I believe that we can have a wide-ranging and flexible debate on the principles in the Bill.

Mr. Mark Fisher (Stoke-on-Trent, Central) (Lab): The Minister concedes that there are a great many amendments, all of which relate to important matters. She also conceded a few minutes ago that the Bill is being rushed through the House and that we will have only a brief time to discuss such matters. Surely she can take up the extremely reasonable point made by my hon. Friend the Member for Crewe and Nantwich (Mrs. Dunwoody) and ask the Leader of the House to rejig this week's schedule. If she did that, she would get the support of every other party and most of her Back Benchers.

Ms Blears: I do not agree with my hon. Friend. I did not say that the Bill was being rushed. I said that its passage was swift, but that we could nevertheless have a good, constructive and reasoned debate.

David Davis (Haltemprice and Howden) (Con): Just for absolute clarity, let me make it clear that the Opposition would be very willing to discuss with the Leader of the House any further rejigging of the motion to get proper debate on this important subject.

Ms Blears: As I said, I think that we should press on with the business and maximise the time that there is for debate.

Several hon. Members *rose—*

Ms Blears: I give way to the hon. Member for Buckingham (Mr. Bercow).

Mr. John Bercow (Buckingham) (Con): I am sorry that the Minister is making the speech that she is making because she must know that it is an undignified performance. Given that Home Office Ministers usually pride themselves on speaking frankly, why is it that she has not felt able, in response to my hon. Friend the Member for Worthing, West (Peter Bottomley), to explain to the public that the Government's belief is that for more than 180 new clauses and amendments, it is satisfactory that the House should have less than two minutes for the consideration of each? If she does not think that that is a disgrace, she ought to do so.

Ms Blears: I do not think that it is a disgrace. The hon. Gentleman will know, from his extensive parliamentary experience in this place, that many amendments are consequential and relate to minor matters. Some deal with serious matters of principle, and he is right that we should have time to discuss those—but if he thinks for one moment that every amendment and new clause carries equal weight, he is not the hon. Gentleman I thought he was because he clearly has extensive parliamentary experience in that regard.

Several hon. Members *rose—*

Ms Blears: I propose to press on. I have no more to add to the programme motion. *[Interruption.]* We are clearly not going to make progress if everyone shouts at once. I did not see the Father of the House and happily give way to him.

Mr. Tam Dalyell (Linlithgow) (Lab): May I gently say that these proceedings bear no resemblance to the House of Commons to which I was first elected, because the last 10 minutes would not have been left to a Minister of State? It is unfair for a Minister of State to have to deal with this. What more pressing engagement than being in the House of Commons at this moment have the Home Secretary, the Chief Whip and the Leader of the House got?

Ms Blears: I am more than happy to deal with the programme motion. Once we press on with the business, I have no doubt that my right hon. Friend the Home Secretary will address some of the serious and fundamental matters of principle that face us.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): If the hon. Lady looks back on the collective parliamentary experience to, say, the Prevention of Terrorism (Temporary Provisions) Act 1974, she will see that it was discussed through the night and all clauses were examined. That is a very different situation from the one in which I find myself now. I am particularly interested in clause 9 and the schedule, because they will determine whether a person can see the evidence on the basis of which their liberty might be taken away or restricted, but I see no prospect of us getting that far on a six-hour timetable. Why not revert to the 1974 practice and run the business through until it is completed, as it was successfully done then?

Ms Blears: These matters have been considered by the usual channels in the House and the business managers. The programme motion is in accordance with that consideration. I can only reiterate—

Several hon. Members *rose—*

Ms Blears: There are only so many ways in which I can say this, Mr. Deputy Speaker. We propose to press on today, to have the debate, to consider these serious issues and to ensure that we have as much consideration of them as possible.

Dr. Jenny Tonge (Richmond Park) (LD): Will the hon. Lady not at least concede that by pressing on with this business in almost indecent haste, when one considers the number of amendments—

Mr. Hogg: It is indecent.

Dr. Tonge: I said "indecent".

Mr. Hogg: The hon. Lady said "almost."

Dr. Tonge: Does the Minister agree that that haste will lead people to believe that this action is more an attempt to justify the Government's disastrous foreign policy than it is to secure the security of the people of this country?

Ms Blears: I reject that entirely. The people of this country are concerned that we get proper legislation in place which meets the threat that we face and provides us with a framework to ensure that we protect national security while striking that difficult balance with individual liberty. That is what the people of this country want us to do, and they want us to get on with it. I commend the programme motion to the House.

3.44 pm

Mr. Dominic Grieve (Beaconsfield) (Con): This is a very sad occasion. The House must consider carefully whether it wishes to take a grip of its own procedures or simply allow the Executive to roll us over and treat us as their rubber stamp. The Minister will know that I have always been willing when business has gone into Committee, to try to meet agreed timetables when they are reasonable. I have no objection to a sensible timetable if it can help to provide a degree of certainty for the House, but what we are being asked to do today is scandalous.

One need only look at the 230 amendments that have been tabled, the 10 new clauses and the 14 groups to realise that there is absolutely no possibility of our doing

justice to what must be one of the most important pieces of legislation that this House has had to consider since the second world war. We are being asked to do this in a way that guarantees—the Minister admitted it in her comments—that this House cannot properly scrutinise the legislation.

Let me pick up a point that was made earlier. The Minister seemed to take the view that as long as the House could debate the principles, the detail did not matter. Yet the Committee stage of a Bill is precisely when the House is supposed to do its duty by looking at the details. Let us take the schedule as one example. Paragraph 4(3)(c) specifies that the Secretary of State will never be required to disclose information if

"he does not propose to rely on it in proceedings."

That means that he will be under no obligation to disclose relevant exculpatory material to the court. So if one informer says that somebody is a terrorist but somebody else says that he is not, the Home Office can choose to rely on and disclose what the informer whom it prefers has said, and not do so for the informer whose view it does not support. That is the sort of issue of detail that the House is to be wholly unable to consider in Committee because the schedule is at the very end of the Bill and there is absolutely no possibility of our reaching it.

Mr. Siôn Simon (Birmingham, Erdington) (Lab): I had not realised that there was an exact formula for the number of amendments and the time for debate in Committee. Perhaps Conservative Members could give me the number so that I can better understand exactly how many minutes per new clause and amendment they want.

Mr. Grieve: The hon. Gentleman can make the calculations for himself. I would have thought that he had been in this House long enough to know how long it takes to have a sensible debate. He knows the number of his colleagues of all parties who want to participate in the debate, and it is perfectly obvious that we cannot do justice to the legislation.

Mr. Hogg: Would my hon. Friend care to remind the hon. Member for Birmingham, Erdington (Mr. Simon) that if this Bill had gone into Committee in the ordinary way, it would not have taken less than 25 hours to consider, even on an agreed timetable?

Mr. Grieve: My right hon. and learned Friend is right. That highlights the massive deficiencies in the House's procedure. Is the Minister really going to ask us, when we have had six hours of debate in Committee and one hour on Third Reading, to maintain consensus—as she wants—and send the Bill to the House of Lords with our approval? I could not approve a Bill on that basis under any circumstances. The Minister is ensuring that the Government's desire to try to achieve a meeting of minds on an important issue is fatally undermined from the outset.

Mr. Edward Leigh (Gainsborough) (Con): Surely it is a question not just of the number and complexity of the amendments but of the principle involved. We are talking about 800 years of legal precedent. I understand that that leaves us one hour for every 100 years of legal precedent.

Sir Patrick Cormack: It is less than that.

Mr. Leigh: Less, indeed.

The Minister clearly has not got the authority to change the Government's view today, so can we redouble our efforts through the usual channels and through every channel to try to have a decent debate, so that we can reach some consensus to preserve civil liberties in this country?

Mr. Grieve: I agree with my hon. Friend. May I make one point clear? The Minister suggested that the decision had been arrived at after discussions through the usual channels, implying that we have had some part in the process. I assure my hon. Friend that we have not. We have consistently asked for a proper period of time to consider this legislation. I entirely agree with what was said earlier: I do not like going home late or, for that matter, in the early hours of the morning, but this is a Bill for which I would be perfectly happy to stay all night. It is, without doubt, the most important legislation that I have examined since I entered this House.

Mr. Simon: I am not being silly about the numbers of minutes. According to the analysis of the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg), eight minutes is fine, but two minutes is wrong. Conservative Members are being childish and ridiculous.

Mr. Grieve: I am sorry to hear the hon. Gentleman demeaning himself in that fashion.

Not only is today's timetable grotesque but, because of the way in which the matter has been handled since Second Reading, hon. Members have had grossly insufficient time in which to consider the detail of the legislation and to select their amendments. The Clerks of the House have had great difficulty in grouping the amendments, which is the inevitable consequence of requiring amendments to be tabled in haste. It would have been so much better if we had had more time to consider the matter.

Mr. Brian Sedgemore (Hackney, South and Shoreditch) (Lab): I am grateful to the hon. Gentleman for giving way, which the curmudgeonly Minister would not do. It would help our proceedings if we knew which amendments the Government will propose within the tight timetable. Is the hon. Gentleman aware that we have received absolute and categorical assurances from the press that there is a letter in the post to all of us setting out the Government amendments? Does he have a copy yet?

Mr. Grieve: Well, I can tell the hon. Gentleman that I have a copy of a letter from the Home Secretary, which tells us that the Government will amend this Bill in another place. We are being asked to pass this

[Mr. Grieve]

legislation, which is of huge constitutional and legal significance, on the basis of promises that will be fulfilled elsewhere. That is an impossibility.

Mr. Hogg: On a point of order, Mr. Deputy Speaker, I am sorry to interfere with my hon. Friend's speech, but he has just made an important statement. He has received a letter, which will apparently be sent to all other hon. Members, about the future progress of the Bill, but most hon. Members have not received such a letter. Should we not stop these proceedings until we are in a position to read the letter, which is apparently important?

Mr. Garnier: Further to that point of order, Mr. Deputy Speaker. A note entitled, "Note on non-derogating control orders", was handed to me in the Lobby. It is dated 28 February and it is unsigned, although I assume that it comes from an agent of the Home Office. Will you confirm that it has been handed not only to me, but to other Government and Opposition Members? It would be a great pity if Government Members did not know what their Government were doing in their names.

Sir Patrick Cormack: Further to that point of order, Mr. Deputy Speaker. The situation is wholly unsatisfactory. Will you use your powers to stop the clock and suspend the sitting to allow all hon. Members the chance to read that letter, and Government and Opposition Front Benchers the chance to work out a sensible programme?

Mr. Deputy Speaker (Sir Alan Haselhurst): As I understand it, a note has been placed in the Vote Office and it should be available to all hon. Members. I am not aware of the letter to which hon. Members have referred, but it is usual for any matter which is to be relied on in debate to be made available to all hon. Members. I am not aware of the extent to which those documents are available. On previous occasions, the Chair has ruled that anything that is vital or relevant to the debate should be available to all hon. Members.

Mr. Grieve: Further to that point of order, Mr. Deputy Speaker. The letter is addressed to my right hon. Friend the Member for Haltemprice and Howden (David Davis). It arrived less than an hour ago by fax and is signed by the Home Secretary, who makes two points of which the House should be aware. First, he says:

"I shall make each of these points clear in the debate this afternoon."

Where is he? I cannot see him. Secondly, he says:

"I hope that this letter makes my intentions clear and so I am placing a copy of this letter in the library of the House for the benefit of all Members before the substantive Committee debate begins."

Mr. Deputy Speaker: I am grateful to the hon. Gentleman for clarifying that. It appears to the Chair that both documents that have been referred to have been made available in the appropriate ways to which the House is accustomed. *[Interruption.]* Well, the intention is that they should be available. On that basis, we must proceed with the programme motion.

Sir Patrick Cormack: On a point of order, Mr. Deputy Speaker. If it is right, as has been read out by my hon. Friend the Member for Beaconsfield (Mr. Grieve), that the Home Secretary expects us to see the letter in the Library before the substantive debate begins—in other words, before the debate that follows the programme motion begins—would you please suspend the House so that we can do it?

Mr. Deputy Speaker: I have to assume that the Home Secretary's intention, as stated, is being fulfilled. That is relevant to the substantive debate, rather than to the programme motion. It is a separate issue from the question of the suitability of the programme, which the House is discussing at present.

Mr. Alan Williams (Swansea, West) (Lab): Further to that point of order, Mr. Deputy Speaker. I gather that, as has been said, a copy has been placed in the Library of the House of Commons, but a single copy in the Library would lead to an unseemly queue if every hon. Member went along to make a photocopy. It would seem appropriate if the Department or the Library were asked to provide copies as rapidly as possible for circulation to Members in the Chamber and those who want it from the Vote Office. I hate to say this, but, if necessary, the House should be suspended until they all have a copy of the letter, which I have.

Mr. Kenneth Clarke (Rushcliffe) (Con): Further to that point of order, Mr. Deputy Speaker. As I understand it, what the Home Secretary is trying to communicate to us through the letter in the Library is that, presumably because we have only six hours for debate, he does not intend to table amendments in the House today, but he has already formed a clear intention of amending the Bill, and he will table those amendments in another place once we have finished our proceedings. I have never heard of that process being followed before. It is an outrage. Could you suspend the sitting while the usual channels consider whether the Government can proceed with an important Bill on that basis? It reduces our proceedings to a farce if we know that we are about to discuss a Bill that is going to be amended, if the Government get their way, in another place. It is an intolerable contempt of the House to proceed in that way.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. As I understand it now, the letter—I have a copy in my hand—is being made available in the Vote Office so that it will be available to all Members before the substantive debate begins. By continuing this argument, time is being taken out of the overall time available, which the Chair does not control. There is a programme motion before the House, which the House has yet to decide upon. That is the first step the House has to take—

Clare Short (Birmingham, Ladywood) (Lab): My hon. Friend the Member for Reading, West (Mr. Salter) is distributing the letter.

Mr. Deputy Speaker: Order. If I may say so to the right hon. Lady, there is a method for doing these things. If hon. Members wish to have documents relating to the debate, it is more orderly for those to be collected and not distributed while the occupant of the Chair is on his feet. The programme motion before the House is precedent to the business—*[Interruption.]* Order. That has to be determined first. The House must make a decision on that. If the House decides on the programme motion, the business goes ahead. Anything that happens outside the Chamber between the usual channels is nothing on which the Chair can adjudicate. I advise the House that we should proceed with the programme motion and decide thereafter how we deal with the substantive order.

Sir Menzies Campbell (North-East Fife) (LD): On a point of order, Mr. Deputy Speaker. All legislation is important, but surely no legislation is more important than legislation that might have the effect of depriving the individual citizen of his or her liberty. I feel great discomfort about the way in which these proceedings are being conducted, particularly in the past 15 or 20 minutes. Would it not be appropriate for you to consider the applications made on both sides of the House for a suspension so as to allow right hon. and hon. Members the opportunity to study the documents that have now been made available?

Mr. Patrick McLoughlin (West Derbyshire) (Con): Further to that point of order, Mr. Deputy Speaker. This has a great resemblance to what happened a few weeks ago when the Lord Chancellor had entered into correspondence with people outside the House. Mr. Speaker was very annoyed that we did not get proper notice of the letters that had been exchanged earlier that day. Surely the Government are again treating the House with total contempt. Is the Chair happy with that?

Mr. Deputy Speaker: The hon. Gentleman must not attempt to second-guess the state of mind of the Chair. The Chair is attempting to conduct these proceedings in an orderly manner. I have suggested to the House that the business motion, which has so far appeared to attract criticism, still has to be decided upon by this House. The decision of this House on the programme motion determines whether we proceed on the substantive business in the way that is laid out. I think that that is the best way for the House to proceed.

Clare Short: On a point of order, Mr. Deputy Speaker. May I gently remind you that it is normally seen as the duty of the Chair to protect the House of Commons? We all heard on the news at midday that a letter had been sent to us, I went to the Vote Office before I came into the Chamber, and the letter was not there. This is a crucial consideration in our attitude to the allocation of time, as well as to the content of the Bill. I gently suggest that for the Chair to defend the behaviour of the Government, which dishonours this House, is to take on a duty that is not in line with the way in which the Chair normally sees its role.

Mr. Deputy Speaker: I do not think that I made any such imputation. I have merely said, or thought that I had merely said, that the documentation to which reference had been made—two separate items—now appeared to be available, and that the orderly manner for Members to respond to that is to collect them from the place where they have been put. I was simply objecting to a disturbance in the House while I was on my feet about the distribution that was going on unofficially. These documents are now, as I understand it, in the Vote Office and available to all Members.

Mrs. Dunwoody: On a point of order, Mr. Deputy Speaker. I believe that the House has made it very clear that it wants to suspend and that the Chair is being put in an impossible position. It could help us if you would indicate whether it is your intention to accept manuscript amendments in any discussion. That could influence the decision of individual Members who might feel very strongly that, if you were so inclined, they could allow the discussion to go ahead.

Mr. Deputy Speaker: Manuscript amendments can be submitted, but must of course be considered in the usual way, so I cannot give any guarantee that simply because such an amendment is submitted it will necessarily be chosen for debate.

Peter Bottomley: On a point of order, Mr. Deputy Speaker. I have one small point and one more major one. The small point is that it is not yet clear to the House whether the Government are circulating one document or two. A statement from a Minister would clear that up.

The substantive point is that, if the Home Secretary is proposing amendments to the Bill and has decided that he does not want to put them to this House on Report, that is probably because six hours does not give us enough time to discuss them. That is why this matter is relevant to the programme motion. It would be a courtesy and a help to the House if the Leader of the House or the Home Secretary could come here to say what those amendments would be. We could then decide whether to extend the programme motion or reject it so as to allow the Government amendments to be considered at the Report stage of this important Bill.

Mr. Deputy Speaker: I can say to the hon. Gentleman that there are, to my knowledge, two documents, which, also to my knowledge, are both now in the Vote Office.

Mr. Frank Field (Birkenhead) (Lab): On a point of order, Mr. Deputy Speaker. When the Home Secretary introduced the Bill, he said that the country faced a threat the like of which we have never faced before. Looking at the rest of this week's business, I would suggest that nothing on our agenda ranks higher than the consideration of this measure. Clearly, there has been pressure from both sides of the House for the Government to give us more time to consider whether it is proper or appropriate given the level of threat that we face. The Opposition parties have a day's debate this week. If the Government are unwilling to give us some of their time to extend the timetable, might not the

[Mr. Frank Field]

Opposition give us their day so that we could at least have two days' debate on the Committee and Report stages?

Mr. Grieve: Yes, we would.

Mr. Field: Given that the Opposition are prepared to give us their Opposition day to extend the timetable on the Bill, may we ask your advice, Mr. Deputy Speaker, on how we might act positively on that helpful suggestion?

Mr. Deputy Speaker: The Chair is unable to make any suggestion about the way in which the usual channels work. That is one of the great mysteries of the House. However, it is always open to the usual channels to act in the way that they think fit.

Mr. Robert Marshall-Andrews (Medway) (Lab): On a point of order, Mr. Deputy Speaker. I want to ask your assistance on a matter that stems from a point that was raised earlier. What is happening is unprecedented in my experience and that of hon. Members who have been here much longer than me. Many serious amendments have been tabled on the derogating aspects—the most important elements—of the Bill. How can hon. Members possibly debate amendments to a Government Bill that is not, in fact, the Government Bill? We are told that there are inchoate, as yet unexpressed and undrafted amendments that the Government will table in the House of Lords. I seriously ask how can the House conceivably debate those amendments?

Mr. Deputy Speaker: The hon. and learned Gentleman, in making those remarks, seeks to draw the Chair into the debate. The House is trying to determine precisely that issue in considering the programme motion. The Chair cannot comment on that.

Mr. Beith: On a point of order, Mr. Deputy Speaker. I do not recall an occasion of such importance, with points being raised on the way in which the House should proceed, when the Leader of the House has not hurried into the Chamber, if he was not already present. In my experience, the Chair often has to rely on the Leader of the House to take some action following any expression of concern from the Chair. Is there some way in which you can communicate to the Leader of the House that he should be here to assist the House in finding a way out of the difficulty of ensuring that the measure is properly debated?

Mr. Deputy Speaker: There is an admirable system of electronic communication around the building and I would be surprised if most hon. Members were not aware of the proceedings.

Mr. Simon Thomas (Ceredigion) (PC): On a point of order, Mr. Deputy Speaker. Have we been in order for the past 37 minutes or so? It appears that we are discussing a programme motion for allocation of time to consider amendments that will be redundant because the Government intend to amend the Bill in their own way in another place. Before we came into the Chamber, the letter and the documents were not available to hon. Members such as me. We have spent 25 minutes discussing a programme motion for which relevant documents were not available before we began the debate. Is that in order? If not, surely it would be better to suspend proceedings, get the information and begin the process again.

Mr. Deputy Speaker: We are in danger of repeating ourselves. I have said that the documents are available. Their absence at the beginning may have been unsatisfactory in the eyes of some hon. Members but they are available now.

Mr. Fisher: On a point of order, Mr. Deputy Speaker. The letter may be available but the amendments are not. As the guardian of the House's rights, will not you protect us by ensuring that we have the papers that are relevant to the debate? The only way in which that can happen is to have the amendments.

Mr. Deputy Speaker: I am afraid that that matter is outwith my control. It is not unprecedented for the House to be informed during the course of a debate that amendments, sometimes not completely specified, will be tabled in another place. We are in that position today. It is not for me to comment on the suitability of that, but it is not without precedent. In the circumstances, the House must rely only on the Home Secretary's letter.

Mr. Grieve: The House will have heard the comments and representations that were made in the points of order. The programme motion prevents proper consideration of a most important Bill. Irrespective of hon. Members' views on the measure, I urge them to take back control of our proceedings and vote against the motion.

4.9 pm

Mr. Mark Oaten (Winchester) (LD): In the short time left, I will simply say that, in our Second Reading debate last Wednesday, we saw Parliament at its best, but what is taking place this afternoon shows us Parliament at its worst. The problem is that the letter from the Home Secretary makes critical changes to the Bill, which will undermine the debate on the first group of amendments and make nonsense of the process that we shall go through in the next few hours.

Mr. Crispin Blunt (Reigate) (Con): The hon. Gentleman says that we are seeing Parliament at its worst, but I believe that the responsibility for this state of affairs lies with the Government, not with Parliament.

Mr. Oaten: Unfortunately, though, this reflects on all of us, whether it is this Government or any other who have proposed the measures that we are considering.

I suggest to the Minister that we need not have reached this situation in the first place. This problem has existed for three years and the Liberal Democrats have consistently pointed out that the Government should have tackled it during that time, rather than leaving it until a point at which, because of a Law Lords

judgment, we are faced with such a short time scale. It cannot be right that we have to deal with such critical issues in such a short period of time.

These are not small matters. We shall have only two hours in which to discuss whether a judge or a politician takes certain decisions, although the Home Secretary is going to help us out with that later. We shall probably have only two hours in which to discuss the standard of proof. We might have only an hour to consider whether evidence can be heard in certain situations and a similar time to discuss what the control orders will involve. It cannot be right to rush such fundamental issues through in six hours.

I am sure that all hon. Members want to try to resolve this issue in a way that will prevent a terrorist attack from taking place in this country, while ensuring that we defend our strong principles of justice. We are not being allowed to get into that debate this afternoon or to do justice to that difficult balancing act. I have two questions for the Minister, and I hope that she will have time to respond to them.

Sir Patrick Cormack: On a point of order, Mr. Deputy Speaker. I apologise to the hon. Member for Winchester (Mr. Oaten) for interrupting him. As it has been indicated that the official Opposition would be prepared to allow this debate to continue on Wednesday, would you accept a manuscript amendment to the programme motion to enable that to happen?

Mr. Deputy Speaker: No. We have only three minutes of the debate on the programme motion left, and I could not accept such an amendment. If there is any question of more time being provided by an attempt being made through the usual channels to do so, that is how it will have to be done. If the programme motion is accepted, we shall move on to a debate that might be determined by the hours set out by the programme motion or might be extended by decisions taken elsewhere. At this stage, however, the Chair does not know what will happen in that regard.

Mr. Oaten: I hope that the Home Secretary will confirm that he will come to the Floor of the House to explain his letter, so that we have a proper chance to debate that matter later. It is totally wrong that four days have been allowed for this debate in another place, while this House has only two. We find that unacceptable, and we shall vote against the programme motion.

4.13 pm

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): The hon. Member for Winchester (Mr. Oaten) has made most of the points that I wanted to make, but I want to add a further comment to the Minister. We have been told that we must rush this Bill through. That is simply not correct, because it is not necessary to have new legislation of this kind in place by 13 March. The truth is that the detainees in Belmarsh could be let out tomorrow without there being any danger whatever to the state. The point has already been made that they are not going to be subject to house arrest. They are going to be placed under surveillance and they can be kept under surveillance without any new legislation being passed, so there is no pressing need for the Bill.

If there were a pressing need for this legislation, it would be the fault of the Government, because they have had since last December to contemplate the terms of the House of Lords judgment. They have had more than a year to reflect on the contents of the report prepared by Lord Newton. The fact that we are where we are now is solely and exclusively the fault of the Government. What they are doing is a disgrace. It is profoundly undemocratic, it undermines the liberties of each and every one of us, and this House should have no part of it. I urge the House to recover its authority over its own proceedings, and to reject this guillotine.

4.14 pm

Mr. Eric Forth (Bromley and Chislehurst) (Con): It is worth noting, Mr. Deputy Speaker, that the amendments and new clauses already referred to were selected by you as being worthy of debate. There should be no doubt that the Chair told the House "Here are the matters that we believe are worthy of debate: 13 distinct groups of amendments—

It being forty-five minutes after the commencement of proceedings on the motion, MR. DEPUTY SPEAKER *put the Question, pursuant to Standing Order No. 83A (8).*

The House divided: Ayes 278, Noes 185.

Division No. 100] **[4.15 pm**

AYES

Adams, Irene *(Paisley N)*
Aingar, Nick
Ainsworth, Bob *(Cov'by NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Beard, Nigel
Begg, Miss Anne
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna

Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Joyce, Eric *(Falkirk W)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pound, Stephen
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Claire
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

Tellers for the Ayes:
Mr. Tom Watson and Ms Bridget Prentice

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beith, rh A. J.
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Best, Harold
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cousins, Jim
Cran, James *(Beverley)*
Cryer, John *(Hornchurch)*
Curry, rh David
Dalyell, Tam
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Evans, Nigel
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hamilton, David *(Midlothian)*
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Hayes, John *(S Holland)*
Hermon, Lady
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas

Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keeble, Ms Sally
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackinlay, Andrew
Maclean, rh David
McLoughlin, Patrick
Mahon, Mrs Alice
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Oaten, Mark *(Winchester)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Roe, Dame Marion
Rosindell, Andrew
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Soames, Nicholas
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Sir Robert Smith and
Mr. David Ruffley

Question accordingly agreed to.

Mr. Garnier: On a point of order, Mr. Deputy Speaker. I am not sure whether we are yet in Committee or whether you are still in your role as a Deputy Speaker of the House, but in either guise, will you allow me to read a few brief lines from the letter sent by the Home Secretary to my right hon. Friend the shadow Home Secretary, which I have now had a chance to look at? I will be quick. It states:

"The new procedure for derogating control orders will be as follows. The Secretary of State would make an ex parte application to the High Court for an order. The application would be heard by the judge as quickly as possible . . . The order would be subject to automatic referral to the full court for an inter-partes hearing".

To me, that amounts to a wrecking amendment by letter. If that is true and that is the Government's intention, clauses 1, 2, 3 and 4 of the Bill are otiose—

Mr. Deputy Speaker: Order. The hon. and learned Gentleman must know that this is a matter for debate. If the House moves into Committee, these matters can be debated then. That, indeed, is the time for all those points to be considered. Any amendments or intended amendments will be taken into account then; we cannot have this matter debated as a point of order.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. I advise the House that we are now moving into Committee. We must complete that process—*[Interruption.]* Order.

Orders of the Day

Prevention of Terrorism Bill

Considered in Committee.

[SIR ALAN HASELHURST *in the Chair*]

[Relevant documents: First Report from the Joint Committee on Human Rights, Session 2004–05, HC 389, Prevention of Terrorism Bill: Preliminary Report; Memoranda laid before the Constitutional Affairs Committee, HC 323–II, on the Operation of the Special Immigration Appeals Commission (SIAC); and Uncorrected Minutes of Evidence taken before the Constitutional Affairs Committee on 22nd February 2004, HC 323–i, Session 2004–05, on the Operation of the Special Immigration Appeals Commission (SIAC).]

4.30 pm

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): On a point of order, Sir Alan. My hon. and learned Friend the Member for Harborough (Mr. Garnier) has pointed out that substantial amendments have been tabled to the initial clauses of the Bill. The problem is that there are so many amendments that if we debate the initial clauses at the start, we will be unable to debate the later ones, which may remain in the Bill. Can we invite the Home Secretary to tell us which clauses are going to be so substantially rewritten that we need spend only a relatively short period debating them? Otherwise, we are going to debate clauses that are not going to form part of the Bill. In those circumstances, the schedule that the right hon. Member for Berwick-upon-Tweed (Mr. Beith) wanted to debate, for example, may not be debated at all.

The Chairman of Ways and Means (Sir Alan Haselhurst): I have to tell the right hon. and learned Member that that is entirely a matter for the Home Secretary. If he seeks to catch my eye, he can deal with the matter. No doubt he will have heard what the right hon. and learned Member said.

Mr. Kenneth Clarke (Rushcliffe) (Con): Further to that point of order, Sir Alan. I, too, have read the letter mentioned by my hon. and learned Friend the Member for Harborough (Mr. Garnier). None of us was aware of it until the Division provided an opportunity to get it. As I read the Home Secretary's intentions, if the Bill is amended as he proposes, it will make the entire first group of amendments otiose and unnecessary, so we could be about to waste a considerable amount of time debating amendments that will fall by the way. Will you, Sir Alan, invite the Home Secretary to table in manuscript form as quickly as possible the amendments that he describes in the letter? We must know exactly what we are debating. As far as I am aware, the only reason for not debating the amendments that have been proposed so far is that the Government do not want the Committee to discuss them. They prefer to wait until the Bill goes to the other place, where there will be more time to deal with them.

The Chairman: I would have to say to the right hon. and learned Gentleman the same as I said to the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg)—that the Home Secretary could clarify the position if he were to catch my eye early in the debate. It would then be for the Committee to determine the amount of time that it wished to devote to each group of amendments that I—in good faith, I would add—have selected.

The Secretary of State for the Home Department (Mr. Charles Clarke): Further to that point of order, Sir Alan. I would be happy to clarify the position. To be candid, I thought that I was being helpful to the Committee in respect of its consideration of these matters by writing the letter that was mentioned. Since Second Reading last Thursday, I have been considering as fully as I can many of the issues raised on both sides of the House. The choice that I faced was whether to respond to the debate on the first group of amendments, summing up my conclusion at that point, or to seek to help the Committee by letting the position become clearer at an earlier stage of our proceedings. That is why I wrote the letter.

In response to the points of order, and if it is convenient to you, Sir Alan, I would be happy to set out clearly the conclusions that I summarised in the letter in order to help the Committee's consideration at this stage. If, on the other hand, you would prefer me to deal with that later, I would be happy to take that advice, too. I defer to you, Sir Alan, as to which of those two courses I should follow.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Further to that point of order, Sir Alan. Is not the problem facing us, notwithstanding the Home Secretary's attempt to be helpful, that we cannot prejudge whether the Lords would accept any of the amendments that he said he would submit to their lordships rather than to this Committee? We must debate the Bill and the amendments as they are before us, because even if the Home Secretary has generously decided to tell us what he thinks he will do in another place, he cannot know whether the other place will accept the amendments.

The Chairman: I shall try to help the Committee as best I can. For the sake of good order, the clarification and debate should take place not on a point of order, but on the first group of amendments. I can give the Committee an undertaking that the Home Secretary will have an early opportunity to catch my eye. Then, depending on what he tells the Committee and its reaction to that, it will be able to judge what speed it wishes to make on the first group of amendments. I shall be as flexible as possible, to help the Committee to cover the substantive matters for discussion.

Several Hon. Members *rose—*

The Chairman: Order. We are taking time from the debate. The Home Secretary said that he was anxious to say something of substance to the Committee. I am trying to say that for the sake of good order, that should be said on the substantive debate, which I am anxious to start.

Sir Patrick Cormack (South Staffordshire) (Con): Further to that point of order—I am trying to be helpful, as you are, Sir Alan. In view of what the Home Secretary said in his letter and at the Dispatch Box, would it not be sensible for the Committee to have a brief suspension so that the Home Secretary can table some amendments that we could then debate?

Otherwise, we shall debate amendments that are, as my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg) said, otiose.

You have already said, Sir Alan, that you are willing, in principle, to consider manuscript amendments. The Home Secretary clearly knows the sort of manuscript amendments he would submit and if the Committee suspended, even for a quarter of an hour—certainly no more than half an hour—that could be done.

The Chairman: I do not believe that a suspension would be to the advantage of the Committee, because that would take further time from the debate, on which the House has agreed a programme motion which is slightly more generous than the previous one to which the House agreed. I advise the Committee that it would be better now to proceed to the substantive discussion. In the light of what the Home Secretary says, the Committee will know how much of the time in the programme motion it wishes to devote to it.

Mr. Mark Fisher (Stoke-on-Trent, Central) (Lab): On a different and short point of order, Sir Alan. Having agreed the programme motion, what procedure is available to the Committee to take advantage of the Opposition's offer of an extra day's debate? Is it only the Government who can table an amendment to the programme motion that we have passed? There seems to be a general feeling in the Committee that we are short of time to discuss such an important Bill and that an extra day given by the Opposition would be approved.

The Chairman: That is not a matter on which the Chair can adjudicate. I must deal with the fact that the House has agreed a programme motion, which sets the agenda for today. I advise that we proceed on those lines.

Mr. William Cash (Stone) (Con): On a point of order, Sir Alan—

The Chairman: Order. I have been very liberal so far.

Mr. Cash: Well, I have not had a point of order, Sir Alan, but my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) has had about five.

The Chairman: I must tell the hon. Member for Stone (Mr. Cash), in the best of humour, that I have heard many points of order from him in times past. If I do not hear one from him today, that will even the score slightly.

I think that the Committee would now be wise to proceed.

Clause 1

POWER TO MAKE CONTROL ORDERS

4.39 pm

Mr. Win Griffiths (Bridgend) (Lab): I beg to move amendment No. 4, in page 1, line 3, leave out 'make' and insert

'apply to the court for'.

The Chairman: With this it will be convenient to discuss the following:

Amendment No. 180, in page 1, line 9, at end insert—

'(1A) An application for a control order may be made with or without notice to the individual against whom it is proposed to be made.

(1B) On hearing an application for a control order, the court may—

(a) grant the control order, with or without modifications;

(b) dismiss the application; or

(c) adjourn the application to a further hearing on notice to the individual concerned.

(1C) A control order shall provide a period for further review by the court unless the court is satisfied that the individual against whom it is made has had a full opportunity to contest the making of the order.'.

Amendment No. 5, in page 1, line 11, after 'the', insert

'court on the application of the'.

Amendment No. 59, in page 1, line 11, leave out 'Secretary of State' and insert 'court'.

Amendment No. 60, in page 1, line 13, leave out from first 'activity' to end of line 14.

Amendment No. 6, in clause 2, page 3, line 23, after 'The', insert

'court on the application of the'.

Amendment No. 1, in clause 2, page 3, line 23, leave out 'make' and insert 'apply for'.

Amendment No. 64, in clause 2, page 3, line 23, leave out 'make' and insert

'apply to the court for'.

Amendment No. 7, in clause 2, page 3, line 26, leave out 'he' and insert 'it'.

Amendment No. 8, in clause 2, page 3, line 28, leave out 'he' and insert 'it'.

Amendment No. 66, in clause 2, page 3, line 35, leave out from beginning to end of line 34 on page 4.

Amendment No. 184, in clause 2, page 3, line 35, leave out subsections (2) to (7).

Amendment No. 9, in clause 2, page 3, line 35, after 'the', insert

'court on the application of the'.

Amendment No. 2, in clause 2, page 3, line 35, leave out 'makes' and insert 'applies for'.

Amendment No. 3, in clause 2, page 3, line 36, leave out from end of line to end of line 25 on page 4 and insert—

'(a) the court must consider whether the matters relied on by the Secretary of State to justify applying for the order were capable (if not disproved) of constituting reasonable grounds for it to make an interim control order.

(b) in the event of the court making an interim control order it must give directions for the carrying out of a hearing of the court to consider making a control order.

[Mr. Win Griffiths]

(c) on a hearing by the court under subsection (2) (b) the court must conduct its own hearing of each of the matters that fell to be determined by the Secretary of State—

(i) in making his decision to apply for the order; and

(ii) in making his decisions to apply for the obligations imposed by the order; and the court must make its own determination on the balance of probabilities on each of those matters.'.

Amendment No. 10, in clause 2, page 3, line 37, leave out subparagraph (a) and insert—

'(a) the controlled person may appeal within 14 days—

(i) in England and Wales or in Northern Ireland to the Court of Appeal, or

(ii) in Scotland to the Inner House of the Court of Session;

(aa) the appeal must be considered within 7 days of the application; and'.

Amendment No. 134, in clause 2, page 3, line 39, leave out from 'whether' to end of line 42 and insert—

'the Secretary of State has shown on the balance of probabilities—

(i) that the person is an individual who is or has been involved in terrorism-related activity, there is a designated derogation within subsection (1)(c) and the obligation is within subsection (1)(d); and

(ii) that the imposition of the obligation is necessary for purposes connected with protecting members of the public from risks arising out of, or associated with, a particular public emergency.'.

Amendment No. 164, in clause 2, page 3, line 44, leave out '7' and insert '3'.

Amendment No. 136, in clause 2, page 3, line 45, at end insert—

'(3A) The controlled person has a right to be heard on a reference under subsection (2)(a).'.

Amendment No. 135, in clause 2, page 4, leave out lines 1 to 7 and insert—

'(a) if not satisfied that the Secretary of State has proved the matters in subsection (2)(b)(i), must quash the order;

(b) if satisfied that the matters in subsection (2)(b)(i) have been proved but not satisfied that the matters in subsection (2)(b)(ii) have been proved, must quash the derogating obligation imposed by the order.'.

Amendment No. 11, in clause 2, page 4, line 10, leave out 'by the court' and insert 'of the appeal'.

Amendment No. 12, in clause 2, page 4, line 11, after second 'the', insert

'court on the application of the'.

Amendment No. 13, in clause 2, page 4, line 21, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 137, in clause 2, page 4, line 22, at end insert—

'(e) power to award damages to the controlled person.'.

Amendment No. 139, in clause 2, page 4, line 22, at end insert—

'(e) power to award to the controlled person their costs of the proceedings.'.

Amendment No. 14, in clause 3, page 4, line 43, after 'The', insert

'court on the application of the'.

Amendment No. 70, in clause 3, page 4, line 43, leave out from 'The' to 'control' and insert

'The court may renew a'.

Amendment No. 185, in clause 3, page 4, line 43, leave out 'Secretary of State' and insert 'court'.

Amendment No. 15, in clause 3, page 4, line 44, leave out 'he' and insert 'it'.

Amendment No. 16, in clause 3, page 5, line 7, after first 'the', insert

'court on the application of the'.

Amendment No. 73, in clause 3, page 5, line 7, leave out 'Secretary of State' and insert 'court'.

Amendment No. 17, in clause 4, page 5, line 19, after 'the', insert

'court on the application of the'.

Amendment No. 187, in clause 4, page 5, line 21, leave out 'make' and insert

'apply to the court for'.

Amendment No. 18, in clause 4, page 5, line 30, after second 'the', insert

'court on the application of the'.

Amendment No. 188, in clause 4, page 5, line 31, leave out 'impose' and insert 'apply for'.

Amendment No. 20, in clause 4, page 5, line 33, after 'the', insert

'court on the application of the'.

Amendment No. 21, in clause 4, page 5, line 35, after 'the', insert

'court on the application of the'.

Amendment No. 23, in clause 4, page 6, line 4, after 'the', insert

'court on the application of the'.

Amendment No. 24, in clause 4, page 6, line 4, leave out 'of his'.

Amendment No. 25, in clause 4, page 6, leave out lines 8 and 9.

Amendment No. 193, in clause 5, page 6, line 15, leave out 'make' and insert 'apply for'.

Amendment No. 26, in clause 5, page 6, line 16, leave out 'Secretary of State' and insert 'court'.

Amendment No. 76, in clause 5, page 6, leave out line 19.

Amendment No. 27, in clause 5, page 6, line 19, leave out 'Secretary of State' and insert 'court'.

Amendment No. 77, in clause 5, page 6, line 20, leave out subsections (2) and (3) and insert—

'(2) The Secretary of State may make an application to the court at any time to—

(a) revoke a control order;

(b) relax or remove an obligation imposed by such an order;

(c) modify the obligations imposed by such an order.'.

Amendment No. 28, in clause 5, page 6, line 20, after 'The', insert

'court on the application of the'.

Amendment No. 219, in clause 5, page 6, line 20, leave out from 'The' to end of line 21 and insert

'court may on application by the Secretary of State'.

Amendment No. 191, in clause 5, page 6, line 20, after 'State', insert 'or the court'.

Amendment No. 29, in clause 5, page 6, line 27, leave out 'he' and insert 'it'.

Amendment No. 30, in clause 5, page 6, line 30, after 'The', insert

'court on the application of the'.

Amendment No. 192, in clause 5, page 6, line 30, after 'State', insert 'or the court'.

Amendment No. 31, in clause 5, page 6, line 33, leave out 'Secretary of State' and insert 'court'.

Amendment No. 32, in clause 5, page 6, line 34, leave out 'of his'.

Amendment No. 33, in clause 5, page 7, line 2, after 'the', insert

'court on the application of the'.

Amendment No. 224, in clause 5, page 7, line 7, leave out subsection (7).

Amendment No. 34, in clause 5, page 7, line 7, after 'the', insert

'court on the application of the'.

Amendment No. 79, in clause 5, page 7, line 7, leave out 'Secretary of State' and insert 'court'.

Amendment No. 194, in clause 5, page 7, line 7, after 'State', insert 'or the court'.

Amendment No. 35, in clause 5, page 7, line 8, leave out 'he' and insert 'it'.

Amendment No. 80, in clause 5, page 7, line 8, leave out 'he' and insert 'the Secretary of State'.

Amendment No. 225, in clause 5, page 7, line 10, leave out subsection (8).

Amendment No. 36, in clause 5, page 7, line 12, leave out 'Secretary of State' and insert 'court'.

Amendment No. 37, in clause 7, page 8, line 40, leave out 'Secretary of State' and insert 'court'.

Amendment No. 38, in clause 7, page 9, line 1, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 39, in clause 7, page 9, line 13, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 40, in clause 7, page 9, line 25, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 41, in clause 7, page 9, line 27, leave out 'his decision' and insert

'the decision of the court of first instance'.

Amendment No. 42, in clause 7, page 9, line 32, leave out 'his decision' and insert

'the decision of the court of first instance'.

Amendment No. 43, in clause 7, page 9, line 37, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 44, in clause 7, page 9, line 42, at end add—

'(10) An appeal under this section shall be made—

(a) in England and Wales or in Northern Ireland to the Court of Appeal, or

(b) in Scotland to the Inner House of the Court of Session.'.

Amendment No. 45, in clause 8, page 10, line 1, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 46, in clause 8, page 10, line 5, leave out

'by the Secretary of State'

and insert

'of the court of first instance'.

Amendment No. 47, in clause 8, page 10, line 8, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 48, in clause 8, page 10, line 13, leave out 'Secretary of State's decision' and insert

'decision of the court of first instance'.

Amendment No. 49, in clause 8, page 10, line 16, leave out 'Secretary of State' and insert 'court of first instance'.

Amendment No. 51, in clause 9, page 10, line 19, leave out subsection (1).

Amendment No. 53, in clause 9, page 11, line 1, after 'the', insert

'court on the application of the'.

Amendment No. 87, in clause 9, page 11, line 1, leave out 'Secretary of State' and insert 'court'.

Amendment No. 203, in clause 9, page 11, line 4, leave out paragraphs (b) and (c).

Amendment No. 230, in clause 11, page 12, line 41, leave out

'his exercise of the control order powers'

and insert

'the use of control orders'.

Amendment No. 89, in clause 11, page 13, line 13, leave out

'make, renew, modify and revoke'

and insert

'make application to the court for the making, renewing, modification and revoking of'.

Amendment No. 216, in clause 12, page 13, leave out lines 37 to 46.

Amendment No. 90, in clause 12, page 14, line 37, leave out subsection (3).

New clause 1—*Special court in respect of control orders*—

'(1) There shall be a special court ("the court") to be known as the Court of Terrorism Control.

(2) The Court shall consist of six members who shall be judges of the High Court of England and Wales or of the Court of Session or of the High Court of Northern Ireland and of whom three members shall constitute a quorum for the purpose of hearing an application.

(3) The court shall have power to make its own rules and to determine its own procedure.

(4) The functions of the court shall be to make control orders pursuant to section 1 of this Act.'.

[Mr. Win Griffiths]

New clause 3—*Power of court to make determination—*

'The powers of the court in making the determinations under sections 1 and 2 are confined to—

(a) power to grant the application;

(b) power to refuse the application;

(c) power to refuse to make one or more obligations set out in the application.'.

New clause 6—*Power to make control orders—*

'(1) An application for an order under this section may be made by the Secretary of State if he is satisfied that the following conditions are fulfilled with respect to any person, namely:

(a) that the person is or has been involved in terrorism-related activity;

(b) that, having regard to all the evidence that would be admissible in criminal proceedings, there is no realistic prospect for conviction of that person for any criminal offence relating to their involvement in such activity; and

(c) that such an order is necessary, for the purposes connected with protecting members of the public from the risk of terrorism, to make an order imposing obligations on the individual.

(2) The Secretary of State shall not make such an application without consulting the Director of Public Prosecutions.

(3) Such an application shall be made to:

(a) the High Court in England and Wales in respect of persons resident in England or Wales,

(b) the Outer House of the Court of Session in respect of persons resident in Scotland; and

(c) the High Court in Northern Ireland in respect of persons resident in Northern Ireland.

(4) If, on such an application, it is proved that the conditions set out in subsection 1(1) are fulfilled, the court may make an order under this section (a "control order") imposing any of the obligations set out in subsection 1(8).

(5) For the purpose of determining whether the condition mentioned in subsection 1(a) above is fulfilled, the court shall disregard any act of the defendant which he shows was reasonable in the circumstances.

(6) In determining whether the condition mentioned in subsection (1)(a) is fulfilled, the court must apply the criminal standard of proof.

(7) The obligations that may be imposed on a defendant under this section are limited to the following:

(a) a prohibition or restriction on his possession or use of specified articles or substances;

(b) a restriction on his use of specified services or specified facilities, or on his carrying on specified activities;

(c) a restriction on his association or communications with specified persons or with other persons generally;

(d) a prohibition on his being at specified places or within a specified area at specified times or on specified days; and

(e) a requirement on him to report to a specified person at specified times and places.

(8) The court shall not impose any obligation under subsection (7) unless it is satisfied that the following conditions apply:

(a) that the obligation is necessary for the purposes connected with protecting members of the public from the risk of terrorism;

(b) that the same purposes could not be achieved by less restrictive means; and

(c) that the obligation is consistent with the defendant's Convention rights within the meaning of the Human Rights Act 1998 (c. 42).

(9) The Secretary of State or the defendant may apply to the court which made the control order for it to be varied or discharged by further order.

(10) For the purposes of this Act, involvement in terrorism-related activity is any one or more of the following:

(a) the commission, preparation or instigation of acts of terrorism;

(b) conduct which knowingly facilitates the commission, preparation or instigation of such acts, or which is intended to do so; and

(c) conduct which knowingly gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so.

(11) Evidence established to have been obtained under torture shall not be admitted in any proceedings.'.

Mr. Griffiths: I rise with some trepidation to support the amendment, the 47 others in the group and new clause 1, which all relate to decisions made by a court through the judicial process rather than by the Secretary of State as the person in the Executive arm of Government responsible for such matters. I am keeping in mind both the letter that has been distributed to us, as it is bound to have some bearing on the debate, and the fact that when we discussed these issues during the passage of the Anti-terrorism, Crime and Security Act 2001, I voted for procedures that have since been declared illegal. I feel, therefore, that I need to explain—although not at length—why I have come to a different opinion.

In the appalling aftermath of the terrible twin towers incident in New York, there seemed a pressing and urgent need to do something significant to cope with what seemed an immediate danger. Some people may say that because nothing has happened in the United Kingdom over the past few years I am getting complacent, but that is not the case. I am moving the amendments in the context of the fact that it appears that our intelligence services are doing a good job in maintaining their monitoring of the potential terrorist threat. I wish them well and applaud all that they are doing in that regard. Obviously I do not want any form of terrorist activity in the UK to come to a terrible successful conclusion. However, I am also aware that the terrorist threat is no longer a one-off, but will be a significant experience for perhaps months or years. While the middle east remains a festering sore on the human political and social condition, there is a danger that the threat of terrorism will continue. In other words, it could be around for a long time. So issues relating to putting suspected terrorists under some form of house arrest imprisonment or other non-derogating actions to control the potential terrorist threat—

Mrs. Anne Campbell (Cambridge) (Lab): Can my hon. Friend clarify whether his amendments would apply to non-derogating control orders as well as to derogating control orders?

Mr. Griffiths: I do not know whether I was fortunate or unfortunate in being the first Member called to speak, but my amendments cover both derogating and non-

derogating control orders. It is important that the whole process be subject to a legal decision when the Secretary of State makes an application for action to be taken.

Mr. Hogg *rose—*

Mr. Simon Thomas (Ceredigion) (PC) *rose—*

Mr. Griffiths: I give way to my colleague from Wales.

Mr. Thomas: Has the hon. Gentleman had the opportunity to read the letter from the Home Secretary on these matters? Does he feel that the letter answers the concerns set out in his amendment? My reading of the amendment is that it goes wider than the letter, which relates only to derogating orders. Will the amendment tackle the difficulty, admitted on Second Reading last week, that a combination of non-derogating control orders could amount to a deprivation of liberty and thereby become an issue that should go before the courts or invoke the need to derogate from the convention on human rights? Does he feel that the amendment overcomes the problems that I still have, as perhaps does he, with the letter from the Home Secretary?

Mr. Griffiths: On the basis of what is in the Home Secretary's letter, I am still waiting for an explanation and a filling out of exactly what is meant in terms of the non-derogating orders. My own position is that there should be a proper legal process in both cases because that would cover the point about some of the non-derogating issues, perhaps when put together, really being derogating ones.

Mr. Hogg: The hon. Gentleman has just made the point that there should be a proper legal process. Does he understand that he is only taking a small step by substituting the judge for the Home Secretary? The real problem is that even if the judge makes the decision, that is a not a proper legal process, because the detained person does not know the evidence, does not know the identity of the informer, is not properly represented, cannot see the evidence and cannot ask questions of counsel.

4.45 pm

Mr. Griffiths: If the right hon. and learned Gentleman has read new clause 1, which I tabled, he may see in that perhaps an imperfect attempt to try to deal with some of the issues that he raises. In new clause 1, I propose the setting up of a court of terrorism control, where between three and six judges could meet to consider what the Home Secretary has said and decide exactly how to proceed in handling the evidence. I admit that I am a layman, not a lawyer, but I believe that that would give the court the opportunity to decide how to handle the evidence and whether it needed the clarifications to which the right hon. and learned Gentleman refers. I will come back to that later on.

David Winnick (Walsall, North) (Lab): As someone who broadly supports what the Government intend to do, does my hon. Friend agree that although the Home Secretary has undoubtedly made a move in view of the concern expressed last week so far as derogating orders are concerned—they will have to be initiated by a judge, which is certainly a step forward—it is unfortunate, however, that there has been no progress at all on non-derogating control orders, which relate to issues other than house arrest, as he knows, such as tagging and the rest of it? The Home Secretary's letter simply says that the person involved can apply very quickly to the courts. Surely a person should be subject to a control order only as a result of court action. That is a very important point. Does my hon. Friend not agree?

Mr. Griffiths: My hon. Friend will be aware that I am speaking now because amendment No. 4 deals with that very point. I look forward to an expansion in what the Home Secretary has to say about the matter. Given that he has already conceded that on derogating orders the judge's role should be primary, perhaps there is room for the debate to develop on that point in a similar fashion.

Sir Patrick Cormack: In view of the fact that the Home Secretary has indicated that he would be happy to speak at an early stage, and as we are in Committee and the hon. Gentleman can take part in the debate again, would it not be a good idea if we heard from the Home Secretary very soon?

Mr. Griffiths: That is a very good idea, and I am bearing it in mind. Of course, hon. Members have made a couple of interventions on my speech, which has slowed me down, but in the light of the letter and the conversations that I have had this morning on some of these issues, I certainly do not intend to make the speech that I was planning last night—although I believe that it is necessary at least to refer to some of those matters before I sit down.

The first issue is the House of Lords judgment that, of course, precipitated the need for this debate and these changes in the law. The one simple point that I want to make about that judgment is that it has two significant parts, the first of which relates to the discrimination between nationals and non-nationals in the United Kingdom, and the second of which is that the Law Lords felt that the response was not proportionate to the threat that we face from terrorism. Of course, we could debate that at some length, but I feel that, all in all, the decision not to use the courts in the first place was wrong. Therefore, the Law Lords were right to say that the provision to set aside the courts as the first place to take such matters was disproportionate. That is why I tabled the amendment.

Since then, we had over the weekend the report from the Joint Committee on Human Rights. It makes some clear recommendations. Without mentioning each one in detail, I wish to refer to paragraphs 11, 12 and 13 that refer, in particular, to the

"lack of prior judicial involvement in orders depriving of liberty".

They make it absolutely clear and without any doubt whatever that the law as we have it and as it is proposed under the Bill contravene—

Mr. Cash: Will the hon. Gentleman give way?

Mr. Griffiths: I was just about to point out that the law both as it is and as it is proposed contravenes the European convention on human rights. I know that the hon. Gentleman is very keen to uphold that.

Mr. Cash: The hon. Gentleman refers to the report of the Joint Committee on Human Rights that, understandably from its point of view, would enhance and entrench the role of the Human Rights Act 1998. However, does he know that Lord Hoffmann, in a postscript to the Rehman case, made the position clear only a couple of years ago? He said:

"It is not only that the executive has access to special information and expertise in these matters. It is also that such decisions, with serious potential results for the community, require a legitimacy which can be conferred only by entrusting them to persons responsible to the community through the democratic process."

He then adds that those persons are those

"whom the people have elected and whom they can remove."

In other words, Lord Hoffmann clearly contradicts the basis upon which the Joint Committee is proceeding.

Mr. Griffiths: The hon. Gentleman points to only one case in which there is a difference of opinion. I would have thought that the Law Lords and the Joint Committee—which, I believe, is a parliamentary Committee—have made judgments with which Lord Hoffmann could be happy. The Joint Committee has made it very clear that the derogating orders that would deprive people of their liberty disregard the convention and our own law. Therefore, they would be illegal.

On the limited judicial control of the non-derogating control orders, the Joint Committee has a less strident opinion. Nevertheless, it flags up a sufficient warning that it believes that, even under the non-derogating orders, there would be a case to be taken and the Government would be likely to be found to be acting illegally under our legislation with regard to the European convention on human rights. That is why I hope that later in the debate, it will become clear how the Secretary of State will handle the derogating and non-derogating orders. I hope that in both cases, there is sufficient clarity that primary decisions will lie with the courts.

Before I conclude, I want to refer briefly to new clause 1, which, in a sense, is a probing effort to try to consider how we can handle the issue of the sensitive material that has been gathered and has led the Secretary of State to believe that someone should be deprived of his liberty in an extreme case, or have some sort of control order placed upon him. There should be some way in which a suspect's case could be properly considered and he should have the opportunity to mount a defence.

One of the significant things that we must bear in mind was referred to by an article in *The Guardian* this morning—I hope that my right hon. Friend the Secretary of State will not see that as a weakness in my argument. The article was written by Clare Dyer, the newspaper's legal correspondent. She pointed out that the Tipton three, who were held at Guantanamo Bay and released without charge after two years, were detained because the Americans believed that they had a video showing them with Osama bin Laden in 2000. However, if the three men had known that at an early stage, they would have been able to prove that one of them was working in an electrical store in the United Kingdom at the time and the other two were in trouble with the police. The situation could thus have been cleared up quickly.

There must be a process by which evidence can be considered and suspects can have the opportunity to clear their names. I envisage a court of terrorism control with between three and six judges who could consider evidence and decide, on their own initiative, the procedures that would be needed to allow the suspects to defend themselves. They could then decide whether the application made by the Secretary of State was correct.

As the Bill stands, the Secretary of State will be the prosecutor, judge and jury in the first instance for both types of order. We already know that thanks to the pressure from the House of Commons, the Home Secretary is now minded to make it absolutely clear that a judge will make decisions in cases when people would be deprived of liberty, and that there will be a different and stronger procedure for non-derogating orders—although as a layman, I am not entirely clear about how that would work. When the Secretary of State speaks, it would be helpful if he would let me know that judges will have a primary role with regard to both types of order, because I would then be able to withdraw my amendment. I am currently waiting in hopeful expectation that he will be able to agree in principle with the points made in my amendments to clause 1 and in new clause 1.

Mr. Charles Clarke: May I first apologise to hon. Members and you, Sir Michael, if I erred by writing to the party leaders and putting the letter in the Library of the House? I took that course of action for a simple reason: I felt that I had reached a set of preliminary conclusions following the views expressed in the House last week and subsequent conversations. I thought that it would help today's discussion if I tried to set out clearly where we were, rather than not revealing that until a later stage of the debate. If I have created confusion and caused a problem with the consideration of the Bill, I apologise to the Committee and you, Sir Michael.

Mr. Kenneth Clarke: I thank the Home Secretary for his apology. The letter seems to imply that he has decided clearly how he wishes to amend the Bill, but the obvious complaint is that he has decided not to put the relevant amendments before the Committee for discussion today. Of course they will need drafting, but I cannot imagine that that would take days and days with a little late-night work. Will he explain why he has not put the amendments before the Committee? Why could he not do so this evening, if we were prepared to continue after 10 pm? Why could we not consider them on Wednesday, because if the official Opposition were prepared to give up their Supply day, the Leader of the House could make the necessary business statement to allow us to do that. Given the complexity of the matter, it is unsatisfactory for the Home Secretary to outline what he has decided to do—the parliamentary draftsman have probably already drafted the measures—yet for us not to be able to read the amendments so that we can have a serious, sensible and detailed discussion about them of the kind that should take place in the Committee, if it is to have a scrutinising function.

5 pm

Mr. Charles Clarke: There are two reasons why I have taken the course of action that I have taken. The first is that I finally resolved this morning what to write in the letter, which is why it came over to the House at about half-past 12. It is a preliminary set of conclusions, which I thought I should make available before we discussed the situation further. The fact is that we do not have the detailed amendments in draft to put before the Committee today, and they will not be available today.

The second reason is that I want, and I think the Committee should want, to hear the debate that we are about to have so that we are clear about the place from which a wide range of Members argue their particular points of view. That is why I have taken this course of action. As I said, the alternative open to me was to say nothing other than at the end of the discussion on the various groups of amendments. I thought that that would not be the right way to proceed.

Several hon. Members *rose—*

Mr. Clarke: I shall give way, but I want to deal with the substance of the comments made by my hon. Friend the Member for Bridgend (Mr. Griffiths).

Mr. Hogg: Does the right hon. Gentleman understand the problem? If, as appears to be the case, he tables the amendments in the other place, the House will have barely any opportunity to consider the detail because they will come back for discussion under a tight timetable motion. The truth is that hon. Members will never have the opportunity properly to discuss the amendments that will lie at the heart of the new Bill.

Mr. Clarke: I understand that, but it is also the case, as the right hon. and learned Gentleman acknowledged, that the other place will have the chance to discuss those amendments in great detail and that this House will then have the opportunity to consider them.

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): As I understand it, the other place will consider the Bill tomorrow. That means that the Home Secretary's proposed amendments must be in an advanced stage of drafting. He has had Wednesday offered for an extension of the debate. If he reflects on the primacy of this Chamber, surely he can accede to us the right to discuss that which will go before the Lords by utilising the Opposition time now made available. That really would be helpful and perhaps ease the Bill's passage.

Mr. Clarke: I am always an optimist, but the process set out—the timetable that has been agreed—is the right way to proceed.

Mr. Martin Salter (Reading, West) (Lab): While much that is in the Home Secretary's letter to his opposite number is to be welcomed, especially his commitment to put the issue of effective house arrest before a judge, does he recognise that his failure to accept the amendments tabled by my right hon. Friend the Member for Livingston (Mr. Cook) and others puts many Labour Members in a difficult position, because we are extremely reluctant to vote for an unamended Bill?

Mr. Clarke: I shall address the points of substance raised by my hon. Friend the Member for Bridgend in a second, and I think that will address the concern expressed by my hon. Friend the Member for Reading, West (Mr. Salter).

Mr. Edward Garnier (Harborough) (Con): The procedure is important because it is the only instrument by which the Opposition can debate a Bill. By advancing in a letter an amendment that is not part of the marshalled amendments and was not taken into account when the six-hour limit was set, the Home Secretary places the Committee in a difficult position. I do not deny him the good motive that he wants the House of Commons to know what he is thinking, but what he is thinking and writing about is not before the Committee as part of the Bill or the amendments. It is just a piece of paper that contains his thoughts. We in the Opposition—what he does in the Government, only he can speak for—can only discuss what is in the Bill and what has been chosen to be discussed on the marshalled list of amendments.

We have six hours in which to discuss a page and a half of amendments on the selection list. The amendment set out in the letter is the latest addition, but it is unofficial. Of course, we listen to the Home Secretary with the greatest of care—he is a Secretary of State—but we are supposed to take it on good faith that he will give us adequate time when the Bill returns from the House of Lords. The history of the Government suggests that we will get one, two or three hours maximum to discuss Lords amendments. If he thinks that that is adequate and a proper way to discuss the Bill, I am afraid that he will lose our support.

Mr. Kevin McNamara (Hull, North) (Lab): Will my right hon. Friend give way?

The Second Deputy Chairman of Ways and Means (Sir Michael Lord): Order. The hon. Gentleman cannot intervene on an intervention. The Secretary of State must at least respond to the first intervention.

Mr. Clarke: I will give way and then respond to both interventions.

Mr. McNamara: Is not the nub of the matter what appears in the top paragraph of page 2 of the letter, which says:

"(with a special advocate representing the interests of the subject of the order in closed sessions)"?

In other words, the subject of the order will not know the evidence against them and will not have a proper opportunity to rebut it. Therefore, whatever tinkering there might be with the role of the judge, there is no real protection for the individual who is imprisoned.

Mr. Clarke: That intervention helps me to make progress on putting the substance of what I will suggest before the Committee for hon. Members to consider.

[Mr. Clarke]

After my apology to hon. Members, I wanted to acknowledge the importance that my hon. Friend the Member for Bridgend gave to the 9/11 events and what we are dealing with, and he was right to do so. Only today we have had the case of Saajid Badat, who has admitted plotting to blow up a plane and who the intelligence services believe was in league with Richard Reid—both, by the way, British citizens. That proves two things.

Simon Hughes (Southwark, North and Bermondsey) (LD): They were in court.

Mr. Clarke: Precisely; that is my point. First, there is a real threat with which we have to deal, and we must never forget that point in all our discussion. Secondly, the preferred route of this Government, as with previous Governments, is that of prosecution and the courts in precisely the way indicated. That is the route that we will choose. As I shall go on to say, we seek to strengthen in the legislation the commitment to go down the prosecution route, for the reason argued by Members throughout the House.

Mr. Crispin Blunt (Reigate) (Con): Will the Home Secretary give way?

Mr. Clarke: No, I shall make a bit of progress before I give way again.

On Second Reading, I undertook to look carefully at the cases that had been made to achieve judicial involvement in the order-making process at the earliest possible stage, in line with the considerations put forward by many in the House. I stated that my first consideration would be the security of the nation, and I retain the view that the proposals in the Bill are the best ones. I am strengthened in that view by some senior judicial opinion. I cite, for example, Lord Donaldson—a former Master of the Rolls and one of the highest people in the country on the civil side of the law—who said on the radio this morning:

"I don't agree with the idea of involving the judges at the initial stage. It's never been the case. It would involve them forming a view and expressing a view as to the correctness of the order before they'd even heard the person who was affected by it. Furthermore, there would be a change in people's perception of what a judge was."

He concluded:

"A judge is the referee or umpire; he's not a player."

I state that to indicate that there are serious and senior judges in this country who are of the view that it would be better to remain as we are proposing in the Bill rather than to make the changes that I propose. I nevertheless take the view that it is right to make the changes that I suggest for reasons which I shall state.

Mr. Dominic Grieve (Beaconsfield) (Con): That is not the interpretation that I put on Lord Donaldson's words. On the contrary, the interpretation that I place on them is that, as we said on Second Reading, the judiciary would be most reluctant to be sullied with a process involving them that falls short of proper judicial procedure. The ball is in the Government's court to provide a process that comes as close to proper judicial procedure as possible. It is possible to do that if the Home Secretary allows for a proper procedure under which the judge can hear the other side before determining any order.

Mr. Clarke: I was not seeking to interpret Lord Donaldson; I was quoting him exactly—I used his precise words. The hon. Gentleman does not understand the critical point, which must be understood, that the Bill covers territory in which we cannot prosecute successfully, and that some people threaten the security of the country through terrorism. That is the territory, and I share the view, which is held on both sides of the House, that we should minimise the number of people who are in it.

That is why I say, let us strengthen the paths to prosecution, and that is also why I say, let us bring cases through the courts—earlier, I mentioned the case of Mr. Badat—where we can do so. However, I also assert that we are not in that position in a very small number of cases, where the issue is whether we simply allow such people to operate unchallenged or whether we challenge them. Lord Donaldson is saying that judges are not best involved in that small area, which is his argument, not mine.

Mr. Grieve: Is not the key issue, on which we touched on Second Reading, why the Home Secretary finds it necessary to take a power where he can be woken at 2 am to direct immediately that a person should be subject to a control order, when, as we have discussed before, if the police believe that a person poses an imminent threat, they already have 14-day detention powers under terrorism legislation, which is ample time in which to bring an inter partes hearing before a judge to determine whether an order should be made?

Mr. Clarke: I accept that point, which is why I have set out the proposals for change in my letter. I believe it desirable that we achieve a position in which legislation on the statute book is supported by as broad a range of opinion in this House as we can possibly achieve. I cited Lord Donaldson, who, I believe, is not the only senior judge to take that view, because we are making a change that the judges themselves may not believe to be the best course of action from their point of view.

Mr. Blunt: The Home Secretary has just said that he needs to deal with very few people, which gives the game away on the need to push through the powers with such haste. In his letter to my right hon. Friend the Member for Haltemprice and Howden (David Davis), he said:

"There is a further area where I have been persuaded by the debates in the House that some amendment is needed",

and he has gone on at some length about his interpretation of Lord Donaldson's words. Given the huge controversy that surrounds the implications of what he is doing, he needs consensus and support, but the way in which he is handling the matter is ensuring that he gets as little consensus and support as possible. He should urgently review how he is dealing with the matter in the Committee.

Mr. Clarke: The hon. Gentleman has made it clear at every stage that he is against any form of control orders,

which he does not believe to be right. In the small area that I described, he concludes that the best thing—I accept his integrity and honour in putting this view forward—would be to do nothing. He is entitled to that view, but I cannot accept it.

Mr. Peter Lilley (Hitchin and Harpenden) (Con): The Home Secretary has said that these measures, which we all find distasteful, will apply only to a small number of people, but earlier today the Prime Minister said that in the view of the security services there are "several hundred people" for whom these powers are necessary. Who should we believe?

Mr. Clarke: The Prime Minister was referring to the 700 cases, I think, where action has been taken which has already been reported. There are a large number of people who, we think, pose a threat to what we believe. However, a significant number of those can be dealt with through the prosecution route, which is the route that we prefer to follow.

5.15 pm

Mr. John Bercow (Buckingham) (Con): Given the detailed contents of the right hon. Gentleman's letter to my right hon. Friend the Member for Haltemprice and Howden (David Davis), nothing that he has said this afternoon explains why he cannot table Government amendments for the Committee to consider this week. In view of the fact that the Home Secretary must have heard the expressions of grave concern in all parts of the House about the way in which he has handled the matter during the consideration of the programme motion, did he not think it a good idea to have a word with his right hon. Friend the Chief Whip or with the Leader of the House or both, with a view to saying to the Committee, "Yes, we accept the Opposition's suggestion. Let there be an additional day for debate. Let that day be Wednesday." What is so difficult about the Home Secretary swallowing a little bit of humble pie?

Mr. Clarke: We have dealt with all those points at some length. The whole point about the Conservative Opposition is that there is no Opposition proposal. There is no clarity whatever. We have a shifting position, sands moving the whole time, about control orders or not.

Mr. Robin Cook (Livingston) (Lab): As the Member who had the privilege this morning of taking part in the debate with Lord Donaldson, I am not sure that I find Lord Donaldson's views any more persuasive at 5 o'clock in the afternoon than they were at 9 o'clock in the morning. I particularly remain unpersuaded of his argument that the Attorney-General would be an adequate check and balance on the way in which the Government carried out the powers. I fully take my right hon. Friend's point that a number of judges will be very unhappy about the idea of the deprivation of liberty of the citizen without charge, without conviction and without trial. However, if that is the course that we are to take—it is in his Bill—to many of us a sticking point is that the decision on that should be taken by the courts, not by the Government.

Mr. Clarke: I agree with my right hon. Friend. That enables me to move on to the main point that I wished to make, and I am grateful to him for allowing me to do so.

Lynne Jones (Birmingham, Selly Oak) (Lab): Will my right hon. Friend give way?

Mr. Clarke: No, I shall go on to the point that I wished to make, which is that despite the view that I have just expressed of my concern about the position of judges, I have come to the view that there is great merit in seeking as wide a consensus as is possible across Parliament. That is why I have come to the conclusion that I should move in this area in precisely the direction suggested by my right hon. Friend the Member for Livingston (Mr. Cook) not only today but on Second Reading. I take the opportunity to pay tribute to the way in which the arguments on the matter have been made, both by him and by many of my hon. Friends, who have sought in a perfectly proper way to make the case that he summarised a moment ago—that decisions on deprivation of liberty are best taken by judges, not by other people.

However, when considering the balance of these matters—and it is a matter of balance—I came to the conclusion that I set out in the letter today. I propose to amend the Bill to provide for derogating control orders to be made by a judge in the High Court, rather than as now by the Secretary of State. That is a change of position and I have made it for the reasons that I have given.

Mr. Grieve *rose—*

Mr. Clarke: I have sought to acknowledge the strength of opinion that exists in all parts of the House. I shall go on to say three other things that I have also concluded, but before doing that I give way to the hon. Member for Beaconsfield (Mr. Grieve).

Mr. Grieve: The Home Secretary suggests that the official Opposition have not indicated their position, so I repeat it. First, the orders must be made by the judiciary, not by the Executive—I shall come back to that in a moment. Secondly, the Home Secretary will have to justify before the House each and every aspect of the control orders that he seeks. If he can persuade us that each and every one of them is required, he will have our support, but the difficulty is that his past utterances have not suggested to us that some of the control orders are justified at all. Why, if the right hon. Gentleman accepts the principle of the judiciary dealing with orders where there is a derogation, should he not apply it also to those where he believes he does not have to derogate, given that many of them as they appear in the Bill are substantial infringements of the liberty of the individual?

Mr. Clarke: I will come to the hon. Gentleman's final important point, which has also been raised by others, when I set out the four points that I intend to deal with.

Mr. Chris Smith (Islington, South and Finsbury) (Lab): Can my right hon. Friend give us a very clear assurance that as regards the prima facie consideration by the judge that he intends in relation to the derogating orders and the subsequent referral to the full court, the judge and the court will on both occasions be able to look at the facts of the case and to consider all the information that he has had at his disposal, and will not simply be looking at process?

Mr. Clarke: I can give that absolute assurance. That is very important. The meaning of the criticism that was made of me by several hon. Members during the Second Reading debate last Thursday was precisely that a court might be able only to look at the processes, not the substance—

Several hon. Members *rose—*

Mr. Clarke: I will not give way until I have finished my sentence. It is not unreasonable for me to try to finish my sentence before giving way.

The point that I was seeking to make is that many Members criticised my proposal on the grounds that it did not give, as they originally thought, the basis for the court to consider the whole situation, as my right hon. Friend the Member for Islington, South and Finsbury (Mr. Smith) suggested. I have accepted that criticism in the case of derogating cases, and that is the basis of what I have put forward. In a second, if I am given the time, I will deal with the points made by my right hon. Friend and set out the procedure that will be followed.

Mr. Michael Weir (Angus) (SNP): Will the Home Secretary please clarify something? In his letter he talks about an application to the High Court, which is not defined in the Bill, although a court is defined. Can he confirm that in Scotland the high court will be the Court of Sessions?

Mr. Clarke: I can confirm that.

David Winnick: Since I happen to believe that there is an acute terrorist threat to this country, I am going to support control orders, as I did last week. I do not believe that the Government have some hidden agenda to undermine civil liberties. However, as my right hon. Friend has, rightly, gone as far as he has on house arrest, why does he not go further, as the hon. Member for Beaconsfield (Mr. Grieve) suggested, to get court intervention on control orders, not simply my right hon. Friend's intervention in the first instance? Surely he can go further than he already has.

Mr. Clarke: I will come to that argument in a second, if I may.

Jeremy Corbyn (Islington, North) (Lab): In response to my right hon. Friend the Member for Islington, South and Finsbury (Chris Smith), the Home Secretary said that the judge and the court would have access to all the information under which the orders had been sought. What information would be made available to the defendant in that process?

Mr. Clarke: At the point of the full hearing, there would be what is known as an inter partes hearing, where all sides have access to the information via the special advocacy procedure that has been established to deal with the security issues.

Mr. Grieve: Further to that point, I read paragraph 4(3)(c) of the schedule as indicating that the Home Secretary can pick and choose what evidence he puts before the judge, not before the defendant, when the matter comes to an inter partes hearing. If so, that is not compatible with the answer that he gave a short time ago in response to the intervention on whether the judge would be able to consider all the evidence in the case. That point requires clarification.

Mr. Clarke: My hon. Friend the Minister for Crime Reduction, Policing and Community Safety will do that later on. However, I can say in summary that it is not our intention to allow the Secretary of State not to disclose exculpatory material to the controlled person or the special advocate. Our intention in the paragraph to which the hon. Gentleman refers is to replicate the substance of the SIAC procedure, so that the court directs the Secretary of State to serve closed material that is sensitive and where there could be vulnerability to the suspect. After the Secretary of State's objection has been heard in closed session, the Secretary of State is able to withdraw that evidence, and if he does so he is not required to disclose it. The Security Service already has the practice of disclosing any exculpatory material, and that will continue.

To be clear, we would be happy to reconsider the wording of paragraph 4(3)(c) with a view to improving it.

Mr. Mark Oaten (Winchester) (LD) *rose—*

Mr. Clarke: I will give way to the hon. Gentleman, then I shall try to explain the procedure before having too much discussion on it beforehand.

Mr. Oaten: In case people are confused, will the Home Secretary confirm that while the special advocate may be able to see the evidence, they are not allowed to show it to the defendant?

Mr. Clarke: If it is in the closed session, the hon. Gentleman is right, because of the national security issue involved. For some, that means that no such procedure can be acceptable and that, effectively therefore, according to the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg), no control regime can exist.

Mr. Hogg: Absolutely.

Mr. Clarke: The right hon. and learned Gentleman says, "Absolutely", thus confirming that, whatever Opposition Front Benchers say, senior and respected Conservative Back Benchers believe that there should be no control order regime at all.

I shall set out precisely what the new procedure—

Lynne Jones: Will my right hon. Friend give way?

Mr. Clarke: Not at this stage—I will do so later.

Mr. Garnier: On a point of order, Sir Michael. I apologise to the Committee and to the Home Secretary for interrupting him while he is trying to explain something. However, the longer his speech goes on, the more unsatisfactory the process is revealed to be. We are trying to discuss a huge infringement of the liberty of the individual, on the back of a letter and without any of the amendments or rules of procedure that the Home Secretary seeks to explain. I congratulate him on wanting to explain, but what are the procedures of the House for? That is not just a boring lawyer's point. How can those procedures be properly protected when the Home Secretary can destroy the whole purpose of the Committee stage by coming to the Chamber with a letter to the shadow Home Secretary and making a speech that is wholly unconnected with the fabric of the Bill as presented by the Government? We are being expected to swallow that hook, line and sinker. Surely some control should be placed on a Secretary of State and Government who ride roughshod over the House's proper discussion procedures.

The Second Deputy Chairman: The programme motion has been decided. There is nothing more we can do at this stage other than consider the amendments that are before the Committee, which is what we are doing.

Mr. Garnier *rose—*

The Second Deputy Chairman: Order. I have dealt with the point of order. We should now proceed and let the Home Secretary explain.

Mr. Clarke *rose—*

Lynne Jones: Will my right hon. Friend give way?

Mr. Clarke: I will give way and then say what I was going to say.

Lynne Jones: Why is my right hon. Friend not prepared to put the making of non-derogating control orders in the hands of the court or to allow the court to consider the facts of such cases rather than just the procedure?

Mr. Clarke: As I think I have said about four times already, I will come to that point when I am allowed to make some progress.

The new procedure for derogating control orders will be—I will propose this for consideration in the other place—that the Secretary of State would make an ex parte application to the High Court for an order and that the application would be heard by a judge as quickly as possible.

Mr. Shepherd: On a point of order, Sir Michael. I raise this with the greatest reluctance. The Home Secretary is taking us into territories that none of us can read either in the Bill or in any amendment. How can he be in order when he is going off on that line of attack?

The Second Deputy Chairman: The Home Secretary is speaking to the amendment and the group. The Committee should now allow him the time to explain what he is seeking to explain and then take a view on his explanation.

Mr. Clarke: I am grateful, Sir Michael. I am of course entirely happy not to try to describe the procedure that I will set out, but to be quite candid, it would be better if I did try to do so.

Andrew Mackinlay (Thurrock) (Lab): Well if you want my vote, you had better explain; otherwise—dream on.

Mr. Clarke: I thank my hon. Friend for that.

The new procedure for derogating control orders that I shall suggest is as follows. First, the Secretary of State would make an ex parte application to the High Court for an order. Secondly, the application would be heard by the judge as quickly as possible—say, within 24 to 48 hours. The judge would look at all the material on which the application was based and decide whether there was a prima facie case. If so, he or she would make the order. The order would be subject to automatic referral to the full court for an inter partes hearing, with a special advocate representing the interests of the subject of the order in closed sessions, as currently provided in the Bill. The order could be renewed on application by the Secretary of State following a further inter partes hearing. That is the procedure that would give effect to the assurance that I gave earlier on a process that would meet the need seen by the Committee for a judicial decision to be the first point of call on these matters.

5.30 pm

In response to a point made on Second Reading by the hon. Member for Winchester (Mr. Oaten), I then set out the procedure necessary to deal with an emergency in which we need to prevent the subject of an application from disappearing in the period between the Secretary of State making the application and the order being served.

Mr. Robert Marshall-Andrews (Medway) (Lab): A prima facie case of what?

Mr. Clarke: A prima facie case that an order ought to be served on an individual on the basis of the terrorist threat that that individual posed. The point is that it would be for the judge to make that assessment on the basis of an application from the Home Secretary.

Malcolm Bruce (Gordon) (LD): Given the difficulties that the Home Secretary has had with special advocates under the present regime, and given that the Prime Minister says that these provisions could affect several hundred people, is the Home Secretary satisfied that there will be enough qualified lawyers willing to take on the role of special advocate in the circumstances that he is outlining?

Mr. Clarke: First, I am certain that that will be the case. Secondly, the Prime Minister did not make the assertion that the hon. Gentleman suggests.

Sir Patrick Cormack: Will the Home Secretary not at least concede that this is an extremely unsatisfactory way in which to proceed with the Bill? Why can he not, even at this late stage, table amendments that this House, the elected House of Commons, could discuss on Wednesday? He could have had his Bill debated with good will and in good order, within the Government's own allotted time, if only he had given us a little more time and treated the House with a little more courtesy. I am sure that it is not his intention to be contemptuous of the House, but that is the effect of the way in which he is proceeding. Will he not concede that?

Mr. Clarke: As I have said on a number of occasions, it would have been more discourteous to the House not to have shared my intentions and thoughts with it at the earliest possible moment. To have had a discussion without sharing them would have resulted in a worse state of affairs.

The change that I have just outlined is the first, and most important, of the three changes that I intend to suggest. The second deals with the question—

Mr. Kenneth Clarke: I thank the Home Secretary for giving way. My question is relevant to the procedure. He has described the process in which a Home Secretary or his representatives would go before a judge and seek an order in relation to a prima facie case. Will he make it clear whether, in seeking such an order, it would be sufficient for the judge to be satisfied that there were reasonable grounds for suspicion that the person posed a threat to public safety, or would he have to be satisfied that there was an imminent threat to security that justified depriving that person of his liberty? Will a judge considering an application for such an order have as full a hearing as he is ever going to be allowed to have? Will he be able to see all the material on which the Home Secretary and the Security Service are basing their application, and will he have the opportunity to challenge it or to listen to an advocate challenging it? Will the Home Secretary give the Committee a fuller explanation of what is to happen at that preliminary stage of an application for a prima facie order? He might simply be introducing a rather routine procedure before going back to what he proposed in the first place.

Mr. Charles Clarke: The first thing to emphasise is that my proposal will be that there be a full hearing at the stage after the prima facie stage. At that full hearing, which will be intra partes, it will be both possible and the reality that the judge will be able to look at all the evidence, either in closed session or open session, and that there will be a position in which the advocates of both sides will be able to make their points in court in that way.

Opposition Members have raised questions about the detained person. That point has been well covered before in this discussion. It remains my strong view that the special advocate process in these arrangements in front of the High Court is an appropriate procedure to follow in those circumstances.

Mr. Kenneth Clarke: Am I to understand that at the prima facie stage there will be no hearing? At that stage, will the judge have the material that is being relied on, and will the judge have to be satisfied that a threat exists, or merely satisfied that there are grounds for suspicion?

Mr. Charles Clarke: First, all the papers will be available at the prima facie stage. Secondly, the hearing will be ex parte rather than intra partes: that is, not all sides will be able to be there. Thirdly, the judge will have to be satisfied on the balance of probabilities that the individual concerned is a threat to the country.

Mr. Hogg: The right hon. Gentleman talks of inter partes hearings, but I think he also concedes that the detained person will not be told the names of his accusers, will not be shown the nature of the evidence, will not see the documents, and will not have an opportunity to question any of his accusers. What is more, the judge may not have an opportunity to put any relevant questions to the detained person. Have I understood the position correctly?

Mr. Clarke: The right hon. and learned Gentleman has understood correctly that the detained person will be represented by a special advocate in those circumstances, and it will be the special advocate who can interrogate on the issues before the court. I know that for the right hon. and learned Gentleman this is a disqualifying position. If the defendant himself cannot take instructions, from his point of view no control order should operate. He believes there should be no such legal process in such circumstances: his position is clear. Given the balance between security and liberty, he and I differ on how we should proceed.

There is an argument to be had, and the right hon. and learned Gentleman will vote accordingly. I believe, and I think the country generally believes, that when there is a reasonable belief that an individual will commit a terrorist act and that we can prevent that from happening, we should do so. That is not the right hon. and learned Gentleman's position, but it is mine.

Sir Menzies Campbell (North-East Fife) (LD): The Home Secretary can only have agreed to make what some of us regard as concessions in relation to derogating orders because he accepts the principle urged on him by Members on all sides that in matters of deprivation of liberty, a judge should be responsible for making the decision that has that effect. If he accepts that principle in relation to derogating orders, why should he not accept it in relation to non-derogating orders?

Mr. Clarke: I am coming to that. I find myself in some difficulty: I am trying to give way as much as possible while also making progress. I think I will act on that stimulus, and make my next three points about changes in the position before responding in detail to the question asked by the right hon. and learned Gentleman.

I set out in the letter, and now set out for the Committee's benefit, three respects in which we intend to change the procedures for non-derogating control orders in what I consider to be a significant and substantial way. First, we propose that when an appeal is made against a non-derogating order by an individual who wishes to do so, a limit should be set on the time

before which it can go to a judge. The criticism has been made that if there were no time limit, no judicial review could take place effectively and definitely. I am saying that we should make the first concession in this context, and provide for a time limit. That is important from the point of view of those who fear that people under non-derogating orders may never have their case heard by a judge—and, incidentally, it refutes the view of those who say that there is no proper legal process in this regard.

Mr. John Denham (Southampton, Itchen) (Lab): Will my right hon. Friend give way?

Mr. Clarke: I will in a second—to my right hon. Friend in particular.

The second issue relates to prosecutions. Let me repeat that, as a matter of practice as well as of policy, prosecution should remain our first option, and the prospect of bringing such a prosecution should remain under review even when a control order has been imposed. I am exploring with the police and the Crown Prosecution Service how we might best include that in the Bill. I intend to place an obligation on the police—in consultation with the prosecution authorities when that is appropriate—to keep under review the prospect of a prosecution in respect of any individual who is made subject to a control order.

My officials are working on those points now, so that the necessary amendments can be made to the Bill at Committee stage in the Lords. In making this proposal, I am particularly conscious of the argument advanced by my right hon. Friend the Member for Southampton, Itchen (Mr. Denham) and by my hon. and learned Friend the Member for Redcar (Vera Baird), who have argued strongly for the prosecution case to be there throughout

Mr. Denham: I hope that we will be able to explore the latter point if we ever get to that part of the Bill, but I wonder whether my right hon. Friend can pick up one small but important point. He talked about a time limit for referral to judicial review on the non-derogating orders. Whatever the other arguments, is he able to say what he has in mind for that time limit? Would it be, say, 14 days, for example?

Mr. Clarke: Fourteen days may well be a reasonable time scale. One is thinking about a 14 to 28-day period. It is of that order. It requires a little more discussion with the CPS authorities and so on, but it is that kind of time scale that we are describing.

Mr. Simon Thomas: On a point of order, Sir Michael. We have just heard the Home Secretary say, I thought quite categorically, that there would be a time scale for the referrals for judicial review. In fact, following an intervention, he suggested that 14 days would be reasonable. However, in the letter that has been produced for the Committee this afternoon, he says that he will be

"looking closely at whether it would be possible to provide in the Rules which will govern the courts' proceedings in these cases for any such appeals to be heard within a set timescale. My conclusions will be reported to the Lords . . . and, if necessary, amendments laid at that stage."

That underlines how ridiculous it is trying to deal with this process. Is it in order that we have one thing written and another thing said and no amendments to debate?

The Second Deputy Chairman: The point that the hon. Gentleman makes is more a matter for debate than a point of order, but I have no doubt that the Home Secretary may want to respond to it.

Mr. Clarke: On the point that has been raised, the fact is that the best way of putting a time scale into this can be either through the rules of the court or through legislation. It is precisely that which we are considering. We will need to consider it in a little detail before finally tabling an amendment.

Mr. Grieve: May I take the Home Secretary back to the intervention of the right hon. Member for Southampton, Itchen (Mr. Denham)? One of the problems of prosecution is that, the moment the Government embark on the course of action of issuing a control order, it is likely to make the possibility of a fair trial of any person who has been subject to those procedures extremely difficult. What will the Government do about that?

Mr. Clarke: That is a real question. My right hon. Friend the Member for Southampton, Itchen has raised it on a number of occasions, which is why it is important that the avenues for prosecution are explored to their utmost before getting to the point where we have the control order as suggested, but at the end of the day—I come back to the point that I made earlier—we need to be able to deal with this small group of people in the way I have suggested.

Lynne Jones: Will my right hon. Friend give way?

Mr. Clarke: Not at this stage.

I have heard the arguments, which relate to the prosecution point, about whether, once legislation has been brought forward to give effect to any new offences—and I indicated those both in my statement last Tuesday and on Second Reading—there is still a need for control orders. Therefore, I will be asking the independent reviewer of the control orders legislation specifically to comment on the impact of any new legislation each year in his report on the operation of the new powers.

Andrew Mackinlay: Will my right hon. Friend give way?

Simon Hughes: Will the Home Secretary give way?

Mr. Clarke: Not at this moment.

I believe that, in putting forward these four changes, I am seeking very substantially to meet the views of the Committee.

Andrew Mackinlay: Will my right hon. Friend give way?

Mr. Clarke: I will give way in a second. I need to clarify one point for the right hon. and learned Member

[Mr. Clarke]

for Rushcliffe (Mr. Clarke) in case I in any way misled him and the Committee. To be absolutely clear, at the first stage of the hearing the test is "prima facie", not "satisfied on balance of probabilities",

but it is fuller than he suggested because it includes whether or not there are reasonable grounds for suspecting that the person is a terrorist and whether there are reasonable grounds for believing that the imposition of obligations is necessary. Of course, the full hearing will be heard very soon afterwards. I did not want to mislead him, so I wanted to clarify that point.

Mr. Kenneth Clarke: I am very grateful to the Home Secretary for that clarification, but I am also grateful for the concessions that he is plainly trying to make to get as wide a body of support as possible. Indeed, his final point goes to the root of his concession. He has been asked by Members in all parts of the Committee whether he will hand over the power that he is seeking as Home Secretary to deprive someone of their liberty to a judge who, upon application from him, can then deprive someone of their liberty. According to the Home Secretary, all that the judge will have to be satisfied of at this first stage is that there is a case to answer. That is not in fact a full transfer of the decision. What troubles many of us is that a British subject or a foreigner—we cannot discriminate—should not be deprived of his liberty by the order of the Home Secretary, unless the latter can satisfy a judge through what is an admittedly closed judicial process that there is at least, on the balance of probability, a need now to deprive that individual of his liberty. With great respect to the Home Secretary, all that he is doing is putting in a minor check before the process proceeds to an inter-parte hearing, which, he says, will provide the substantial protection at a later stage.

5.45 pm

Mr. Clarke: I do not accept that this is a minor change. First, the judge is able to see all the material. Secondly, a full hearing will rapidly occur in the circumstances described. The change that I am proposing is therefore very much more than a minor one.

Andrew Mackinlay: Will my right hon. Friend give way?

Mr. Clarke: In a second.

I have set out four changes that I believe go a significant way towards dealing with the concerns expressed not only about derogating, but non-derogating control orders. I have been asked by a number of Members in all parts of the Committee to explain why I differentiate between the two types of order. I intend to do just that, but before I do so I will give way to my hon. Friend the Member for Thurrock (Andrew Mackinlay).

Andrew Mackinlay: That is the issue about which I wanted to ask my right hon. Friend. We do not understand why there should be a different threshold of test before a judge in respect of non-derogating orders, which can be just as offensive not just to the individuals suffering them, but to Members of Parliament who are concerned about jealously preserving rights and liberties. Why should there be a different procedure? Why can we not have full and thorough oversight by a judge in all circumstances, and in respect of all the evidence relating to non-derogating orders?

Mr. Clarke: That is precisely the issue that I am about to address.

Mr. Garnier: I do not want to press this point time and again, but will the Home Secretary ensure that the House has ample opportunity—by that I mean not just one or two hours—after the other place has considered the amendments to reconsider them in the light of the Lords discussion? We are delighted to hear from the Home Secretary, but this discussion has got precisely nothing to do with the tabled amendments. We must have an opportunity to look at them and to discuss his ideas once the amendments have been considered by the Lords.

Mr. Clarke: The hon. and learned Gentleman has made that point before and I have noted it.

Mr. Cash: Does the Home Secretary accept that, as I mentioned on Second Reading, one of the biggest problems is the question of whether a person detained in such circumstances would have the right to habeas corpus? It is crystal clear that the decision taken by the House of Lords during the second world war in the case of Liversidge *v.* Anderson has since been completely overridden by subsequent decisions taken by the Lords and others. The Home Secretary knows about whom I am talking. Will he state unequivocally now that there will be no interference with the right of habeas corpus, bearing in mind that habeas corpus was still available during the second world war under emergency powers?

Mr. Clarke: I am advised that I can give the assurance that the hon. Gentleman is looking for: the proposals that I have established will not interfere with habeas corpus.

I come now to the question—which a number of Members have genuinely raised—of why I have sought to differentiate between cases involving a deprivation of liberty and those that do not. I begin by acknowledging that all control orders will impose greater or lesser restrictions on individuals' activities and movements. They could interfere with convention rights such as the right to respect for private and family life—article 8—freedom of expression—article 10—and freedom of assembly and association—article 11. There is no doubt about that whatsoever. It is also clear that interference with those rights is permissible under the convention, provided that it is justified by a legitimate aim and is proportionate. It does not involve a derogation from the ECHR and it is not the same as a "deprivation of liberty". Restrictions on freedom of movement, freedom to choose residence and freedom to leave a country do not fall within the concept of "deprivation of liberty"—not as set out by me, but as set out in the European convention to which this country has rightly signed up.

What is necessary for deprivation of liberty to take place? It is about the extent to which a person's physical liberty is curtailed; it must be of a degree and intensity sufficient to justify a conclusion that liberty has been deprived and not merely restricted. I put it to all Members with all the powers at my command that this distinction between a restriction of liberty and a deprivation of liberty is a real and important one—it is not simply trivial in regard to these issues.

Mr. Marshall-Andrews: We hear what the Home Secretary says, which is, indeed, enshrined in an unsigned and unattributed document that can be found in the Vote Office—"A Note on Non-Derogating Control Orders". It describes deprivation of liberty as "a technical term" from the outset and at the end draws a distinction between liberty being deprived and liberty being restricted. May I ask the Home Secretary where on earth that distinction can be found in the European convention on human rights, or, indeed, in any other legal authority known in this country?

Mr. Clarke: As I understand it, the distinction is drawn very clearly in the European convention on human rights and it has been carried through in the judgments of the European Court. That is the basis on which the argument is made. It is a critical point.

Several hon. Members *rose—*

Mr. Clarke: I will give way later.

If we are saying that any restriction on liberty, of whatever kind, is equivalent to any other restriction of liberty, of whatever kind—the argument put by my hon. Friend the Member for Thurrock was that there is, indeed, equality of concern between any restriction of liberty that might arise—I am afraid that I simply cannot accept that. There is a distinction between a particular restriction and what amounts to a deprivation of liberty under the European convention. My point, which I make powerfully, is that it is legitimate under that convention to restrict liberty, provided it is justified by a legitimate aim and provided it is proportionate.

Rob Marris (Wolverhampton, South-West) (Lab): The document to which my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews) referred, continues on page 2:

"It is the case that a combination of measures—not specifically provided for in the designated derogation order—could amount to a deprivation of liberty within the meaning of Article 5 ECHR. But if a control order contained such measures it would be unlawful and would be quashed by the court on appeal."

I can understand the distinction, but a package of measures could be susceptible to attack in court if we had not derogated. However, what would be the position down the road if we had derogated from the ECHR and in a non-derogated case a package of measures were, taken together, extremely restrictive? Could the individual still apply to the court, or would the court say that the UK had now derogated?

Mr. Clarke: It is a good question and the position that would arise is clear. It would be open to anyone who had an interest in that particular case to argue that the procedures under derogation applied to the package of non-derogated rights in those circumstances and it would move over. That is to say, the police, the security services or the Home Secretary would not be acting legally if they put forward a package of measures that added up to deprivation under the procedures set out for non-derogated rights. I believe that that makes it clear.

David Winnick: The job of the Committee is to try to balance concern for civil liberties against the danger of terrorism. If we do not achieve a proper balance, we are not doing our job as Members of Parliament. I accept, of course, my right hon. Friend's integrity, but if there is a distinction between depriving someone of liberty and restricting it, and if we are going to restrict a person's liberty, why not allow the usual court procedures to apply to those circumstances? That would surely allow the Home Secretary to gain far more support for what he is trying to achieve. I simply cannot see any reason—I doubt whether the other place will either—to grant such a distinction.

Mr. Clarke: Perhaps I have not been clear enough in setting out my case. I appreciate what my hon. Friend said about my integrity in these matters. There is a range of circumstances surrounding restrictions of liberty, and the restrictions are exercised by various authorities. To provide an example, there are currently warrants authorised by the Home Secretary that allow people's telephone conversations to be listened to under a certain procedure that is clearly set out and approved by the House. Does that amount to a restriction of the liberty of the person whose phone is being listened to? I would say that it does. If a police officer locks someone up in a cell for a while for causing an affray, that is also clearly a restriction of liberty.

Several hon. Members *rose—*

Mr. Clarke: In all cases under law, a proportionate series of levels of judicial involvement are justified according to the particular circumstances that pertain.

Mr. Grieve: Will the Secretary of State give way?

Mr. Clarke: No, I will not give way until I have finished what I am saying.

It was argued on Second Reading by my hon. Friends and others that it is unacceptable to deprive someone of liberty, in the context of house arrest or detention or other serious cases, without judicial authority. I have thought about it and answered the point. I have responded positively to that concern, although I cannot escape the fact that a wide range of restrictions of liberty apply.

Mr. Grieve: I have to say that I disagree entirely with the distinction that the Home Secretary has attempted to draw. Although listening into someone's telephone calls may interfere with their right to privacy, it does not interfere with their liberty. Liberty is about a person's ability to go about their lawful business without interference. One need reflect only on the powers that the Home Secretary is arrogating to himself in clause 1 to see that there are numerous powers that interfere with a person's ability to go about their lawful business—and

[Mr. Grieve]

some of them do so in a potentially very unpleasant fashion, which I would certainly equate with a clear deprivation or infringement of their liberty. I cannot understand the argument that these should be subject to a different category of test before the courts. The Home Secretary has so far produced no rational justification for doing so.

Mr. Clarke: So let me attempt to do just that. Although my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews) wants to punish me for it, I am quoting from the note to which he referred earlier. I thought that it would be helpful to the Committee to produce a note to clarify the position. The fact is that control orders are preventative orders. They are designed to prevent future atrocities from happening—

Mr. Marshall-Andrews: Will the Home Secretary give way?

Mr. Clarke: I will not give way until I have finished my sentence.

Mr. Marshall-Andrews: Before the point is left?

Mr. Clarke: Yes, I will give way before I leave the point. My hon. and learned Friend is always impatient. Some say that it is one of his more endearing characteristics, but I am not sure that I agree.

As I was saying, the control orders are designed to prevent future atrocities from happening, not to punish a person for past events. Those preventive orders require an assessment of the overall security situation, of the risks posed by particular individuals and of what measures are necessary and appropriate to meet those risks. It must be carried out on the basis of a wide range of complex intelligence and other material, and it involves making inferences and evaluations about matters affecting national security. I maintain that the Secretary of State is in a better position to carry out those judgments than the courts.

Mr. Marshall-Andrews: I am most grateful to the Home Secretary for giving way, and in particular for the charm and affection with which he does so, which makes it slightly unfortunate that I have to ask this question. He has told the Committee that the European convention on human rights provides a distinction between deprivation and restriction of liberty and that it specifically allows for restriction of liberty, so will he please tell us in which particular article that appears?

Mr. Clarke: I do not have the article in front of me. I am advised that it is article 5, but I would be wary of putting that on the record.

The example that I gave earlier was of a number of articles in the European convention on human rights that allow a restriction of liberty in a number of different areas.

6 pm

Simon Hughes: May I ask the question in a more personal way? The Home Secretary used to be president of his university students union. Does he accept that his successor, as president of the Cambridge students union, should be deprived of his or her right to go to Scotland, to meet their family, to talk to people, or to read something without being able to argue their case in open court? That is the issue. I cannot believe that he would have accepted that when he was president of the students union and I cannot believe that, in his heart of hearts, he believes that it is acceptable now.

Mr. Clarke: I am trying to think who the hon. Gentleman is referring to. My successor was a man, not a woman.

In my heart of hearts, I believe strongly that the nation's security is important and that it is important to stand up for the nation's security. That is what I intend to do.

Vera Baird (Redcar) (Lab): Could I return to the sentence that my hon. Friend the Member for Wolverhampton, South-West (Rob Marris) quoted? A combination of measures could amount to deprivation of liberty under article 5. That document refers to control orders, not derogating orders. My right hon. Friend accepts, therefore, that it is possible to take liberty away through a non-derogatory control order. If liberty is taken away under clause 2, he must go to a judge first. He can take liberty away under clause 1, but without going to a judge, except that there would be a right of appeal. In both cases, liberty is taken away, so how can a different procedure be justified?

Mr. Clarke: I think I can help my hon. and learned Friend. First, a Home Secretary who, on advice, including legal advice, sought improperly—that is the implication of the question—to deprive someone of liberty, whether by an individual derogating control order, or by a combination of non-derogating control orders, would be acting wrongly. Moreover, having acted wrongly, he would be overruled by a judge on appeal and the case would then have to be referred immediately, under the derogating procedure, to the higher level judicial authority set out in the proposal. That is a clear guarantee to meet the sort of concern that my hon. and learned Friend is raising.

Vera Baird: The difficulty is that the liberty of the subject will already have been taken away by Executive order and the victim could only appeal. The Home Secretary accepts that taking away someone's liberty under a clause 2 order should be done only by a judge. What is the difference?

Mr. Clarke: There is a major difference, which I tried to set out earlier. Let me be clear about whether non-derogating control orders deprive someone of liberty. Derogating obligations must be set out in designated derogation orders. There must be an order to allow the whole process to take place and it must be approved by the House and the other place. It will be clear from the designated derogation order what may be permitted in the derogating control order. The derogating control order before the House and the other place must set out

what might be permitted in the derogating control order. If those measures were imposed, the derogated control order procedure would have to be followed and is set out in my proposals. If the other measures were not in the designated control order and amounted to deprivation of liberty, they would be unlawful and would be quashed.

Vera Baird: I accept that entirely, but a judge must be asked to consider an application to take someone's liberty away under clause 2 and, if it is unlawful, he will not grant it. Why does not the same apply under clause 1? It would be unlawful if my right hon. Friend made an order under clause 1 that deprived someone of liberty, but the subject would be locked up and could appeal. If the Home Secretary had to apply to a judge first, the judge would not grant the order if it was unlawful.

Mr. Clarke: The procedures that I set out meet the guarantee that my hon. and learned Friend is asking for. If she is asking why do I not propose an identical procedure for derogated control orders and non-derogated control orders, the answer is that the deprivation of liberty issue is of a key and different character from the restrictions of liberty that we are talking about elsewhere.

Dr. Nick Palmer (Broxtowe) (Lab): I am grateful to my right hon. Friend for giving way for the umpteenth time. He has been generous with his time.

The lawyers' festival that we are having today does not fully reflect the balance of views elsewhere. People are looking for a guarantee against arbitrary detention and reassurance that people who are reasonably suspected of being a threat are detained until their cases can be fairly heard within a reasonable time. I broadly sympathise with my right hon. Friend, but I am not sure that it would interfere with what he is trying to achieve if he also involved a judge in the weaker cases that we are now discussing.

Mr. Clarke: I have voluntarily imprisoned myself in a lawyers' festival and sought to eschew appeals to a wider public generally in this argument, although there is plenty of room to do so. I agree with my hon. Friend that it is reasonable for the elected House of Parliament to bear in mind what our constituents think about these matters. They want a Government that will protect national security and we are determined to do so.

Mr. Denham: I understand that my right hon. Friend's current difficulty stems in part from the concession that he made earlier today. As I said last week, none of our institutions, including the judiciary, is properly designed for the purposes that we face. We must evolve further in an investigatory direction in the years to come.

My right hon. Friend has just read from the note from the Vote Office. He said of non-derogating control orders that

> "The assessment must be carried out on the basis of a wide range of complex intelligence material and involves inferences and evaluations being made in relation to matters affecting national security."

That is true, but it is equally true of derogating control orders. That is the process.

With all due respect to my right hon. Friend, having made the decision today to put that process in the hands of the judiciary for derogating control orders, the argument for doing the same for non-derogating control orders becomes irresistible. I entirely accept his argument that they are measures of a different order and that people are nit-picking around that issue, but it does not justify a separate process.

Mr. Clarke: I respect my right hon. Friend, but there is an important qualitative difference between deprivation of liberty as defined by the European convention on human rights—[HON. MEMBERS: "We cannot hear."] I am sorry if hon. Members could not hear me. I believe that there is a qualitative difference between deprivation of liberty within the context of the European convention on human rights and something that is not a deprivation of liberty. I understand the concerns that hon. Members are raising about how far one goes down that course, whether a combination of restrictions can add up to a deprivation and how to ensure that that is properly dealt with by the procedures, but there is a qualitative difference, which is established in case law—the cases are given in the document—and in many other ways.

Mr. Denham: I entirely accept the first half of my right hon. Friend's argument that there is a qualitative difference, but where does that provide the justification for a difference of process? What is going on is this terribly difficult issue of assessing what the intelligence services are telling us, the national risk and the role to be played by an individual. We must either decide that we are to involve the judiciary at the outset, or that we are not. Having decided that we are, we must do that across the piece.

Mr. Clarke: I am grateful to my right hon. Friend for conceding the qualitative difference involved in the deprivation of liberty. The point—*[Interruption.]*

Sir Patrick Cormack: On a point of order, Sir Michael—

The Second Deputy Chairman: Order. I believe that I may presume what the hon. Gentleman wishes to say. It would be helpful if the Home Secretary could address the whole Committee. It is tempting to address the person who has just intervened, but it is more helpful to address the whole Committee.

Mr. Clarke: I apologise to members of the Committee who did not find my back as entrancing a prospect as my hon. Friends do.

I was saying that I was grateful to my right hon. Friend for accepting a key and important part of the argument—that there is a distinction between circumstances in which an individual is to be deprived of his liberty and those in which he is not deprived of his liberty. My right hon. Friend then argued—if I have correctly understood him—that, despite that distinction, the processes in both cases should be the same. I do not accept that point because the key argument that I heard for the involvement of a judge at the initial stage related to the deprivation of liberty. The argument was that, whether it involved house arrest or

[Mr. Clarke]

detention of some other kind, deprivation of liberty was such a serious matter that it could not be left in the hands of a Minister, but had to be put before a judge. I have, reluctantly, accepted that argument, which was made by my right hon. Friend and others, but I do not think that that argument applies to cases in which the subject will not be deprived of his liberty.

Sir Menzies Campbell: I am most grateful to the Home Secretary for being so generous in giving way. A moment ago, he reminded us that the purpose of the legislation was to try to ensure, so far as we can, the protection of the people of the United Kingdom. How will they be better protected if he pronounces the order in cases of non-derogating orders, instead of a judge doing so?

Mr. Clarke: In either case, whether it is done by the Home Secretary or a judge, the people of the United Kingdom will be better protected if we have a regime of control orders that deals with the people in question. That is common ground between us. We then come to the issue of prevention, which is at the core of this discussion, and the range of considerations that have to be taken into account. The question that then arises is whether a Minister—the Home Secretary, in this case—is in a better position to make that assessment than a judge. I argue that the Minister would be in a better position to make the assessment—

Andrew Mackinlay: Why?

Mr. Clarke: That is an important question. It is because, by definition, someone from the Executive would have access to all the information in a way that a judge would not. However, I also accept the argument that, in the case of deprivation of liberty, the penalty is so great that judicial involvement is required. That is the basis of the argument that I make.

Sir Menzies Campbell: In the latter part of his answer, the Home Secretary seemed to say that it is a question of degree but, for most right hon. and hon. Members, it appears to be a question of principle.

Mr. Clarke: Let me take the context that is given in the note that I provided earlier. In the case of Rehman, Lord Hope set out the position clearly. He concluded:

"It is a question of evaluation and judgment, in which it is necessary to take account of probability of prejudice to national security but also the importance of the security interests at stake and the serious consequences of deportation for the deportee."

That argument was made in the context of a deportation judgment, but those same considerations apply in the cases that we are discussing. That is a substantial difference, as I hope the Committee will acknowledge.

Mr. Grieve: I wonder whether the Home Secretary has fully understood the position. If he has not, it may explain some of his difficulty. It has always been accepted in English law that the Home Secretary has a residual Executive right to deport aliens. That is one of the reasons those deportation rights have remained, even if qualified by the Human Rights Act 1998. However, we are not now talking about deportation or dealing with aliens: we are talking about the rights of British subjects to live in peace and be subject to pains and penalties only by due process of law. We are moving into uncharted waters because the Home Secretary says that he wishes to introduce a completely new system of imposing pains and penalties on individuals without due process of law. The argument that he has just put forward about deportation is irrelevant, because we must consider how best—in the circumstances that the Home Secretary has put forward—we can protect the liberty of the individual. The Committee's overwhelming view is that that can be best done by having a judicial process.

6.15 pm

Mr. Clarke: I am sorry if the hon. Gentleman feels that I have not understood the issues. I must say that I have spent decades of my life being patronised by lawyers, and I do not appreciate it.

I understand the issues clearly and well. I draw to the hon. Gentleman's attention the fact that both Badat and Reid, whom I mentioned earlier, are British citizens, and that is why the issue before us is not simply about immigration law. It is the issue of what we do about British citizens as well. That was the point made by the Law Lords. The regime that we are talking about will apply to British citizens, and it is a serious matter—I have not sought to hide that at any point in the debate—of the balance of judgments between security and liberty. However, the fact is that real and present dangers exist that we must address. We can legitimately have an argument about the right procedure, but the Committee should not try to suggest that there is no issue to be addressed. There is an issue that must be addressed.

Mr. Boris Johnson (Henley) (Con): I have no hesitation in admitting that I do not understand one particular point. In the Home Secretary's mind, what measures amount to a deprivation of liberty and what measures amount to a restriction of liberty? What combination of restrictions of liberty could amount to a deprivation of liberty? Could he give examples of each of those three categories?

Mr. Clarke: I shall give the Committee examples. An example of a restriction of liberty might be being forbidden to have a mobile telephone or to contact another named individual, who is known to be a terrorist organiser of some kind. A deprivation of liberty would be a matter of what is colloquially called house arrest or of actual detention. The question of whether a combination of restrictions adds up to deprivation depends on the particular combination. I dealt with that point when replying to my hon. and learned Friend the Member for Redcar.

Mr. Shepherd: The distinction that the Home Secretary draws between non-derogating and derogating orders is very difficult in many instances. For example, a person's ability to work could be restricted by orders relating to the use of the internet. Only a judge can determine whether what the Home Secretary calls non-derogating matters are proportionate. Therefore, ultimately, the orders should come before a judge who can decide that question under the terms of the

convention and our human rights legislation. That is why the right hon. Member for Southampton, Itchen (Mr. Denham) and the hon. and learned Member for Redcar (Vera Baird) were right to say that no distinction should be made between the processes for determining those matters.

Mr. Clarke: I have sought, as best I can, to say why I think that there should be a difference. Fundamentally, the difference is that deprivation of liberty is a qualitatively different matter from restrictions on liberty.

Mr. Frank Dobson (Holborn and St. Pancras) (Lab): I accept my right hon. Friend's point about the qualitative difference, but we must proceed on the assumption that any deprivation of rights should not be subject to the arbitrary decision of the Home Secretary. My right hon. Friend has sensibly conceded the change in relation to locking people up. It is reasonable to assume that the people who need to be locked up are the most dangerous of the categories being dealt with, so we find it difficult to understand why he is not prepared to use the same procedure for those who are less dangerous.

Mr. Clarke: I am grateful to my right hon. Friend, as his intervention allows me to set out clearly the reasons for the argument that the Home Secretary is not unlimited in what he or she can do on these measures. First, the Bill itself makes it clear that a control order can impose only obligations that the Secretary of State considers "necessary" for preventing or restricting further involvement of the individual in terrorism related activities. That is a substantial restriction. Secondly, the Secretary of State is required by section 6 of the Human Rights Act 1998 to act compatibly with the convention rights of the individual and his family. It would be unlawful for the Secretary of State to impose restrictions that breached their convention rights. Moreover, the courts would quash an order that did so. Interferences with private and family life, association and communication will have to be expressly justified in each case by a specific aim permitted by the convention—in this case, we are talking about national security—and will also have to be proportionate to that end. The Secretary of State will have to weigh up very carefully in each case whether measures can be imposed that are consistent with convention rights. Finally, the Secretary of State's decision may be appealed to judicial review in the ways that I have indicated. More generally, we are proposing a complicated set of procedures whereby the Secretary of State has to report to the House on the way in which the control order regime is operating.

Richard Burden (Birmingham, Northfield) (Lab): I am sure that my right hon. Friend will weigh up those things incredibly carefully, but may I return him to what my hon. and learned Friend the Member for Redcar (Vera Baird) said? By the time somebody who was put under a combination of control orders that individually were restrictions but collectively could amount to deprivation of liberty could question that, it would be a bit late. By that stage, they might be unable to talk to people or to move around. All they could do would be to appeal on judicial review. There is no automaticity in that. In my right hon. Friend's first proposal, he suggested that a court should automatically check what the Home Secretary was doing, so why in this proposal is there not even automaticity?

Mr. Clarke: To be candid, although I understand the argument that the identical process should extend to non-derogated orders as to derogated orders I do not accept it for the reasons that have been set out. My hon. Friend's concern that there would be some process of slide, whereby a combination of non-derogated deprivations that added up to a derogation would slip past the courts and procedures, is simply wrong.

Several hon. Members *rose—*

Mr. Clarke: I have considered the best course of action to follow when so many Members want to intervene, and I shall now come to the end of my remarks at this stage, to enable proper speeches and contributions to be made by Members who wish to do so.

I have set out clearly a course of action that responds to many, many of the issues that were raised. It deals with the fact that we have to make a balance between security and liberty. I believe that we are making it correctly in these procedures, and that we are seeking appropriately and correctly to find the balance.

Mr. Blunt: On a point of order, Sir Michael. I apologise to the Home Secretary for interrupting him, but this is an important matter of procedure. Will it be possible to reply to the substantial case that the Home Secretary has made against the abolition of the distinction between non-derogating and derogating control orders, which was actually selected for consideration in the second group under clause 2? Will it be in order to make speeches, following the Home Secretary's points, under the group that we are currently discussing?

The Second Deputy Chairman: We are discussing amendment No. 4 and the other amendments listed on the paper before the Committee—

Mr. Fisher: On a point of order—

The Second Deputy Chairman: Order. Let me deal with one point of order at a time.

It is up to hon. Members themselves how they respond to the debate. Obviously, the Chair will make sure that proceedings are in order.

Mr. Greg Knight (East Yorkshire) (Con): On a point of order, Sir Michael. The Home Secretary has been generous in giving way and he has spoken at length, but almost exclusively to his letter, which has no legal standing at all. He has not spoken at all to this group of amendments and new clauses. Is it your understanding, Sir Michael, that he will seek to catch your eye later in the debate? Almost uniquely in such a situation, the Home Secretary has not addressed at all the items before the Committee for consideration.

The Second Deputy Chairman: The right hon. Gentleman is not raising a point of order so much as a matter for debate. The Committee is obviously ranging widely at the moment, and that is part of its wide range.

Simon Hughes: Further to that point of order, Sir Michael. I hope that the Home Secretary can help us. May we ask him through you if he will indicate which of the amendments in the group are covered by his proposals? Those could easily be voted through and we should be halfway done.

The Second Deputy Chairman: The Home Secretary indicated that he had concluded his remarks for the time being—

Several hon. Members *rose—*

The Second Deputy Chairman: Order. I think that other hon. and right hon. Members should have the opportunity to express their views and we will take matters in the usual way.

Mr. Kenneth Clarke: Further to that point of order, Sir Michael. I think that we are dealing with a matter of order and not just of the content of the debate. For about an hour and a half, the Home Secretary has carried out something of a tour de force, discussing and debating with every member of the Committee the concessions that he is trying to make, but he has illustrated the dangers of not following the normal procedures by just making a speech at large about what the Bill will be like when it has been amended and the type of issue that will then be thrown up. Having listened for an hour and a half, I am partially persuaded on some points, although not on others. Like other Members, I can think of a whole raft of amendments that I should now like to table to clarify some of those points—although I would be helped if I could first see what the Government were proposing.

This is a chaotic way of proceeding. For most of the last two hours nothing has been said that bears any relation to the selection of amendments before us. With respect, Sir Michael, I repeat the request that we have a brief adjournment or suspension of the sitting to consider how best to proceed. Perhaps the Leader of the House might be tempted from 50 yd away, where he is no doubt watching these proceedings on screen, to come to the Chamber and suggest how we might proceed. If we now revert to the first selection of amendments, Sir Michael, and you call Members to make speeches and remotely try to keep to the rules of order, you will have to rule most of the speakers out of order as soon as they start dilating on half the things that the Home Secretary has just told us. That underlines why we have normal procedures—

The Second Deputy Chairman: Order. A number of Members have asked for a suspension this afternoon, but we have proceeded in the circumstances in which we found ourselves. I am not in a position now to suspend the Committee, but I am in a position to make sure that we debate the amendments before us and their effects and ramifications, which are wide. If matters had been out of order, my predecessor in the Chair would have ruled them so. We are now simply wasting time—

Several hon. Members *rose—*

The Second Deputy Chairman: Order. It is important that we have some order. We have had interventions on interventions on interventions this afternoon, and it is very difficult to get order in those circumstances. It is time we moved on. The Chair will do his best to make sure that things are in order. I call Mr. Dominic Grieve.

Mr. Grieve: I hope that it will be in order, Sir Michael, if I treat amendment No. 4, tabled by the hon. Member for Bridgend (Mr. Griffiths), as a request to the Committee to include not only judicial oversight, but judicial participation in the making of control orders as proposed by the Government. I am obviously also aware that many other amendments follow on from that tabled by the hon. Gentleman— including some tabled by myself and my hon. Friends, and indeed, in some cases, signed up to by Members on both sides of the House—that provide different ways and mechanisms for doing that. Perhaps I can just say in passing, to avoid having to return to it, that new clause 6, which comes at the tail end of the group—I am very grateful to Justice for proposing it in such short order—provides a mechanism that would allow a possible way forward by providing such a system. I shall say no more about that at this stage.

6.30 pm

Mr. Garnier: Before my hon. Friend moves on and says no more about that matter, may I ask him about new clause 6? As he correctly says, it comes at the end of the great list of amendments about which we have not been speaking for the past hour and a half, and as it is a new clause, any vote taken on it will presumably come towards the end of our proceedings. Will he ask us to divide the Committee on new clause 6? It is clearly not only a matter that needs to be spoken about, but a public expression of opinion received.

Mr. Grieve: I have some slight doubt about whether we will reach new clause 6 to put it to the vote, but it certainly struck me that it is the closest that we have come to finding a sensible mechanism if we are to pursue a line of discussion about setting up a sensible framework for judges to make decisions about whether control orders should be imposed.

Mr. Cash: I do not in any way wish to enter a discordant note, but I suggest that my hon. Friend look at new clause 6(8), which says:

"The court shall not impose any obligation under subsection (7) unless it is satisfied",

among other conditions,

"that the obligation is consistent with the defendant's Convention rights within the meaning of the Human Rights Act 1998".

He will appreciate the fact that I have affirmed over and over again—this did not come out just now—that the problem is that the Government are in a jam precisely because the human rights legislation has created a lot of artificial distinctions that they are now trying to deal with. Does he accept that it would not be desirable for us to adopt provisions that have to be consistent with the Human Rights Act, and that new clause 5, which I tabled, would provide a way to deal with that?

Mr. Grieve: Given that the Human Rights Act is on the statute book, I think that it were well that the Committee should seek to comply with it. There may well be wider issues about whether the Human Rights Act is desirable, or whether we should simply rely on the European convention on human rights, but for the present purposes of today's debate, I am comfortable with new clause 6 in the form in which it was proposed.

Mr. Denham: The hon. Gentleman draws the Committee's attention to new clause 6, in the name of the shadow Home Secretary. It is a proposal for control orders for a person who

"is or has been involved in terrorism-related activity".

It goes on to say—I presume that this is the position of the official Opposition—that

"the court must apply the criminal standard of proof."

Surely if there is sufficient evidence to show to a criminal standard of proof that people are involved in terrorism-related activities, the thing to do would be to prosecute them for terrorist activities. Are not the Opposition ruling out the very problem that we are trying to tackle: individuals against whom there is not sufficient information to apply the criminal standard of proof, but against whom we still need to take action?

Mr. Grieve: The right hon. Gentleman is slightly jumping the gun. We are considering the Bill in Committee. In theory, we are supposed to be moving amendments for consideration by the Committee, so that it may consider them. There are some perfectly valid arguments and points to be made about using a different standard of proof from the criminal standard of proof, although for the purposes of debate, I certainly share Justice's view that the idea of starting with the criminal standard is a good one. I am also mindful of the right hon. Gentleman's point.

One of our problems is that the debate in Committee has been completely corrupted: instead of our having the opportunity for informed debate on individual points, which is what I should have liked, it has been hijacked and we must move on to the rather different problem of evaluating the comments made by the hon. Member for Bridgend against the proposals made by the Home Secretary in his lengthy speech. It is to that issue that I shall now turn, but before doing so, I reiterate for the benefit of the right hon. Member for Southampton, Itchen (Mr. Denham) that as we are starting with a model that is not necessarily word for word what we want, it struck me when I considered the various amendments that Justice's ideas merited careful scrutiny, and I flag that up in case we ever, which I rather doubt, have an opportunity to return to them.

I now turn to what the Home Secretary had to say. The nub of his argument is that although he has conceded, compared with his position last week, that there are arguments for the sort of mechanisms that the hon. Member for Bridgend wants for control orders that require derogation, he can see no reason or purpose for having them in cases that do not require derogation. As I hope was clear from my interventions, I find the Home Secretary's argument completely unsustainable, and I wish to take just a few minutes of the Committee's time to explain why.

First, I return to the comment that I made to the Home Secretary originally that elicited his remark that he was being patronised by lawyers. I certainly apologise to him; I had no intention of patronising him—rather, I thought that as Home Secretary, he would probably have access to a great deal of sound legal advice and opinion. However, I did not understand the point that he made. He had called in aid Lord Hope's comments in a case called Rehman in which he said that in deportation cases it was appropriate that the Home Secretary, rather than a judge, should make the decision when the wider national interest had to be considered. I suppose that, to an extent, the Home Secretary linked that to the comments that Lord Donaldson made earlier today, when he expressed some reservations about judges being the principal participants in the process of control orders that the Government wish to take up.

I wish to make two points about those comments. First, if Lord Hope was referring only to deportation—I have to tell the right hon. Gentleman that I think that he was—that is clearly different from a process whereby the Home Secretary decides to take powers not to deal with aliens by deporting them, which has long been accepted in this country as one of the very few Executive powers to deprive people of their liberty that the Home Secretary has, but to translate that into a completely new field, irrespective of whether it applies to foreigners or British citizens, where the Home Secretary, by Executive fiat, deprives individuals of liberty. I believe that the two things are entirely different in principle. The truth is that we are moving into completely uncharted waters.

Lynne Jones: Is not the difference also that with deportation orders, there is an appeal process before the action—the deportation—is carried out, whereas control orders will be implemented before any appeal process can take place?

Mr. Grieve: The hon. Lady is right, and of course, I accept that the end result of the deportation process is not that people are permanently deprived of their liberty, but that they deported. So the two things do not have equivalence, but we in this country have always accepted—certainly, until the Human Rights Act began to bite—that the Home Secretary has powers to detain aliens, pending their deportation, subject to judicial scrutiny and safeguards. We are not talking about that; we are talking about, at worst, a system of Executive detention, and at best, a parallel system of justice with control orders based, most regrettably, on secrecy, on the inability of a defendant to be given the full facts that he must answer, and on a person being subject to a variety of constraints that would previously have been totally unknown in our law. That is the point.

Mr. Tom Harris (Glasgow, Cathcart) (Lab): The hon. Gentleman prays in aid Lord Hope's comments in the Rehman case and claims that they relate specifically to a deportation case. Of course that is right, but surely the point of Lord Hope's comments is that he was drawing a distinction and claiming that

"the whole concept of a standard of proof is not particularly helpful in a case such as the present . . . It is a question of evaluation and judgment."

[Mr. Tom Harris]

He was talking specifically not about the kind of case on which he was sitting in judgment, but about whether we move to a new standard of proof.

Mr. Grieve: I understand what Lord Hope was saying, but he was saying it with specific reference to the only circumstances in which the problem arose: deportation cases. We are not talking about deportation cases. Indeed, the right hon. Member for Southampton, Itchen, who is no longer in his place, rightly identified one of the new procedure's basic problems, which is that the ordinary standards of proof—whether proof beyond reasonable doubt, so that people are sure to the criminal standard, or on the balance of probabilities—have fairly marginal relevance, arguably, to the sort of procedure that we will be asking judges to carry out.

That is why I say to the Home Secretary that I have little doubt that Lord Donaldson's anxieties and distaste for this procedure, and perhaps slight desire to pass it back to the Executive, have their origin in not wishing to see the judiciary sullied by interference in a procedure that does not meet the ordinary norms of justice. That is a very big problem, and one that we will have to grapple with.

Mr. Simon Thomas: Does the hon. Gentleman agree that the problem with the Home Secretary's argument about the difference between derogating and non-derogating orders, as evidenced this afternoon, is that he seems to be telling us that we must let the penalty rather than the principle decide the process? Although the Bill will go to the other place, we are in danger of creating legislation in which those who are seen by the Home Secretary to be the greatest threat to the security of the state will have the greatest judicial protection, while those who are deemed to be a lesser threat to the state will have a lesser degree of judicial protection. That is a crazy system if the Home Secretary is serious about the fact that he will make the decisions about who is or is not dangerous to the state.

Mr. Grieve: The hon. Gentleman makes a very good point, and I shall try to come to that issue directly.

If the Home Secretary can justify each and every control order that he seeks—not just the general overarching principle; it is the detail that matters—we must accept that we are setting up a novel and parallel system of justice that is thoroughly imperfect in terms of the rights of the person who is accused. As I said on Second Reading, when my colleagues first floated to me, as a lawyer, the idea of judges taking such decisions, I found that rather distasteful. It seemed to me to undermine the way in which I expect justice to be done. However, on reconsidering the matter, I have absolutely no doubt—the view seems to be shared by many Members—that if we really have to go do down this unpleasant and unsatisfactory road, it is much better that judges take the decisions. That will at least provide some protection for the individual and a sense of reassurance that he has been treated fairly.

Mr. Clive Soley (Ealing, Acton and Shepherd's Bush) (Lab): May I put two points to the hon. Gentleman, and perhaps take him into the wider debate? It is not right to say that we have never had these powers before in this country in recent years—we have. We had them in Northern Ireland with internment, and a lot of bad messages came from that. Thousands of people were involved, and there was no judicial process. Similarly, there is no judicial process with exclusion orders. I have increasingly taken the view in recent years that because of the nature of the threat now—I will very much welcome the hon. Gentleman's comments on this—we should perhaps move towards what we seem to be moving towards anyway. I refer to an inquisitorial system of justice for the narrow area of terrorism. We are bringing judges into the process, and the reason why this problem is not faced in Europe is that people are locked up there while judges decide. That may be what we are deciding now.

Mr. Grieve: I appreciate the hon. Gentleman's point, but I think that we are mixing two different issues. There is the perfectly valid argument—one that we have been pushing—that we need to review our criminal procedures to see whether it might be possible to bring suspected terrorists to trial more easily in view of some of the evidential problems that surround successfully prosecuting them. We have made proposals to the Government about that. We have said, "Allow intercept evidence, and have an examining judge collate the material." However, we have not gone down the road of having an inquisitorial process, as in France.

I have the pleasure of being half French. I am familiar with France, speak the language and have ample opportunity to see how the French judicial system operates in practice. It has many flaws, and they are flaws that I would not wish to see reproduced in this country. That is one of the reasons why I believe our common law system to be superior.

6.45 pm

Mr. Soley: I agree very much with the hon. Gentleman; I would not want the French system here. However, on the narrow issue of terrorism, I wonder whether we could consider something that might work here with rather more controls than they have in France. Let us remember that they do it rather better elsewhere in Europe. Otherwise we will end up with a system of judges simply deciding the process, and not the whole court procedure.

Mr. Grieve: I appreciate the hon. Gentleman's point, but we are at risk of straying from the subject matter of the Bill. I wish that this were part of the debate, but it is not. All I can say to the hon. Gentleman is that I believe that there is a way of trying to move in that direction without getting rid of the common law protections, and we have put that to the Government in debate on a number of occasions. Unfortunately, our proposal has not been taken up.

The suggestion made on Second Reading that France was very different because it effectively had Executive detention, with investigating magistrates able to lock people up for ever and a day, is a bit of a calumny on the French system. Although it allows for quite lengthy detention, that still has to be part of a procedure leading

to court. If the procedure does not lead to court because there is not the evidence, no amount of investigation can justify detaining someone.

Mr. Garnier: I appreciate that my hon. Friend does not want to linger on this point for too long, but has not the hon. Member for Ealing, Acton and Shepherd's Bush (Mr. Soley) made the point that Lord Donaldson was frightened of this morning? Lord Donaldson does not want judges to descend into becoming advocates for one cause or another. He wants judges to remain impartial, disinterested referees or umpires, to use his words. We do not want judges to become advocates on behalf of the Government, MI5 or whoever it might be. Their role is to make sure that the Government do not apply unfair evidential or other tests to the detriment of an individual who should have his fair day in court. If we stand for anything, that is what we also stand for.

Mr. Grieve: I agree with my hon. and learned Friend. My right hon. and learned Friend the Member for Sleaford and North Hykeham made that point powerfully and provoked the Home Secretary into saying, "On that basis, control orders are anathema to you."

To say that I dislike the control orders proposed by the Home Secretary is a serious understatement. I find them disgusting—there is no other way of describing it. However, I have to face up to the fact that the Government may be able to argue that however repellent and disgusting the orders may be, it is necessary to have a procedure for detaining people without the normal due process of law. The question that we must consider is, what is the best way of doing that, granted all the many imperfections? Although I understand that judges may not wish to participate in such a process, the opportunity for a judge at least to evaluate the evidence presented offers a better degree of protection than the Home Secretary doing it himself. That will be subject to many caveats, and we need to consider the detail in the rest of the Bill.

Mr. John Redwood (Wokingham) (Con): My hon. Friend is making an extremely important speech and I share his distaste. I am delighted by what he has said so far. Does he agree that we would have more confidence in the Government's case if some of the people released from Guantanamo Bay were now facing trial on charges and if we thought that the people who will be released from Belmarsh in due course would also face future judicial action? Is it not remarkable that none of the people who were arrested on suspicion can face trial for any offence at all? I thought we had strengthened the anti-terrorist laws.

Mr. Grieve: My right hon. Friend is right to suggest that the Government have still not found a way of bringing to trial the people against whom they claim that they have massive intelligence information implicating them in terrorism. That is a serious issue, and it returns me to the comments made by the hon. Member for Ealing, Acton and Shepherd's Bush.

The issue that we must consider is whether judges should make the orders only in cases in which there is a derogation from the European convention on human rights or in all circumstances. On that issue, I found the Home Secretary's arguments incomprehensible. I could not understand why, having conceded that it was necessary for judges to become involved where there was derogation, that was not necessary or could not be done where there was no derogation. There was no coherence whatever in that argument. Indeed, there are compelling reasons for saying that the interferences with the liberty of the individual that are implicit and explicit in the various powers for which clause 1 provides are such that a judge should be required to make an evaluation.

Mr. David Heath (Somerton and Frome) (LD): The hon. Gentleman knows that I agree with much of what he is saying. Was he as surprised as me that one of the Home Secretary's arguments was the fact that he would be in possession of more information that would be likely to be of evidential value than a judge? If that is the case, does it not suggest that the whole judicial review process is likely to be flawed, given that matters on which the Home Secretary relies will not be relayed to a court?

Mr. Grieve: I entirely agree. The hon. Gentleman might recall that in an intervention on the Home Secretary, I pointed out my puzzlement that the schedule to the Bill seemed to provide that the Home Secretary could be privy to information during the proceedings that he would not have to disclose to the judge, even though it might be relevant. He then said that the provision could perhaps be better worded and that an amendment might be tabled at some stage in the Bill's passage.

Let us be quite clear that as the Bill is drafted, the Secretary of State is not required to disclose information if he does not propose to rely on it during proceedings. That is remarkable, because I had imagined that if proceedings were to be held in front of a judge, he would be given all necessary information to decide whether the Home Secretary's application for a control order was justified. I do not think that the security of the state would be completely jeopardised if a judge were made privy to such information. Indeed, on a new Home Secretary's first day of work, he will be called upon to make orders on the advice of his officials, with no experience of the background situation in the Department. It is thus a little far fetched to suggest that the Home Secretary is privy to a magical understanding of what the security of the state requires that no one else may have.

We shall have to return to a further argument that the Home Secretary put forward at a later stage of the Bill's passage—or at some point, anyway, because we will not have a later stage. The Home Secretary will need to act quickly. He conceded that in the case of a derogating order, which is presumably the situation in which he must act fastest, he would go to a judge. In the case of a non-derogating order, however, I do not understand why he would need to exercise an Executive function from his bed at 2.30 am when the matter could be taken to a judge at that time. Furthermore, as I have said to the Minister for Crime Reduction, Policing and Community Safety—I hope that she will respond to this point at some stage—given that existing terrorist legislation allows the police to detain and interview people for up to 14 days if they suspect that a terrorist offence has been committed, I do not understand why

[Mr. Grieve]

the Bill needs to give Executive power for immediate detention to the Home Secretary instead of to the police in the usual way. The police would then decide with the Home Secretary that if no prosecution could be brought, an order should be applied for in the ordinary way.

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): Does the hon. Gentleman accept that the powers under the Terrorism Act 2000 relate to an ongoing investigation of someone who is involved in the preparation, committal or instigation of an offence? As control orders are preventive measures, consideration can be given to not only what has happened, but what might happen in the context of the threat as a whole. A different process of decision making will be used from that which applies when people are arrested on the basis that they have already committed an offence. This point goes to the heart of the matter. The hon. Gentleman is talking about a justice system that examines things after they have happened, but control orders are designed to deal with not only what has happened, but what might happen.

Mr. Grieve: I do not think that I agree with the Minister. When the suspected terrorists were flown back from Guantanamo Bay, instead of coming off the plane and going into the bosom of their families, they were detained by the police, presumably to ascertain whether they had committed offences. After being interviewed, they were released. It beggars belief for the Minister to suggest that if people were suspected of serious involvement in terrorism, there would not be grounds on which the police could arrest them to ascertain whether criminal offences had been committed. I find it impossible to accept that, so I hope that the Minister will clarify her remarks because the situation seems very strange.

The problem might be that the Government, in their typical fashion, have tried to over-egg the pudding. The Secretary of State has put his case to the world through the media by saying that he needs the power because he might have to make an immediate on-the-spot decision in the middle of the night that could have important consequences for protecting people from an immediate threat of violence. I think the Minister would agree that under that test, the police would have ample grounds to intervene immediately.

Mr. Garnier: Is not the absurdity of the Government's position starker than that? I have telephoned judges at all hours of the day and in the dead of night to get a civil injunction to prevent a newspaper from publishing a potentially defamatory article. It cannot be suggested that a judge would be disturbed by receiving a telephone call from the Home Secretary's advocate to say, "I'd like a control order, please." If a judge will grant a civil order to ban the immediate publication of a newspaper article, he will not jib one jot at being woken up to make a control order.

Mr. Grieve: My hon. and learned Friend is right: there is absolutely no reason why a judge would not do that. However, I am making the point that given the police's powers of detention, there might be no need whatever for ex parte orders. There will be 14 days to establish an inter partes hearing, so the Minister's anxiety has little validity.

I want to allow other hon. Members to speak, so I shall bring my remarks to a close. We must face the fact that on any rational analysis, the proposals are seriously flawed. The Secretary of State made the distinction between major infringements of a subject's liberty and minor infringements. It is true that major infringements might be more reprehensible, unless they can be justified, but none of the infringements of a person's liberty proposed in clause 1 should be tolerated unless there are sound and persuasive reasons for doing so. The Committee must face the fact that the Bill is a long-term measure. I fear that such procedures and processes will be in place for years, which makes them entirely different from those in place during the second world war for the detention of enemy aliens, or even the unusual application on certain British subjects under regulation 18B.

I hope that the Minister will be able to respond to my points at some stage. No coherent argument has been made for rejecting the amendment moved by the hon. Member for Bridgend. If the Committee wishes to persuade the Government that from the beginning judges must make control orders, irrespective of whether they are derogating or non-derogating orders, the sensible thing to do is to vote for the amendment. I hope that the hon. Gentleman will press the amendment to a Division because such an expression of the Committee's opinion would be the best mechanism to present an alternative to the process that the Home Secretary proposes. The Home Secretary tries to persuade us that his proposal is acceptable, but I disagree. He has not made the case for his proposal. Indeed, by making his concession, for which we are grateful, he has gone a long way towards conceding the validity of the case that the hon. Member for Bridgend made.

Mr. Robin Cook: It was said a long time ago this afternoon that the letter circulated by the Home Secretary rendered a number of the amendments otiose. I can probably say that it renders my amendments most otiose of all, in that he has accepted the principle behind my amendments to clause 2—that the decision should be made in the first instance by the courts. I rejoice in the fact that my amendments are otiose. That is welcome news.

7 pm

I would rejoice unconfined if the Home Secretary had said that he would accept the text of my amendments. I have no doubt that the text is defective. I have never come across an amendment tabled by a Back Bencher about which a Minister could not find a reason to argue that it was defective. Indeed, one of my regrets from my period as Foreign Secretary was that we had few pieces of legislation and I did not have adequate opportunity to tell Back Benchers that their amendments were defective. Nevertheless, it would have been a better way of proceeding had the Home Secretary accepted my amendment, or one of the other amendments, and tidied it up in the other place so that when we depart from this

place at the end of the day we would at least know what words we had agreed to, rather than expecting them to come back from the House of Lords in a week or two's time.

Mr. Greg Knight: As a former Leader of the House, will the right hon. Gentleman confirm that even at this late hour it is possible for the Home Secretary to accept our offer of using Wednesday's Supply day to debate in detail the amendments that are, in effect, contained in the letter? It would also be possible for a business motion to be introduced to allow those amendments to be tabled right up to the beginning of the debate. Is that not what the Home Secretary should do?

On a personal matter, may I wish the right hon. Member for Livingston (Mr. Cook) a happy birthday?

Mr. Cook: I am glad that the right hon. Gentleman brought his remarks to a point of consensus in his conclusion.On the other matter, of course it is technically possible to have a business statement at any time in our proceedings, although it is rather late in the day for us to start all over again. The difficulty is that we are taking the Committee proceedings and the Report stage at one sitting. Had we separated those two, it would have been entirely possible for the Home Secretary, as he has sought to do today, to respond to the feeling expressed in Committee, to give the assurances that he has given, and to introduce the text for us to consider on Report, rather than doing that in the House of Lords.

Nevertheless, my right hon. Friend was wise to accept the thrust of my amendment, and I can give three reasons why that is the case. First, it is vital that we retain the separation of powers between the Executive and the courts. Any decision on the deprivation of liberty of the citizen should be a matter of judicial process rather than a political judgment. After all, it is our best protection against the arbitrary use of power by the Executive to ensure that any infringement of the liberty of a subject should be a matter of due legal process.

Secondly, the Home Secretary is the wrong person to exercise this particular power. My right hon. Friend said today, as he has said a number of times, that it is the Home Secretary who has responsibility for safeguarding the security of the nation. I would not argue with that—it is a perfectly fair statement—but it is precisely that consideration that makes him the wrong person to apply the control orders. The decision must necessarily be a balancing act between the evidence of a threat and the right to the liberty of the citizen. The place to put that balancing act to the test is in the courts. It should not be inside the Home Secretary's private office.

Mr. Cash: Only one thing concerns me about what the right hon. Gentleman said both on the "Today" programme and now. Although I understand where he is coming from, does he accept that he is effectively repudiating the history of the best part of 100 years—including the ruling by Lord Hoffmann in the Rehman case recently—in which the Home Secretary is assumed to have knowledge, experience and judgment which are, in the view of eminent jurists, including Members of the House of Lords, preferable to those of the courts? That was clearly stated in a House of Lords case only a couple of years ago.

Mr. Cook: My broad political ideology does not preclude me from saying that something that has been done for 100 years might possibly be wrong. On the specific issue, however, I have grave anxieties about the argument that the Home Secretary should have access to information to which the rest of us and the courts do not have access. I would be very reluctant indeed to go down the line of depriving a citizen of liberty on the grounds that the Home Secretary's information is not known to the rest of us, particularly in the light of our experience in this Parliament of the case for the war against Iraq.

Lynne Jones: Does my right hon. Friend accept that his remarks about the appropriate involvement of the Home Secretary also apply to the non-derogating control orders?

Mr. Cook: If my hon. Friend allows me to develop my argument, I shall return to that.

Several hon. Members *rose—*

Mr. Cook: I shall give way to my hon. Friend the Member for Stoke-on-Trent, Central (Mr. Fisher), but I then want to make progress because I am conscious that a large number of colleagues want to speak.

Mr. Fisher: I am wholly in sympathy with my right hon. Friend's comments. Does he agree that in the process of the Home Secretary having access to information to which no one else has access, one of the key details is that the person who is accused will not be able to hear what he is accused of? Is he satisfied with that?

Mr. Cook: No, I am not. There are good grounds for having an argument about what the disclosure rules and procedures should be when the matter comes before a court, but we must first get a case to court. If the decisions are taken inside the Home Office, there is little chance of the suspect having an opportunity to dispose of the matter of which he is accused.

This is not an ad hominem point. If my right hon. Friend were Home Secretary for life, I might be slightly more relaxed about the powers, but he will not be. Other people will become Home Secretary. It is theoretically possible that it may even be someone from another party. [HON. MEMBERS: "Oh."] I am seeking to find a point of consensus without becoming controversial. The serious point is that we are giving powers not to my right hon. Friend as an individual, but to his post, and I do not think that they sit readily with his post.

I said that there were three reasons why my right hon. Friend is to be congratulated on his decision to accept the principle of my amendment. The third is that I worry gravely that the powers, in particular the power of house arrest, could be counterproductive in the fight against terrorism. Over the weekend, we heard of the new plans for the Maze prison now that it is to be demolished. It is, perhaps, appropriate to remember that internment was

[Mr. Cook]

abolished not so much because of concern about civil liberties, but because it was proving counterproductive in the fight against terrorism. It was much more successful in provoking sympathy for the IRA than it was in assisting the police in combating terrorism.

Let us be frank. We all know that the control orders are most likely to be applied against citizens of Britain who are British Muslims. Those of us who have been in contact with that community know perfectly well the alienation and disaffection that has been caused among many young British Muslims by the way in which current powers under the prevention of terrorism legislation have been used. We need all the communities of Britain to work with us to ensure that we defeat the common enemy of terrorism, and we need all members of the British society to believe that they are allies in that fight and that none of them is a suspect because they belong to any one particular community.

My hon. Friend the Member for Birmingham, Selly Oak (Lynne Jones) anticipated my point. I am glad that my right hon. Friend the Home Secretary has accepted the logic of the argument in relation to clause 2, but that argument applies with almost equal force to clause 1. I congratulate him on a bravura performance of stamina at the Dispatch Box. It is perhaps a pity that the Oscar ceremony took place last night and his performance cannot be considered for an award. I feel a certain sense of guilt, in that I tempted him into accepting my amendment to clause 2, thereby creating some of the difficulty in arguments that he has had in relation to clause 1.

Listening to how the debate unfolded in the hour and a half when my right hon. Friend was at the Dispatch Box, however, it was impossible to avoid the point that the only distinction that could be made was a matter of degree, not a matter of principle. Indeed, he relied not on a qualitative argument, but on a quantitative argument. I am not sure that that adequately justifies adopting a different procedure for the two different forms of control order. Indeed, the restrictions on liberty in clause 1 are severe. They enable the Home Secretary to specify where the citizen will work, to whom the citizen will talk, where the citizen will stay, who visits him there and where he can travel to within the United Kingdom. We are talking not about where he can travel by leaving the UK, but specifically about where he can travel in the UK. Those are very grave restrictions on liberty. My right hon. Friend might be wise in the light of this afternoon's experience to tell the Committee before we conclude our business that he will reflect on the arguments that have been put to him and consider ways in which they can be brought into the text of the Bill before proceedings are completed in both Chambers.

David Winnick: Would it not be useful for the Home Secretary to bear in mind the fact that those of us who recognise the shortcomings and think that such a proposal could be counterproductive, but accept control orders for the reasons that we have explained, nevertheless feel very strongly—no less than Members who are opposed to the measures—that the matter of who is to be subjected to a control order should be initiated by the court? Clearly, the vast majority of Labour MPs on listening to the debate would certainly agree. If the Home Secretary is to concede, as he must do next door, he should do so earlier and to the House of Commons.

Mr. Cook: My hon. Friend makes a perfectly fair point with which I would entirely concur. It is notable that we have now been debating this matter for the past four hours and that, apart from the Minister who has spoken from the Dispatch Box, no Member has put in a favourable word for the material before us.

Rob Marris: Like the Home Secretary, my right hon. Friend is a lay person; I am a lawyer. The Home Secretary seems to be putting forward a lawyer's argument that deprivation of liberty is a technical term that appears in article 5 of the European convention on human rights. However, if my right hon. Friend the Member for Livingston (Mr. Cook) went into a pub in Livingston—or if I went into a pub in Wolverhampton—and said that the Home Secretary had placed restrictions on an individual so that he could not go to work, speak to his wife, or use his mobile phone or computer, and that where he could travel in the United Kingdom was limited, he would find that the average lay person would think that that was deprivation of liberty.

Mr. Cook: I suspect that my hon. Friend accurately reflects what might be described as the public house commonsense view of the matter. I would add, though, that I would be cautious about accepting the idea of a lawyer's point of view. In my experience, there is no one single point of view that can be expressed as a lawyer's point of view. Indeed, one can usually find a lawyer to support any possible point of view. I very much doubt whether every lawyer will accept the distinction that we have heard made from the Dispatch Box today, and I would not be at all surprised, should this Bill reach the statute book and be implemented, if we found them arguing in the courts that the restrictions on liberty under clause 1 also require a derogation every bit as much as those under clause 2. I am conscious of the fact that a large number of Members wish to speak, so I shall conclude.

I mentioned that it has been striking how few voices have been raised in favour of the contents of the measure. One of the main reasons for that is that the places around the world where we find legislation parallel with what we are debating are not comfortable. I heard on BBC radio yesterday the chief of staff of F. W. de Klerk justifying the measure before us. That was not advice that I wished to hear or a source that commended the Bill to me.

Those of us who have spent much of our political careers condemning countries where it is possible to put citizens under house arrest on the decision of a politician on the basis of secret police evidence have every reason to be concerned about this Bill. I am glad that this afternoon we have been able to take the significant step to remove one of the worst offences of the measure, but I hope that my right hon. Friend the Home Secretary will reflect on what has been said and enable us to go further in order to remove some of the more offensive aspects of the Bill.

Mr. Oaten: I do not intend to speak for very long because many Members want to speak. It has become clear from events this afternoon that what we say in this Chamber is not what will matter in the next 48 hours. That is a frustration for many of us.

It is difficult to decide whether we are debating a set of clauses or a letter. The clauses in front of us are unacceptable. Even though I welcome some of the measures that have been set out in the letter, the letter is also unacceptable. Therefore, regardless of how one interprets any votes later—it will be difficult to do so—for clarity I should say that whether in relation to the clauses or to the new proposals made by the Home Secretary, we will be voting against the measures.

7.15 pm

We debated at length on Second Reading how it was unacceptable for the Home Secretary to give himself so much power to take away the liberties of others. I genuinely welcome his reflection on that and the fact that he has put forward in his letter a different set of proposals. They do not go far enough, but it would be churlish not to acknowledge that. Just as last week he was able to move on the issue of judicial involvement and judicial review, he has made a fundamental leap in recognising that the role of the judge is not to be one of just signing off or reviewing, and that they, rather than politicians, can take the decisions.

I want to flag up a few concerns about what the Home Secretary has proposed in his letter. If it were possible to table amendments to a letter, we would do so. Let us regard our proposals as a postscript to his letter. We hope that we can address them in more detail in another place and that at some point this evening the Minister will respond to them.

We have always acknowledged that if a judge were able to take the initial decision, we would have to overcome what I have described as the problem of the Home Secretary getting a call at 2 o'clock in the morning. In his letter, the Home Secretary outlined the way in which he would amend police powers. It is important that we understand more about that process. There is still the critical issue of whether the Home Secretary or the intelligence services would be directing a chief constable and quite how that relationship would work when that call comes through to the Home Secretary. We have acknowledged that, as a mechanism for achieving what we want—a judge deciding—there must be something to fill that gap.

In the letter, the Home Secretary acknowledges that we will be able to move towards a prima facie case within 24 hours. At the right time of day, that period could be shortened; it may well be possible to get through a court process a great deal faster than that. I see no reason why we should not try to move much closer to a point where that takes place almost as soon as the information is brought forward, instead of setting a limit of 24 hours.

David Davis (Haltemprice and Howden) (Con): I am listening with interest to the hon. Gentleman. I do not think that such a problem exists. If we want to get an injunction in the middle of the night to stop a newspaper publishing something, we can do so. The process of warrantry that covers a great deal of the intrusive actions of our various agencies can be undergone in the middle of the night, and indeed often is. Are we making too much of a problem of this? It can be dealt with by a judge at any point of day or night.

Mr. Oaten: I would make two points to the shadow Home Secretary. First, I have acknowledged that the police powers to hold individuals for 14 days may not be acceptable. In relation to those current powers, we would be moving towards a definite charge; clearly, in these circumstances, we would not be doing so. Secondly, if we agreed to many of the amendments, we might be talking about judges who are security vetted and of different types. Therefore, it is unlikely that there would be many of them around at the drop of a hat, as there are for a newspaper libel action. However, I accept the right hon. Gentleman's point that we should try to narrow the gap between the Home Secretary seeking emergency powers and the considering of the prima facie case.

Another concern, and one at which the Lords will need to look, are the grounds for which a prima facie case can be considered. At the moment, it is suggested that that should be based on "reasonable grounds". Even though that would be at a very early stage in the process, we are uncomfortable that the grounds should be "reasonable grounds".

Thirdly, when will consideration be given in that process to prosecution? On many occasions, the Home Secretary has said that he intends to move to prosecution at an early stage, but could we not consider the prima facie case for prosecution? Under the Home Secretary's proposals, when will the consideration whether to prosecute occur? In our judgment, the sooner that matter is addressed in the Bill, the better.

The Home Secretary's letter is very quiet on the time that it would take to move from the prima facie case to applying for a full control order, and we have received no indication of how long that period would be. A period must clearly be provided to allow cases to be developed, and I would have hoped to receive some indication that we are discussing a not very long period of between seven and 14 days from seeking a prima facie case to moving towards a full control order being applied for and decided by a judge.

So far, we have discussed helpful steps in the right direction in relation to the powers of the judge and we seek clarity on how those powers will work. However, issues of fundamental principle also exist, and they mean that we are uncomfortable with the direction in which the Government are heading. Evidence is one such key issue and it is not satisfactory that the Government still intend individuals not to be able to see the evidence against them. At the moment, a special advocate can see such evidence, but they cannot necessarily share the information with the defendant.

There must be a way to allow a defendant to argue about matters of fact in such cases. It would be crazy if an individual had a charge put against them, but they were not allowed to know the information, although they had an alibi. We must be able to work through such matter of fact issues to make sure that a gross miscarriage of justice does not occur simply because certain levels of evidence were not considered.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): May I draw my hon. Friend's attention to the evidence submitted to the Constitutional Affairs Committee by nine of the special advocates, which indicates the difficulty in which special advocates operate? For precisely the reasons that he has just given, the special advocates say that they cannot guarantee to secure justice for the people on whose behalf they are supposed to act. Their participation in the existing SIAC proceedings should not be taken as indicating that they are satisfied that those proceedings are fair.

Mr. Oaten: My right hon. Friend has made an excellent point. The SIAC proceedings put not only the defendant but the special advocates in an impossible situation. Without a system to allow the basic facts to be heard on all sides, miscarriages of justice will occur.

Mr. Grieve: I agree entirely with the hon. Gentleman. One of the problems that we face is that the Home Secretary makes concessions on the Bill when he is under pressure, but remains reluctant to allow detailed scrutiny of the entirety of the legislation, which today's Committee will certainly not provide.

Mr. Oaten: I could not agree more, but we are where we are. Let us hope that the detail of those issues will be examined in another place and that we can make a useful contribution in Committee.

Vera Baird: The hon. Gentleman is making some good points. I disagree with what the hon. Member for Beaconsfield (Mr. Grieve) has just said because we are discussing not substantive material that will go on in the Bill, but detailed rules of court. I have never understood why one should not know whether an individual has an alibi because one does not know the day on which they were alleged to have done something. If the special advocate knows the gist of the allegation, why should he not agree a series of questions with the judge to be put to the defendant? He would not have to ask, "What were you doing on 10 March?" He could ask, "What were you doing in March?", and do his best from the individual's diaries. Such a process would gradually erode the worst bite of the injustices in the system.

Mr. Oaten: The hon. and learned Lady is right—the situation is not black and white. It cannot be beyond the wit of man and the good will of those involved in the process to create a way to establish issues of fact without giving away sensitive information. When the Bill reaches another place, I hope that the Home Secretary will examine ways to achieve that. I disagree with the hon. and learned Lady in saying that such issues should be dealt with in the Bill. The matters of principle must be addressed in some way in the language of the Bill before my hon. Friends and I can support it.

Mr. Beith: The hon. and learned Member for Redcar (Vera Baird) has said that the matter does not need to be dealt with in the Bill, but it is dealt with in the Bill because the schedule gives the Lord Chancellor the power to make rules that the High Court must accept. If the Lord Chancellor were required to engage in consultation, the schedule even presumes that the consultation in which he engaged before the Bill was passed would count towards it.

Mr. Oaten: My right hon. Friend has made an excellent point. These are classic in the Bill issues and they are the bottom line on whether we will support the Bill in the future.

Mr. Grieve: The right hon. Member for Berwick-upon-Tweed (Mr. Beith) has pre-empted my point, but I shall go further: is it not the case that the novelty of the procedures that we are setting up makes it all the more important that we should have some understanding of the court? Ordinarily, when rules of courts are provided by statutory instrument, everybody knows roughly what sort of rules will be introduced, but in this case we do not know because of the complete novelty of the procedure.

Mr. Oaten: The shadow Attorney-General has made an excellent point. We are entering into uncharted territory, and because it is uncharted we should at least set down what we understand by it, rather than assuming that the norms of previous engagement will be the norms in these circumstances.

Vera Baird: I shall clarify what I mean. The schedule contains a power, which is not altogether commendable, to make rules of court, but is not that power needed? The power to make rules of court must appear in the Bill, because one cannot not conceivably legislate for every detailed arrangement of the kind that I have suggested to the hon. Gentleman.

Mr. Oaten: My position is not a million miles away from that of the hon. and learned Lady, but Liberal Democrat Members cannot support a Bill as an act of faith or on the basis of a statement from the Minister. We must understand how evidence will be heard within the mechanics of the process.

I want to discuss some other aspects of the Home Secretary's proposals, and I hope that they will be addressed in another place. On the standard of proof, the different clauses contain different standards of proof, but we cannot understand why different standards of proof are necessary throughout the process. It is possible to move towards higher standards of proof throughout the process, particularly if one is dealing with special courts in which one can achieve a standard of proof without revealing sensitive aspects of the evidence, which is difficult in an ordinary court process.

The Home Secretary took a large number of interventions on his justification for having a different set of rules for the higher and lower control orders—those that derogate and those that do not. Frankly, he was not convincing on that particular issue. I accept that there is a difference between placing someone under house arrest, tagging them, imposing a curfew, prohibiting who someone can see, or preventing someone from working, but in one way or another all those examples concern losses of liberty. If someone were to tell me with whom I can work, where I can travel and whom I can meet, I would regard it as a gross invasion of my liberty.

Mr. Garnier: European jurisprudence accepts that those examples are deprivations of liberty, but the

courts in Europe sometimes allow such deprivations on the grounds of proportionality or for the protection of national security. The distinction is not in principle, and it simply concerns what the court will and will not allow.

Mr. Oaten: But that was not the Home Secretary's argument. He argued that because one punishment is worse than another, the process of managing that punishment should be different, in which case why do murder and theft both currently go before a court and a judge? The logical conclusion to draw from the Home Secretary's argument is that we should put murder in front of judges, but not bother with theft. Whatever level we are discussing, the principle should be the same whether we are discussing a higher or lower level of taking liberty away.

Malcolm Bruce (Gordon) (LD): Does my hon. Friend share my concern that the Home Secretary went further and said that the difference between non-derogation and derogation was that only he would have all the evidence for non-derogation offences, which implies that people who were less of a threat and would not be detained would go through a more serious breach of justice?

7.30 pm

Mr. Oaten: There could have been some logic to the Home Secretary's argument if he had presented it the other way round, corresponding to the degree of severity.

The right hon. Member for Livingston (Mr. Cook) was right to say that this will be a sticking point, not least on the Government Back Benches. It is a pity that before the Bill goes to another place we could not hear from the Home Secretary, who has already made helpful concessions, that he is prepared to keep the door open and consider the issue again. Had that been the case, we would have felt that the debate had served some purpose, instead of such a concession being dragged out of the Government, kicking and screaming, in the House of Lords. Even if that does not become part of the Bill, it will be challenged sooner or later on legal grounds. I hope that the Home Secretary and the Minister will indicate that they are prepared the keep the door open, so that the same system is in place for a higher and a lower control order.

Mr. Fisher: I agree with much of what the hon. Gentleman said, but is he not being too meek and modest? We are sent to the House to scrutinise Government legislation. We are not doing that today. We are discussing a statement that the Home Secretary made. The hon. Member for Winchester (Mr. Oaten) says that we may, if we are lucky, be able to chat briefly about the scrutiny of the legislation in the other House, but that is not what we are sent here for. We are sent here to scrutinise and satisfy ourselves that the judgment of the Home Secretary and the Government is correct. We are not doing that with this Bill.

Mr. Oaten: The hon. Gentleman makes an excellent point. I am a mild-mannered kind of guy and I find it hard to get worked up about these matters, but if I were worked up about the Bill, I would be extremely unhappy about taking part in a debate knowing that the points that I made would not be voted on tonight because the Committee cannot vote on the real issue. It is ridiculous that we are voting on a set of clauses that could be thrown in the bin. The issue on which we should be voting is a letter, which of course we cannot amend. That is frustrating, but all we can do is send a very strong signal to another place. If Members there do not listen, I hope that when the Bill returns to the House we are given more time and space to make our arguments at that point.

Simon Hughes: First, does my hon. Friend recognise the bizarre paradox that the Government are relying on a House that they constantly criticise for being unrepresentative to do the major scrutiny? Secondly, is not the point that my hon. Friend has made often the best reason why all sorts of control orders should be subject to the same process? If people are kept in their house, not allowed to go to certain parts of the country and so on, are not those just the people who are more likely to be martyrs to the cause if they have not had a chance to argue their case and show why they should not be subject to that decision? We are creating more and more people who are likely to be antagonistic to the Government and to the very liberties that we want to uphold.

Mr. Oaten: My hon. Friend is right. Having a good system of justice in place is important in its own right, but it has the further important benefit that it does not make people feel that the system is working against them.

In conclusion, we have reluctantly accepted the need for control orders. We have acknowledged that there is a gap—a procedural problem—and a way forward must be found. I have acknowledged that the Home Secretary has taken some steps in the right direction, but they are tiny steps, and big leaps are needed in the future for the Liberal Democrats to support the Bill. We will need clarification on whether there is to be a two-tier system of derogation and non-derogation orders. We will need to see a proper system that allows evidence to be heard along the lines that we have discussed, so that the issues of fact can be dealt with. We will need convincing that the Government are serious about considering better standards of proof. Changes are needed to the legislation on acts preparatory to terrorism so that charges can be brought against individuals. There is a long way to go and at this stage we cannot support the Bill, letter, clause or whatever we are debating this evening.

Mr. Soley: I hope not to detain the Committee for long. Having been involved in debates on the prevention of terrorism for about 25 years, I feel that I have built up some knowledge of the subject. One of the few encouraging aspects of the present situation is that we seem to be much more concerned about the legislation than we were before, when the Liberals and the Conservatives would often vote together to keep the prevention of terrorism Act on the statute book.

I want to make one point about the past, and I make it to the former Home Secretary, the right hon. and learned Member for Rushcliffe (Mr. Clarke) as well. Successive Governments, Labour and Tory, renewed legislation in the House, often in overnight debates, and they did so at times when we were locking up several

[Mr. Soley]

thousand people in internment in a ship in Belfast and elsewhere in Northern Ireland. We excluded people from one part of the United Kingdom to another, again without judicial intervention, under successive Governments throughout that time.

What we are doing tonight is not essentially different. I do not use that as an argument for supporting the Bill. My right hon. Friend the Member for Livingston (Mr. Cook) deployed one of the arguments that I used to use—that we were locking up many innocent people and, in doing so, losing support. But today there is a difference, and things have changed. I am pleased to say that the present situation is not nearly as bad as it was then. In the worst year of the 1980s, we locked up close to 6,000 people, of whom fewer than 1 per cent. were put on trial for anything to do with terrorism. The numbers now are far smaller, and the way in which the powers are used is a credit to the police. If they were used as they were in the past, I would be appalled at the consequences, particularly for the Islamic population of Britain, who tend to be in the front line on this matter.

I must say this to the Committee, and I say it carefully: I agree with the Home Secretary that the threat from terrorism is fundamentally different. That does not mean that we should conclude that what we are doing tonight is good. I shall return to that. The threat is fundamentally different, not only for the reasons given by the Home Secretary and others about suicide attacks and so on, but because the problem is so great when a terrorist organisation seeks to kill the largest number possible. Kofi Annan made a very good speech on the subject in London, but unfortunately he made it on the same day as Prince Charles announced his engagement to Camilla, so it got no mention in the press at all. He spoke about the threat of an attack on London, the numbers involved and the impact on the world economy if weapons of mass destruction were used. It was an important speech. He also spoke of the United Nations being a target for those organisations, as people who read the transcripts from al-Jazeera and other stations will know. The problem is fundamentally different.

My issue with the Bill is the same as everyone else's. I do not believe that anyone in the House, including the Home Secretary, is happy about taking such powers. I propose a slightly different way forward. If the amendments being discussed are taken a little further, they will apparently satisfy the Liberals and may satisfy the Conservatives. We should not be content with that. We cannot continue with a situation that has gone on for 20 or 30 years, whereby we try to deal with terrorism in a way that is not suited to the British judicial system. That was the point of my intervention on the hon. Member for Beaconsfield (Mr. Grieve).

Let me make it clear that I do not like what the French do, but it is important to understand that the French system is not the only one in Europe. Importantly, the Europeans deal with terrorism by locking people up for long periods without putting them on trial straight away, but they have a judicial system for doing that. The reason, as I understand it—I am not a lawyer—is that the inquisitorial system allows them to investigate the possibility of proceeding with a case, whereas the British system, which is adversarial, requires two people to be put up, one on either side, which leads to the very problem that my hon. and learned Friend the Member for Redcar (Vera Baird) expressed so powerfully—it makes it impossible to take evidence in the normal way in a British court. However we dress this up, we will not be able to do that.

I have great confidence in the Home Secretary, who really does work hard on these issues to move them forward. That is one of the reasons why I will support him tonight. I also think that we need to do something because the threat is very severe. However, I do not want to leave it there. We recognise that we have to do something for the present, but we cannot continue to legislate on terrorism in this way, because we will end up going round this track over and over again. I have heard many of today's arguments before in the past 20 or 30 years. I fear that what will happen is what happened during that period, when the prevention of terrorism Act was renewed every year or every few years and the same debates took place over the same concerns. We must not fall into that trap.

I ask the Home Secretary to take the lead in bringing together the political parties represented here to consider a long-term solution to the problem. We should bear it in mind that the United Nations is now recommending that there be an international definition of terrorism. That proposal appeared in the high level panel's report in January and is likely to be accepted. It is also suggesting that it should be dealt with by the International Criminal Court or considered as a crime against humanity. There is potential in those areas.

We cannot go on with the traditional British way of doing this. It has not worked very well in the past, and it is satisfying no one, including, at present, members of the Government. I should like us to find a way forward and we can do that only if the Government and the major Opposition parties work together to consider our adopting, as I have suggested, a system along the European lines whereby for the very narrow area of terrorism we have an inquisitorial system that allows evidence to be considered before a court. I do not want Britain to have an inquisitorial system generally—it has many failings, as the hon. Member for Beaconsfield said—but we kid ourselves if we think that the common law system provides an answer to the problem that lies at the heart of the Government's difficulties: that is, that the current British system has no way of dealing with a situation where there is enough information on an individual, either from this country or from overseas, to suggest that they might do something that will cost hundreds, if not thousands of lives.

It is that serious and I ask that we try to find a way of producing a longer-term answer than this measure. For the moment, I will vote for it in the hope that the Home Secretary will continue to make concessions and to consider other methods, but even if he makes all the concessions that the Conservatives and the Liberals want, I will remain deeply troubled by this legislation. We cannot leave it here. We have not come up with a solution to this problem in the past 20 or 30 years and we need to take a long, hard look at the way in which we approach it.

Mr. Kenneth Clarke: I agree with some of the reservations expressed by the hon. Member for Ealing, Acton and Shepherd's Bush (Mr. Soley), but I hope that he does not end up simply voting for what we have got

because he thinks that it is absolutely necessary. It is crucial that we spend the next few days or weeks—however long we have—trying to put adequate precautions into this legislation. I agree with him that the problem of how we deal with protecting the public against terrorism while protecting the essential values of our society and the freedom of the citizen is a critical matter to which we will have to return.

The Home Secretary began his appeal to the Committee by reminding us of the extremely serious threat that we face from terrorists in this country and stating that there were some cases that could not be proceeded with by an ordinary criminal prosecution in the ordinary process of the courts. Last week, he implied that many of his critics did not accept either of those points, so for the avoidance of doubt I should say that I agree strongly with both of them. We obviously face a very imminent terrorist threat. It is the duty of the Home Secretary to organise the defence of the country against such threats, and one cannot proceed by an ordinary trial in all cases. But there I pause. If we accept all that, and accept that we have to deal with it, we must make it clear that we must not allow those arguments to induce us to agree to things that we would regret upon careful consideration and which damage our society at the same time as they protect it.

7.45 pm

We have lived with the terrorist threat for most of the past 20 or 30 years. To be fair, I would be prepared to concede that it has probably got slightly worse, but only because its practitioners now include people who will commit suicide themselves, whereas at least the terrorists of the IRA and the Angry Brigade tried to escape from the scene of the crime. Nevertheless, we have had to protect this country against many dreadful terrorist outrages—they were no small-scale incidents. In the time that I have been in this House, there has been a bomb in Westminster Hall. Colleagues and Members of this House have been killed by terrorists. We have seen big spectaculars. We can argue about who carried out particular attacks, but there is no doubt that Irish terrorist bombs killed a lot of young people in a packed space in a pub in Birmingham and a lot of people in a pub in Guildford. There have been the outrages at the Old Bailey and the Grand hotel, Brighton. Serious terrorism is not new to this country—it is not something of which we first became aware after 9/11 in the United States, although that outrage was even worse than anything that we had experienced.

As a result, we have sought to take precautions. The danger is that we will be tempted to keep going ever further out of a sense of fear and a spirit of revenge against those who perpetrated the last outrage. Fear is no guide to judgment whatsoever. The Home Secretary was not doing it today, but whenever I see, as I sometimes do, the Government resorting to trying to whip up fear of terrorism to take us into measures that we would not otherwise contemplate, we should all beware of going down that path.

I entirely accept that there are occasions on which one cannot have an ordinary prosecution—for example, where one is not quite sure what the man has done, let alone able to prove the crime that he has committed, or where one is not quite sure what he is planning, but has very good reason to believe that he is planning some major outrage and has to protect against it. There are also cases where one cannot have a jury because it will be intimidated and threatened, where one cannot let the man see witnesses because they will be intimidated and threatened, and where one cannot let the accused person see all the evidence because, if one has got the right man, he will discover the one thing that he wants to know—exactly how one found out what he was planning, which would be of great assistance thereafter.

I recognise all those difficulties, which we have had to face in the past. The hon. Member for Ealing, Acton and Shepherd's Bush was, again, right to say that we have been doing this for 20 years. When I was Home Secretary, and when the worst had passed and we were not interning thousands of people, the Labour party had the present Prime Minister as its shadow home affairs spokesman. I seem to recall—I do not think that he ducked out of it—that he led for his party in its vehement objection every year to the renewal of the prevention of terrorism Act on the grounds that exclusion orders were non-judicial, that they had no evidence behind them and that we had a draconian security process.

I mention that not in order to turn this into a partisan debate—which the Home Secretary had stopped doing, although he was obviously doing it in his public performances last week—but to remind the Committee how matters can slip and where we can be taken if every time a Government come back to this House with prevention of terrorism measures we are persuaded by the exigencies of the moment to give up yet one more protection and to go one step further. That is why I decided, when I heard about this Bill and when the Home Secretary made his statement, that we were taking a big leap by suddenly giving the Home Secretary—a Minister, a member of the Executive—the power to deprive a British citizen of his liberty and not making that a judicial action by an independent judge or member of the judiciary through some constrained judicial process. I am glad to say that we seem to be making some progress in pulling back from that, but we have to pull back a whole lot further, because this is a very important step.

I am tempted to say that, looking back over the years, some of the silliest pieces of advice that I was ever given urged me to do certain things on the grounds of security, protection of the national interest and prevention of terrorism. The second most silly have been on the grounds of health and safety: the blood is made to chill in the face of what might happen if one does not take some essential step. One has to count to 10 and say that the step is basically stupid, illiberal, unacceptable and disproportionate and that, if this society does not stop giving and receiving such advice, we must fear where we end up.

Mr. Tam Dalyell (Linlithgow) (Lab): The right hon. and learned Gentleman has occupied the important position of Home Secretary. Does he have any reflections on the fallibility or infallibility of advice from security services?

Mr. Clarke: It is a convention of politics that Ministers always heap praise on their officials, which they do not always reciprocate. In particular, it is a convention that praise is heaped on the security services

[Mr. Clarke]

by all and sundry. I accept that we have excellent security services—they are essential and do a valuable job. However, I will go no further than to say that I do not believe that they are infallible. They are virtually unaccountable now, even though attempts are made to make them accountable.

One of my predecessors, the late Roy Jenkins, strongly advised me early in my term of office to keep an eye on what those people were doing, because I would never find out what they were really up to. I will say no more on that. Any Home Secretary who uncritically and unquestioningly takes the advice of the security services runs a risk on those occasional moments when they make a mistake or advise him to do something foolish.

There is a danger in our system of politics, which I have seen, that senior politicians and senior officials who have access to an exciting and hidden world of security will get carried away with their excitement. They can sometimes become vulnerable to advice to do things that, with hindsight, are not altogether wise. However, if I am not careful, that will get me back into discussions that we had last year about a war with the right hon. Member for Livingston (Mr. Cook)—the former Foreign Secretary—who is sitting next to the hon. Member for Linlithgow (Mr. Dalyell), and others. However, the idea that the public often have—that if the security services and the police demand something, it is unpatriotic for the House of Commons to refuse it—would be dangerous for us to accept.

I am worried about what we might slip into. My concerns are up to date and pertinent. Let us remember the position of the people who were in Belmarsh. The previous Home Secretary was completely satisfied—and, let us face it, so was the House of Commons, because we did not really make a challenge—that those people were so dangerous that they had to be incarcerated in the most secure prison that could be found in the United Kingdom for an indefinite period. Where are we now? The same people are to be let out and not pursued under the legislation. It is open to us to say that perhaps the original judgment cannot have been made as confidently as we were led to believe it was made at the time. Let us beware allowing misjudgments to enter into our deliberations.

Let us not be carried away by the concessions that are being hinted at and sketched out in exciting terms. I express my genuine gratitude to the Home Secretary for moving. He has come forward with explanations of judicial process, and I agree with the former Foreign Secretary, the right hon. Member for Livingston that the Home Secretary laid on a quite remarkable performance of an hour and a half, taking on all comers in his usual combative way, wading through the rather thin paragraphs of his letter and trying to persuade hon. Members that he was on the way to an altogether more civil liberties-conscious solution. I am not wholly persuaded, however, that that will take us to where we want to go, unless we are careful.

The Home Secretary did not come to the House because he had genuinely changed his mind. He made it clear that he preferred the position from which he had started. He came here because it dawned on him and his colleagues that they were not going to get their Bill if they did not change it. Last week, I could not understand why they had not realised that. Most people, when they are running at a brick wall, eventually stop. I expressed the opinion in various interviews that the Government did not have the faintest chance of getting the principle through both Houses. The Home Secretary has now seen that. That is what brought him here, but he did not come in a forthcoming mood.

The Home Secretary followed the unfortunate Minister for Crime Reduction, Policing and Community Safety, who was put up to defend the ridiculous programme motion. She knew that the Home Secretary was going to change the Bill. She knew that the letter was being distributed—at that stage to favoured recipients, but eventually to us all. She also knew that the whole Bill would be rewritten in the House of Lords. However, she explained that we would have only a limited time—was it seven hours?—to discuss the whole shooting match, including Committee, Report and Third Reading, before the Bill went off to the House of Lords, when we would discover exactly what it was going to say.

The Minister gave no reason for that brevity. She did not try to argue, because everything had been decided. To be fair to her—she is still here to reply to this debate—she had no discretion to alter anything. The Leader of House, who could have done something, was sitting 50 yd away, refusing to come and take part in the shambles that had broken out on the Floor about the business of the House, which he had organised. The Home Secretary was lurking behind the Chamber.

The First Deputy Chairman of Ways and Means (Sylvia Heal): Order. The right hon. and learned Gentleman is going rather wide of the debate.

Mr. Clarke: I was touching on the spirit of the concessions. However, I shall return to the Home Secretary's description of the judicial process. I was merely indicating that he did not seem to be an altogether willing and cheerful bearer of good news to the House. We must consider his proposals with particular care.

The Home Secretary made the curious division of orders into two levels: the deprivation of liberty and the restraint of liberty. That struck me as the nearest thing to legal gobbledegook that I have heard in the House since last week, when we first embarked on the whole debate. He plainly did not want to change his proposals, but he realised that he had to for the most serious orders, so they would have a judicial process, although he would not do for the less serious orders, even though both involved exactly the same deprivation of liberty and exactly the same judgment.

It was explained to us why the serious orders could, to a certain extent, be decided by a judge—I will return to that—but the less serious ones could not. That is set out in the anonymous document from the Home Office that we received just as we began. The relevant paragraph on the second page, headed "Why should the Secretary of State make non-derogating control orders?", says:

"Control orders are preventative orders. They are designed to prevent future atrocities from happening—they are not designed to punish a person for past events."

That is true of all control orders. The serious ones are not based on any crime or past event that one is going to prove, but are preventive. Everything that follows in the

document is applicable to all control orders, of all severity. The only reason the Home Secretary has made a concession is because he thinks that the House will get even more excited about locking somebody up than we will about taking their freedom of movement or their mobile phone. He wants to keep the lesser orders to himself.

I suspect that the real reason why the Government have from the start resisted involving a judge at all was because of the obvious objection: that judges have the habit of being more critical and letting people out. There are cases that are not possible to get past a judge. That is why the Government want to avoid a judge; otherwise, it is difficult to see the different judgment that divides the orders horizontally, as it were.

The description of the role given in the document concludes with a sentence that the Home Secretary plainly still believes:

"This is a role which the Secretary of State is best placed to carry out rather than the courts."

I simply do not understand that. The intellectual attainment of the average judge is roughly equivalent to that of the average Secretary of State, if not greater. The mastery of detail of the average holder of judicial office is at least equal to that of most people who hold great offices of state. Such decisions are of course a difficult matter of judgment and it is difficult to apply the ordinary burden of proof. However, judges have to deal with matters of judgment all the time—sometimes quite fine and difficult ones. Judges assess risk and what is necessary, weighing the public interest on the one hand against the need to protect the liberty of the individual on the other.

Judges will be more conscious of the overriding national interest in its fullest sense, and will be inclined to be a bit more liberal and libertarian than a Home Secretary relying on the advice of the security services. Let us not deceive ourselves—that is why it is argued that the Secretary of State is more suited to the role than a judge.

8 pm

My last point deals with determining how we should look at the proposals on cases where a judge has been let in, when we get them. I am not sure how far the judge will be allowed by the proposals to supplant the Home Secretary to any effective extent. Only in the more serious cases is it suggested that the Home Secretary will have to go before a judge and apply for an order. That was always what I argued for: it is the key to the whole Bill. However, it seems that this will involve something like the committal proceedings of the kind that, in cases of ordinary serious crime, take place—or used to; it very rarely happens in that way now—before a magistrate prior to the committal to a Crown court. Under the new proposal, subject to the rather weak test set out in the first clause of the Bill, a person will go before the judge in the committal proceedings, which will be ex parte—that means that the other side will not be present—in a closed hearing. All that the Home Secretary will have to show to the judge is that there is a case to answer to go on to a full tribunal. Eventually, there will be an inter partes hearing at which the whole thing will be sorted out. I hope that, when we get the wording of the Bill, it will be absolutely clear that the decision to intern will be taken by the judge—first at the preliminary stage, and finally at the inter partes hearing—not only after looking at process and at whether the Home Secretary has behaved unreasonably, but after considering the case in the round and being satisfied at both stages that an overriding threat to the national interest is involved, and that the decision to incarcerate or confine the person will be proportionate to the risk that is seriously feared to be about to happen. That is not clear at the moment.

There are two other things that the judge should do. Prosecution is to be preferred in all these cases, and there is always a danger that people might not be prosecuted because they might be acquitted. Even the first judge at the committal hearing should have to be persuaded that there is a good argument for the case not following the ordinary process. New clause 6 provides that it should be the duty of that first judge to be satisfied that there is a good reason why the evidence—or at least a great deal of it—should not be put before an ordinary process.

The second thing that a judge should decide is how much of the information should be shared not only with the advocate who is going to challenge the evidence in the next court, but with the defendant himself. I shall not repeat what the hon. and learned Member for Redcar (Vera Baird) said earlier, but she made an extremely good point in this regard. The judge listening to the first hearing could make orders regarding the conduct of the trial. There is no reason why the Home Secretary and his security people should not have to sit down with that judge and decide how much information should be given to the defendant—and, therefore, his advocate—by way of a broad description of what he is accused of. They might not be able to tell him what the evidence is—they certainly would not be able to tell him how they got it—but he should be allowed to know that he stands accused of colluding with a particular person, planning a particular escapade, or whatever the allegation happened to be. All that needs to be set out.

I shall not go on because, as I have already said, we are discussing the Bill even though we do not know what it will finally look like. There are far more details to come. When they are drafted, the clauses on these provisions will be quite complex. It is laughable that we are all sitting here waiting for the true Bill to be drawn up and presented to the House of Lords. We all know that the Minister of State will again be put up to tell us that we have only an hour and a half, or two hours, in which to consider the whole shooting match when the Bill comes back to us. This House will be used as a cipher in this way until, one day, it stands up and rejects a programme motion tabled by some Government or another. These motions get more draconian year by year, and the one that we debated earlier—on the most serious Bill that the House has had to consider during the lifetime of this Parliament—is one of the silliest that we have ever had. If we are offered two hours in which to consider the Lords amendments, I shall invite the House to reject the programme motion involved, although that will be in the hands of Labour Members. The Government would not fall if the motion were rejected, and if they knew in advance that we were going to reject it, we might get a proper programme motion. There are ways round this problem, and we must have more sensible discussions in future.

Meanwhile, I shall vote for amendment No. 4 if it is pressed to a vote. All that we have is the Bill before us and a selection of amendments. At least amendment No.

[Mr. Clarke]

4 asserts that we want a proper judicial process. We might as well send the Bill to the House of Lords in a form that slightly more closely represents the true feeling of the vast majority of the people in this House. The original Bill was a disaster, and we might as well make a few changes to it before we send it off to the Lords, where they will start all over again.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Many hon. Members have expressed concerns about control orders, so I shall not go into them further. I accept the Home Secretary's powerful case that we face a unique threat from terrorism, although there are degrees of difference because of the potential scale of the outrages that we might face. As the right hon. and learned Member for Rushcliffe (Mr. Clarke) has just said, the terrorists are prepared to kill themselves and are not looking for an exit strategy. That presents us with a different problem from any that we have faced in the past.

I would say to my right hon. Friend the Home Secretary that many of us are prepared to go down the road to control orders, provided that the safeguard of an independent judge making the decision in each case exists. That is fundamental to the way I feel about this issue. I welcome my right hon. Friend's concessions. He has listened carefully to the points that have been put to him about derogating control orders, as we can see from the fact that he is now prepared to have a judge consider such a case in the first instance and quickly thereafter hear the whole case at an inter partes hearing. I welcome that change, which has virtually satisfied me on that aspect of the Bill.

However, although the Home Secretary gave a considerable performance in taking so many interventions earlier, he completely failed to convince me that the same process that he now proposes for derogating control orders should not also be used for non-derogating control orders. I simply did not understand his arguments on that issue. The debate would have been greatly shortened if he had been prepared to make a concession on that point as well.

We have heard many arguments today about the difference between the restriction of liberty and the deprivation of liberty. As I understand it, the essence of the difference is that with non-derogating control orders, certain restrictions drawn from the list in clause 1(3) will be deemed appropriate to certain individuals. However, if that list grows, we could reach a point at which the restrictions on an individual could constitute a deprivation of their liberty, and the non-derogating order could become a derogating order. A completely different process would then be used. It is difficult to justify a difference of degree—that is what it would become—when some restrictions would be imposed under a non-derogating order, but if a few more were imposed, it would become a derogating order. The processes under which the orders would be considered would be completely different. The Home Secretary failed to justify that in his speech.

Mr. Fisher: I am impressed by the fact that my hon. Friend is making exactly the same point as that made by the right hon. and learned Member for Rushcliffe (Mr. Clarke) a moment ago. The right hon. and learned Gentleman suggested that the changes had resulted from the Home Secretary recognising that he was running into a brick wall in the House last week. Is not my hon. Friend describing this week's brick wall? It is inevitable that the Home Secretary will have to concede this point and recognise that there is no distinction between derogating and non-derogating control orders. Surely it would therefore be better for him to do so in this Committee now, because he is going to lose this argument in the other place. It would be more satisfactory if we had a chance to scrutinise any new proposals that he is going to make.

Mr. Betts: I very much agree with my hon. Friend. It might not be inevitable—although it probably is—that changes will be made in the other place, and I hope that the Home Secretary will listen to his Labour colleagues on this point, for reasons that I shall come to, and on which I hope that he will reflect.

The Home Secretary has in some ways worsened the situation, in that the two processes involved in making the orders will now be even wider apart than they are in the Bill as it stands. Not only do we have the complete difference in process that was there before, involving a different burden of proof—reasonable suspicion in the case of non-derogating orders, and balance of probability in the case of derogating orders—but there is now a second difference. A judge will now be brought in at the very beginning in the case of a derogating order. Although the note that has been circulated on non-derogating orders says that there is a role for the judiciary on appeal in such cases, and the Home Secretary now says that that should happen within a given period of time, it would of course happen on judicial review.

A judge dealing with non-derogating orders will never reach the point of deciding at first instance whether the orders are correct and whether the proposed measures are reasonable. All that a judge can do at judicial review is decide whether the Home Secretary has behaved, at first instance, in a reasonable way—reasonable in terms of both process and decision following examination of the facts. The process will involve second-guessing the Home Secretary's decision all the time. That is the fundamental difference between the ways in which the two kinds of order, and the judicial roles, will operate.

The existence of two processes involving orders that are very similar, and in some instances different only in terms of degree, is a recipe for potential disaster. What if the Home Secretary says that he believes, in a certain case, that the balance of measures under clause 1(3) makes a derogating order necessary? What if that is subjected to due process and reaches the judges, and the judges decide that the balance of measures is wrong? What if they decide that fewer restrictions are appropriate in that specific case? What if that smaller number of measures then becomes the subject of a non-derogating rather than a derogating order? The court will not be able to deal with a non-derogating order. All that the court can do is decide on judicial review whether the Home Secretary was right to impose a non-derogating order—and in this instance the Home Secretary will not have done so. His initial view will have been that a derogating order was required.

I give that example because I think that the existence of two different processes aimed at addressing very similar issues could lead to complications. I hope that the Home Secretary will take it seriously. It is not a tricky example dreamt up for the occasion, but an example of something that could happen, which could slow down and interfere with the process that we are trying to bring about.

The Home Secretary has clearly stated that his most important duty is to ensure the security of the nation, and that that is his paramount concern. Today he has presented proposals to change the way in which derogated orders are made, and to involve a judge from the outset. Presumably he now believes that that is appropriate. Presumably he does not believe that it weakens the legislation or the fight against terrorism in any way. Presumably he would not recommend such an arrangement if he believed that it would do that. If involving a judge in derogating orders at first instance will not weaken the fight against terrorism, why should it weaken the fight against terrorism to involve a judge at first instance in non-derogating orders?

If my right hon. Friend cannot convince me on that point, I will find it very difficult to support him—and I think that that applies to other Labour Members, too. I simply do not see why involving a judge would weaken the legislation. I believe that it would provide the independent scrutiny that many of us want, and would enable us to vote for the Bill.

Mr. Garnier: I agree with the last point made by the hon. Member for Sheffield, Attercliffe (Mr. Betts). Before that, however, we heard an important speech from my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), who in the space of 15 or 20 minutes produced a pretty good criticism of the measure before us—or, at any rate, the measure that we think is before us.

These proceedings are, of course, entirely absurd. I accept that the Home Secretary came here to do his best to explain his change of mind, or at least a change in the expression of his policy, but I am afraid that that is not good enough. Nor is it good enough for the Minister of State, during her brief speech on the guillotine motion, to fail to mention the Home Secretary's letter to the shadow Home Secretary. Surely it was germane to that debate that the Home Secretary was about to refer in the Chamber to a letter that none of us had seen.

Having said that, I should add that it is not always best to choose the easiest route. The easiest route is, of course, that chosen by the Home Secretary—legislating by letter and hoping that no one will notice—but that simply will not do. It also produces a general lack of public consent for legislation that the House will pass.

We all have to put up with legislation of whose consequences we disapprove. The Government pass tax laws of which those affected do not necessarily approve; they pass all sorts of laws of which we do not necessarily approve. Criminals in the dock clearly disapprove of some of the laws with which they have become entangled. Nevertheless, all of us—whether or not we support the Government of the day—consent to legislation, because we broadly approve of the procedures by which it is passed. There is a general unspoken consent to the system.

8.15 pm

That consent is important. Unless people respect the process whereby the law is made, they will not respect the law and will not agree to be bound by it. That is what leads to civil disobedience and a breakdown in our democratic system. I am worried about what will happen if the Home Secretary's proposals, as they appear in the Bill, are passed. What, for goodness sake, are we here to discuss in Committee? We are here to discuss a page and a half of amendments, as they appear on the selection list—43 pages in the amendment paper. We discover from a letter, however, that the Home Secretary has other plans: he wants the unelected House to have first sight of his new version of the Bill. Why did he make that speech here in Committee? He should have made it on Second Reading—a new Second Reading. What he has proposed, after all, is a fundamental reconstruction of his Bill and a complete change of policy.

I realise that in many instances it is inappropriate for everyone to see everything. I have not been involved in an espionage case at the Old Bailey, or in a case in which members of the Security Service have approached the judge with the aim of obtaining a public interest immunity certificate to prevent the defendant or his lawyers from seeing various details of the Crown's case. That happens, however. In espionage cases tried at the Old Bailey, and, no doubt, other important courts, part of the process may take place in camera so that public and press are excluded, or parts of the Crown's case are withheld from the defence. That is not wholly satisfactory, but so that some form of justice that is broadly acceptable can be achieved, the courts permit it, and Parliament has permitted the courts to permit it.

Here, the circumstances are rather different. I have attempted to intervene on the Home Secretary repeatedly to say that his system of legislating by letter is entirely inadequate, but let us consider what he is trying to do. He is telling the Committee that the arrangements for derogated control orders should be different from those for non-derogated control orders. He says that derogated orders should be given the benefit of judicial intervention. He is prepared to go ex parte to a judge, or at least get his representatives to do so, and ask for a quick assessment of whether there is a case for an interim order pending an inter partes hearing at which the Home Secretary's representatives, and, perhaps those of the respondent, will be entitled to appear and present their arguments before the judge.

It may well be that, for reasons of national security or for other reasons, the defence will not be allowed to see all that the judge sees. The judge himself may not be told all that the Home Secretary knows. But—if we set aside our initial disapproval of control orders—under the derogated process that we are told will be introduced through legislation by epistle, there will at least be some degree of judicial oversight. What puzzles me, and what has puzzled other Members this afternoon, is that the Home Secretary seems to make a distinction that does not exist—a distinction between the inconvenience caused to the respondent by a derogating order and the inconvenience caused to him by a non-derogating order.

Non-derogating orders are not confined to the categories set out in clause 1(3). If one goes through the list there, one sees some that may be capable of being

[Mr. Garnier]

non-derogating and some for which, clearly, derogation could be required. However, one is given no guidance in the Secretary of State's speech, his letter or the note that has appeared in the Vote Office which of the control orders in subsection (3) are likely to be non-derogated, which are likely to be derogated and which of those that are non-derogated are, when combined with others, likely to bring them into the category of derogated.

We are not given much comfort. Subsection (3) begins:

"The obligations that may be imposed by a control order on the controlled person include, in particular"

paragraphs (a) to (o)—but there may be a host of other forms of control order that the Home Secretary has not condescended to tell us about in the Bill, in the schedule, in his letter or in his note. We are left to guess about those. He may have some other ideas that he does not wish to reveal to us today about what could constitute a possible control order.

Just because something is in clause 1 does not mean to say that it is bound to be a non-derogatable order. I think that I heard the right hon. Member for Livingston (Mr. Cook) claim that only orders under clause 2 would require a derogation from the convention. The implication of his remarks was that those set out in clause 1(3) would not. That is not what the Bill says. The Bill says that the Home Secretary is to be given power to derogate from the convention under clause 2, but in doing that and in finding it necessary to derogate from the convention, he can also draw into his order some, all or many of the powers to be found in subsection (3) of clause 1. Therefore, we should not be fooled into thinking that the sorts of control orders that will require derogation are more heinous or more restrictive of human rights and civil liberties than those that are to be found in clause 1(3). There is a massive absence of clarity both in the process by which these things are to be decided and in the way in which the Bill sets them out.

Take, for example, clause 1(8):

"For the purposes of this Act involvement in terrorism-related activity is any one or more of the following—

(a) the commission, preparation or instigation of acts of terrorism",

which is fair enough,

"(b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so",

which is probably fair enough, and

"(c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so".

The making of a speech by a republican Member of Parliament in this Chamber in support of something that the IRA has done or intended to do during any given period could be seen as

"conduct which gives encouragement to the commission . . . of such acts".

What are those acts? The subsection states that

"for the purposes of this subsection it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally."

Therefore, if I were to stand up and speak for the downtrodden masses of some minority in some far-flung country, would I be accused of conduct that supports or assists individuals who are involved in general acts of terrorism? It is simply extraordinary that the Home Secretary should come forward with this sort of legislation.

It seems that if we are to get any clarity about the Government's intentions and the content of the Government's policy, we need to scrap this whole proceeding and start again. It is not good enough for the Home Secretary or his junior Minister to come into this Committee to advocate by letter and by a note to be found in the Vote Office massive changes to the Bill and the policy behind it. Nor is it apt, with such legislation, for a Home Secretary to rely on the House of Lords to be the first recipient of his properly drafted proposal. It must be the case, since the junior Minister must have known about the letter but did not tell us about it, that the Home Secretary has in his room the drafted amendments that he wishes to make to the Bill, but which will be introduced only in the House of Lords. They are in existence, I have no doubt. If they are not, no doubt they will be whipped off some computer between now and the close of business tonight, so that they are ready for the House of Lords tomorrow. It is unreasonable to expect the public to consent to such legislation, whether they approve or disapprove of the behaviour of the people whom the Bill seeks to catch. It is unreasonable to go about changing the law in this way.

My right hon. and learned Friend the Member for Rushcliffe said far more concisely and with far greater power of oratory and experience what I would like to say on this matter. I hope that those who have a choice, particularly those in the House of Lords, will, when they pick up *Hansard*, remember to read what he said, even if they do not read what I said, and bear in mind what the shadow Home Secretary said in his answer to the statement by the Home Secretary at the beginning of this process in the early part of last week.

This is a black day for Parliament. If it allows itself to be trodden on by a Government who do this, we might as well all pack up and not worry about the rights of anyone, be they suspected of terrorism or not.

Ms Sally Keeble (Northampton, North) (Lab): I am pleased to have a chance to take part in the debate, as I have some questions that I want answered about how this process would work.

I welcome the letter, although I regret the procedure that it has plunged us into. It would have been important to see what I imagine will be a long amendment or series of amendments, which should have been debated here. We should have been able to see them, so that we at least knew what we were dealing with. As my right hon. Friend the Member for Livingston (Mr. Cook) said, for many of us, it was our opposition to these types of regimes and measures that got us into politics in the first place. It is not helped when some of us object to the way in which the other place is constituted and feel strongly that, for reasons of democratic accountability, those matters should have been debated here.

Having said that, the letter takes forward some of my concerns about striking a balance. My constituents and, I imagine, quite a number of others are concerned to see security weighed against issues about their right to live

free from interference from an authoritarian state. Some people may regard the civil liberties arguments as secondary, but when one has lived in an authoritarian state, as I have, one is as concerned about the operation of the security police as one is sometimes about criminals. It is no light matter, and we must pay careful attention to both sides.

On Second Reading, I intervened on my right hon. Friend the Home Secretary on one of the issues that concerned me. There seemed to be quite a muddle in clause 1, with a wide range of powers to deal with a wide range of activities, without the clarity that we would expect for certain activities leading to certain actions by the state carrying certain penalties. Setting out two distinct penalties and two distinct procedures has provided some clarity.

8.30 pm

Let me turn to an issue that I hope will be dealt with in the wind-up. It appears that we still have two different levels of proof: reasonable suspicion and "the balance of probabilities". It seems strange that different levels of proof are required irrespective of the activities in which such people might have been engaged. If we are to have two penalties, two procedures and two burdens of proof, they should attach to the different levels of activity, which clause 1 also mentions.

Paragraphs (a) to (d) of clause 1(8) provide for a wide range of activities to which such orders could be attached. I hope that the Government will explain which procedure is likely to attach to which activity, and with what levels of burden of proof. Putting someone under house arrest should be considered only in respect of more substantive and serious activities, such as the commission or preparation of an act of terrorism, or conduct that helps somebody so to act. Alternatively, a lesser sanction such as the ordinary control order might attach to assisting in the commission of such acts. Perhaps the Government will also clarify whether a different burden of proof will attach to different levels of activity. I am not happy at the prospect of the Bill's going to the Lords—assuming that it is given a Third Reading—with confusion remaining as to how the new provisions will be put into effect. Our constituents will be watching to see in what ways they might trigger such penalties.

I hope that Ministers will reflect carefully on the following point. The one sanction that my right hon. Friend the Home Secretary mentioned in talking about the types of orders—apart from house arrest—that might be imposed was that relating to mobile phones. There are tyrannies of the left and of the right, and although they start from very different political points, both often lead to similar results. These include the use of house arrest and detention, muddle surrounding the use of judicial procedures and the role of politicians, and major abuses of human rights. As well as major infringements such as house arrest, there can also be minor ones that none the less weigh heavily on the people concerned, and which speak of a highly authoritarian state.

I shall give Ministers one such example to think about that is roughly on a par with the mobile phone example mentioned earlier. A friend of mine who lived in South Africa was subject to such an order. Although the state allowed him to attend his wedding because it was a so-called Christian state that therefore regarded marriage in a church as important, it would not allow him to attend the reception because it was a social gathering. If we introduce control orders, we must be very clear about what we are doing. We must ensure that orders that are intended to provide for constituents' safety and security, and to protect this country from any kind of terrorist attack, do not lead to the petty vindictiveness associated with authoritarian states, and to the imposition of completely unreasonable limitations on people's freedom of movement and ability to go about their ordinary lives.

In conclusion, I again ask Ministers to clarify whether they intend to make any changes to paragraphs (a) to (d) of clause 1(8), and to explain how such changes might relate to the different types of control orders and the manner of their introduction.

Mr. Cash: Fascinating though this debate has been and important though the contributions have been, there has perhaps been a slight tendency for the Committee to underestimate the danger posed to national security. Much has rightly been said about civil liberty, and I do not doubt for one minute that that issue is of absolute and fundamental importance. However, we are in a somewhat curious position. On the one hand, a state of emergency was declared in the aftermath of the destruction of the twin towers; on the other, we are not actually in a state of war.

In drawing an analogy with the circumstances that gave rise to past examples of detention without trial, one automatically looks back to the first and second world wars. As I said repeatedly in interventions on the Home Secretary during last week's statement and on Second Reading, we should consider the case of Liversidge *v.* Anderson. I seem to be the only person interested in it, but it is of fundamental importance to our understanding of how such matters should be dealt with. On that occasion, the Home Secretary's function in relation to detention without trial was associated with the words "reasonable cause to believe". In a time of war, when there was detention without trial, the court in question—the House of Lords—overrode the test of reasonableness in favour of the individual. It gave the judgment to the Home Secretary on the grounds that, in the light of the various circumstances, he was best placed to know the intelligence and the danger to the state, and that his function had to predominate.

As I pointed out in interventions, the fact remains that the only dissenting judgment from that of Lord Atkin was unequivocally supported in all subsequent rulings in the House of Lords and in other important cases. It could be said, in the context of the Liversidge *v.* Anderson case, that the test of reasonableness should not have been overridden and that the House of Lords was wrong on that occasion. That is more or less the basis on which the current legal position stands in respect of wartime circumstances.

In other cases, the courts have given, to use the words of one of the academic authorities, "short shrift" in wartime to the individual who has been held in detention without trial, where there was suspicion that that person was involved in activities that were contrary to the interests of the state. Much of our debate so far has tended to gravitate more around the civil liberties issues,

[Mr. Cash]

which we all acknowledge are of fundamental importance, than around the necessity to secure the interests of the people of this country in a time of emergency.

I have also mentioned the Rehman case, in which the judgment of Lord Hoffmann was unequivocal. It is important to mention Lord Hoffmann in our debate. In the Belmarsh case, it was he who used the most insistent language against the Government. I should like to quote from the Rehman case, where the noble Lord Hoffmann argued that the events of 11 September 2001 in Washington and New York were

"a reminder that in matters of national security, the cost of failure can be high. This seems to me to underline the need for the judicial arm of government to respect the decisions of ministers of the Crown on the question of whether support for terrorist activities in a foreign country constitutes a threat to national security. It is not only that the executive has access to special information and expertise in these matters. It is also that such decisions, with serious potential results for the community, require a legitimacy . . . through the democratic process. If the people are to accept the consequences of such decisions, they must be made by persons whom the people have elected and whom they can remove."

There is, therefore, a certain correlation between what the Home Secretary says and what Lord Hoffmann said in that important judgment.

None of that in any way disposes me to change my view that the manner in which the Bill has been conducted and the outrageous way in which the Government have applied the programme motion to such important debates is disgraceful. I could not support the Government's handling of the Bill in any way, but I have to say that there are a whole string of precedents to demonstrate that, in wartime emergencies, the courts have been reluctant to support civil liberties. As I have said, we are now in a twilight position whereby we live in peacetime, but face emergencies. That poses a curious and difficult dilemma over the balance of judgment between preserving civil liberties and dealing with terrorist activities.

One matter that has troubled me throughout these proceedings is the tendency to overlook the crucial facet of respect for the law, which the terrorists themselves are disinclined to accept. Some—Members will know who I am talking about—are of the persuasion that there is a superior law to the law of this land, so they are not interested in our arguments about civil liberties. For certain people, as I say, there is a higher law than the law of the land. That problem cropped up in the 16th century, when serious questions about treason were connected with political activity. For example, the Jesuits were accused—many were hung, drawn and quartered—because they believed that they were pursuing objectives that could be justified as representing a higher religious law. That has dissipated in the interim and we now all subscribe to the rule of law. However, there are those who do not subscribe to our understanding of the rule of law, and that must be taken into account. It scarcely matters what our laws are if some people—even a tiny minority—do not subscribe to our rule of law and we end up with civil liberties ahead of the realities with which we could be faced.

8.45 pm

In the important case of Conway *v.* Rimmer some years ago, Lord Pearce said:

"the flame of individual right and justice must burn more palely when it is ringed by the more dramatic light of bombed buildings".

We must bear that in mind when considering such important matters.

The issue at the centre of this debate is that the Government have locked themselves into a dilemma and thrown away the key. The key is the enthusiastic and determined upholding of the Human Rights Act 1998, which put the European convention on human rights into United Kingdom law. Few in the Committee would believe that I am not in favour of maintaining the rights of the individual. Human rights are important; the problem is the framework within which they are put.

The 1998 Act can be overridden by Parliament and in the case of Simms and O'Brien, Lord Hoffmann said unequivocally that if we were to legislate inconsistently, unclearly and ambiguously, contrary to the 1998 Act, we could do so. I tabled a new clause that would have made that crystal clear but, unfortunately, it was not selected. The Government deserve to be severely censured for the way in which this farce has been conducted this afternoon, but the Bill will go to the House of Lords and amendments will be tabled there. It would be sensible to attach to the Bill a preamble stating "notwithstanding the Human Rights Act 1998". We would then know that we were legislating on our own terms in this House on behalf of the voters of this country, who are more concerned about the balance between liberty and protection of the nation to ensure that they are properly protected. That debate has not yet concluded and it is disgraceful that the Government have prevented the matter from being properly debated this afternoon. Had they tabled amendments—I believe that they have, at least, been drafted—we could have had a much more constructive discussion.

The second issue concerns proportionality and discrimination. In the Belmarsh case, eight of the nine distinguished and important judges in the House of Lords made a decision based on the Human Rights Act 1998 and its application to those circumstances. The issue should not be proportionality and discrimination. Leaving aside the 1998 Act for the time being, the issue should be about the proper balance between the liberty of the subject and the safety of subjects. I do not think that we have got to that point properly in these discussions, and I blame the Government for that. They have been besotted with the Human Rights Act 1998 and they have not handled this Bill well, although I appreciate the difficulties involved.

The real question should be to ensure that we have fair trials for those people who are imprisoned or detained. At the moment, there is no evidence that they would get a fair trial. It is a disgraceful state of affairs if the House of Commons is incapable of coming up with legislation that would guarantee that people had a fair trial on the evidence that could be produced, so that they could be properly prosecuted. Of course that can be achieved.

I have real problems with the way in which the Bill's passage has been conducted, but I also have real problems with the solution that the Government have provided. I also have considerable difficulties with the Joint Committee on Human Rights and the report it published on 25 February. The section entitled "The lack of prior judicial involvement in orders depriving of liberty" is based entirely on the Committee's assumption that the whole matter should be conducted within the framework of the ECHR and the 1998 Act. The same was true of the Law Lords' judgment in the Belmarsh case. The Committee will gather that I repudiate that assumption. The danger is that the Bill will be unsustainable and is as likely as not to be overturned by the Law Lords in the application of the 1998 Act. We will have made no further progress, despite this farcical pantomime, in getting the balance right between liberty and security.

Mr. Jim Cousins (Newcastle upon Tyne, Central) (Lab): If the hon. Gentleman does not like the European convention on human rights or the Human Rights Act 1998, will he consider Magna Carta and the Glorious Revolution of 1688? Perhaps they would appeal more to him.

Mr. Cash: I do not think that we need do as the hon. Gentleman suggests, although we have a great attachment—understandably—to the idea of Magna Carta. Even more important was what I said to the Home Secretary when I asked him whether habeas corpus would still be applicable after the Bill became law. That is a really important question for today. He gave an unequivocal yes to that question, and I was glad to hear it. In the wartime cases I mentioned earlier, the remedy of habeas corpus was still available, although because of Liversidge v. Anderson it became impossible to apply. I extracted from the Home Secretary this afternoon what I regard as the most important concession—or perhaps I should say assertion, because I do not want to give the wrong impression. The fact that the Home Secretary said that habeas corpus will still be applicable is fundamental to our proceedings today.

In my intervention on my hon. Friend the Member for Beaconsfield (Mr. Grieve), we discussed new clause 6. I cannot give it enthusiastic support because at its very heart, in subsection (8), it states:

"The court shall not impose any obligation under subsection (7) unless it is satisfied that the following conditions apply."

Those conditions include:

"that the obligation is consistent with the defendant's Convention rights within the meaning of the Human Rights Act 1988",

which takes me back to my concern about that Act.

The application of the Act has resulted in the creation of the Government's current problem. Throughout other jurisdictions in the European community, or the European Union, there are procedures that fall far short of the sort of procedure whereby we are accustomed to preserve the civil liberties of the people of this country, and it is ironic that we are continually being faced down with accusations that we are being anti-European when we make remarks of that kind; in fact, we are really trying to say that the voters of this country should decide on the laws under which they are to be governed, and how they are to be governed, and that we should regulate those laws not by reference to some European nirvana but because we have legislated in the House in accordance with what the voters of this country want.

The reason the proceedings today have been so farcical and are a disgrace to the traditions of the House is that we are still discussing proposals for amendments that are not being put before us and that we are unable to do more than second-guess. They are confused, and adversely affected, by a commitment to a European convention that has created the very problems that we are trying to resolve.

Ms Keeble: On a point of order, Sir Michael. Perhaps I should have asked this question later on. We shall be voting on the amendment that obviously contains aspects of judicial review. If the Lords do not pass the Government's amendment or accept a different version and the Bill returns to this place for us to vote on the Lords amendments, will we be able to consider the amendment that the Government are proposing to put forward, or will we be able to vote only on the Bill as it comes from the Lords? Can you, Sir Michael, explain the proceedings so that they are clear?

The Second Deputy Chairman of Ways and Means (Sir Michael Lord): The answer to the hon. Lady is, no, I do not think that I can. She is putting a hypothetical question to the Chair. There is no point in trying to assume what will happen until we see how the debate and votes go.

Vera Baird: I congratulate my right hon. Friend the Home Secretary on having taken steps to put the judge first where, under clause 2, liberty will be taken away and there will be a derogation from the convention to facilitate that. It will now have to be done on application to the court and, overwhelmingly, there will be no Executive detention. That is a hugely important point, and I congratulate my right hon. Friend. If that is contrary to his instincts, as he asserts, his better judgment has certainly won the day.

That provokes a question that has been raised repeatedly: if that system is good enough for the higher level, why is not it good enough for the lower level of taking away liberty? I want to make a point that has not yet, I think, been made. The Home Secretary has made it clear that he has no intention of derogating. Consequently clause 2, on which the concession is made, will not come into effect, so although the concession is important it is only academic, because he will not derogate. We must thus focus our attention on clause 1, the non-derogating control orders, because—foreign, British, Belmarsh detainee or free at the moment—all the people who fall within the ambit of needing to be controlled will be dealt with under clause 1, not clause 2. We are still concerned with a section of statute whereby the Home Secretary can make an order that severely limits a person's liberty and all that person can do is appeal afterwards to the court, if he chooses to do so. I accept that, under the concession made by the Home Secretary, such things may happen more quickly than was first anticipated under the Bill, but that is a rather weak point, and I want to make a different point that has been reflected already in what was said by my hon. Friend the Member for Sheffield, Attercliffe (Mr. Betts).

9 pm

The appeal that can follow the making of a clause 1 control order is not only unsatisfactory because it comes second, but is of extremely poor quality: it is judicial review—very suitable for reviewing the way in which lower courts, planning inspectors or local authorities make their decisions and scrutinising the way in which such a decision is taken, but highly inappropriate for deciding whether people have been deprived of their liberty or whether their liberty has been limited.

Such reviews take into account how the decision was made, so the decision can be quashed if something is left out that should have been taken into account, or if something is taken into account that should not have been taken into account. However, all that need be done is to take the same decision again while taking account of what was left out the first time or whatever the court has found wrong. The same decision can be taken again, so long as it is done properly. No one looks at the merits. No one determines the facts thoroughly—that is done only in so far as is necessary for that very limited process—so it is a very poor form of appeal, as well as being only an appeal.

If the clause 1 order goes too far and, as we discussed in an exchange that I had with the Home Secretary, takes away liberty—given the variety of possibilities in clause 1, any number of them put together could amount to a breach of article 5—on the judicial review, or what I have called the poor quality appeal, the judge could find that order unlawful, contrary to article 5, and quash it. So for those top-end cases where the Home Secretary inadvertently orders something that breaches article 5, even though it comes under clause 1, the appeal process can quash it—but liberty will have been taken away under clause 1 by then, and all that can happen is that the person can appeal, with his liberty being restored to him some time later.

If the reason why an application must be made to a judge under clause 2 is that taking away liberty is too severe a penalty for the Home Secretary to impose, that argument applies equally to clause 1. From time to time, a very fine balance will have to be struck about whether or not a combination of all the possible orders goes over the article 5 limit. It is unrealistic to think that it is not appropriate to let the court make such decisions. It is harder to get the balance right with such decisions than simply to order house arrest, and it is extra important that the courts should have scrutiny over those decisions, but liberty is gone in exactly the same way as under clause 2, so there is no reason not to apply the same procedure.

Mr. Weir: I am following the hon. and learned Lady's argument and very much agree with what she is saying. She welcomed the change to the derogated orders, but if we are talking about an ex parte application where the judge can only look at the material, as the Home Secretary's letter says—we have no further detail than that—I am not sure whether there is much difference. As I read that letter, the judge will not able to look behind that material and consider the evidence. Does the hon. and learned Lady agree with that interpretation?

Vera Baird: Obviously, a two-stage process is involved—it is intended to be an ex parte application for speed, whereby the judge will consider whether there is a prima facie case. The process is not at all unfamiliar to lawyers. He will make what is in effect an interim order, and there will be an inter partes hearing when all the material will be put. So I suppose that that is unsatisfactory, but it is all that is practical in the very short term.

I repeat that, although at the top end of those orders, if they break article 5, they can be quashed. That is a good thing. None the less, it is very bad that they can be quashed only after liberty has been taken away, and that they ever came into being. Any judge to whom an application was made under clause 1 who thought that all the controls went so far as to breach article 5 would simply never make the order, so there would never be a deprivation of liberty. Surely that is the right way round. However, for something that falls short of taking liberty away, the level of the appeal is very poor.

I do not wish to labour the point, but the penalties that can befall someone under clause 1 are extraordinarily intrusive and can transform a person's life. They include obvious interferences with freedom of movement, family life and freedom of association. Someone may be ordered not to speak to any member of his family and he may be told to move house, stop doing his business or job or to change his job. He has to agree in certain circumstances to tell people in advance what his movements will be, and he has to allow his premises to be searched. He can be made to wear a tag and may not be able to use the internet or a mobile phone. Limits can also be placed on his movements all over the United Kingdom. In fact, there might be a mixture of all the penalties together or any other thing that the Home Office thinks is necessary in addition to those that I have mentioned. That is a very serious interference with liberty.

Richard Burden: Does my hon. and learned Friend agree that the intrusions can be so great that, in a particular combination of circumstances, they could, in practice, get in the way of that individual being able to exercise his rights of appeal? He might not be able to contact the people whom he needs to contact, and if he did not know his way around the law in the first place, he might not even be able to access the judicial involvement that the Bill would wish him to have.

Vera Baird: I suppose that that might be theoretically possible, but I would not have thought it likely that the Home Secretary would make an order that someone could not phone his solicitor and discuss the situation in which he had been placed. However, I guess that the possibility cannot be excluded.

Let me emphasise what I have said already. All the penalties—or any of them—can be imposed on an individual and no judge will look at the questions of fact as to whether there are reasonable grounds for suspecting that that individual is involved in terrorism at all, or at whether the restrictions are necessary to protect the public. Nobody will look at that. Colleagues may think that that is completely unacceptable and that the poor quality of appeal, as placed in the legislation, is a potent additional reason to all those that have been heard before for us all sticking out for an application having to be made to a judge and the whole thing being assimilated with the new process in clause 2.

I wish to consider the reasons that have been put forward for separating clause 1 from clause 2. The Home Secretary said that the task of assessing and evaluating evidence in order to take a preventive measure is something that the Secretary of State is better equipped to do than a judge. I guess that that means assessing intelligence. As the right hon. and learned Member for Rushcliffe (Mr. Clarke) said, that point applies to both clauses 1 and 2. House arrest, under clause 2, is a preventive measure. It is not about something that has happened before but about something that one wants to stop happening again. If the Home Secretary concedes that, when it comes to evaluating whether clause 2 measures are necessary, the right person to do that is a judge, the same argument has to go for whether a clause 1 provision is necessary.

Is there any real difference? Let us look at the test for a clause 1 order. Clause 1(1) says that the Secretary of State may make an order if he

"(a) has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity; and

(b) considers that it is necessary for . . . protecting members of the public."

Let us look at the test in clause 2. Subsection (1) states that the Secretary of State can make an order if

"(a) he is satisfied, on the balance of probabilities, that the person is an individual who is or has been involved in terrorism-related activity;

(b) he considers that the imposition . . . is necessary for purposes connected with protecting members of the public"

That is exactly the same test. If the judge is the right person to perform that test for clause 2, he is obviously the right person to perform it for clause 1.

What else has been put forward? Only a few may fall under the ambit of clause 2, but at the moment we are told that there are none. More may come under the ambit of clause 1, so will we overwhelm the judiciary with a large number of cases if we require it to look at those covered by clause 1? I do not imagine so; no one has ever talked of more than, at most, a few hundred. In the context of the cases that the courts hear day in and day out, that is not a large number to add on. One would also imagine that lower-level control orders need not necessarily go to the High Court, because they could go to a professional magistrate who had security clearance. There would be a good deal of scope for that to happen, so we would not overwhelm the judiciary.

It is said that the judges do not want such involvement. Lord Donaldson, who retired a decade ago, said that, but his comments seem to have been open to interpretation. I have not heard further compelling evidence that working judges today do not want to deal with the orders. It seems that they will at least do clause 2 adjudications under sufferance, so why should it be more difficult for them to do clause 1 adjudications? I dare say that they will do what Parliament asks them to do.

I could not follow the distinction between a deprivation of liberty and interference with liberty. If there is a real distinction between the quality of the impact of the control orders, that is a poor reason for obtaining them using different procedures.

On Second Reading, I asked the Home Secretary to take the small step of putting the judge first, thus springing us free from Executive detention and interference with liberty. He has taken half that step, but by doing so he has utterly shattered any logical reason why he should not take the other half. Amendment No. 4 better represents what the proper position should be than the Bill, as it would provide for judicial involvement in clause 1 applications.

We are in a hideous position because we will no doubt be asked to vote today against judicial involvement in clause 1 applications. However, the Bill will go to the Lords tomorrow. The Lords will no doubt vote for judicial involvement in clause 1 applications, and this time next week we will doubtless be asked to vote for that. The situation is a complete nonsense and the shortage of time makes that nonsense greater and more obvious.

I regret having to say this, because I have immense respect for the Home Secretary and am pleased that he has taken the step that he has. However, drawing a distinction between clause 1 and clause 2 orders makes no sense whatsoever, and I am afraid that we should say so.

Sir Patrick Cormack: Hon. Members always listen to the hon. and learned Member for Redcar (Vera Baird) with attention and respect. She has great forensic skills and is a lawyer of tremendous experience. She brings her experience to our debates in the Chamber, so we are grateful to her. I agreed with many things that she said.

As I am not a lawyer, I start from a slightly different base to the hon. and learned Lady. When the Government first announced the Bill, I was extremely sympathetic to it. I believe that the prime duty of any Government is to safeguard the integrity of the state and all its citizens. Although in the normal course of events, as I said to my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley) last week, it is far better for a guilty person to go free than for an innocent one to be punished, when one is dealing with suicidal terrorists, one perhaps has to redress the balance a little.

I am, however, persuaded that the Home Secretary has not handled the situation as well as he should have done. Although he is not here, I make a point to him through the Minister for Crime Reduction, Policing and Community Safety. I remember saying this when we were in government and I was speaking from the other side of the House: any Minister of the Crown should beware of taking powers that he does not wish his opponent to use. For any Home Secretary to take such supreme powers is dangerous, both in itself and in its implications. However, I rather agree with the hon. and learned Member for Redcar that this time next week we will probably see yet another step on the road to sanity.

9.15 pm

We are all in your debt, Sir Michael, for allowing a wide-ranging debate on this series of amendments. It was essential that you did so in the wake of that extremely long speech, or teach-in as it almost was, by the Home Secretary. He was generous in giving way, but he came to the Committee having circulated that letter and in effect gave notice that he was going to rewrite some of the fundamental parts of the Bill. So all the amendments in the first group are, in the words of my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), otiose.

[Sir Patrick Cormack]

The real problem that the Committee faces is that because the Government have handled the matter so badly, a Bill of far-reaching importance is not having the parliamentary scrutiny in this place that Members on both sides believe it should have. When the Leader of the House announced in that brief business statement a week ago today that we would have the Bill, I begged him to defer Second Reading until today so that we could have the weekend to discuss it and reflect on it, and to have the remaining stages later this week. Frankly, there was no reason why we could not have done that and also adhered to the Government's timetable.

I believe that the Government have panicked. The offer made by my right hon. and hon. Friends on the Front Bench to extend the existing provisions of the current Act was right. That could have been done and it would have been reasonable to do it, but even accepting the Government's case that they did not wish to do that, we could still have met their timetable of 13 or 14 March and had a more coherent and better discussion in this place.

The time is now 9.17 pm and, according to the timetable motion passed earlier today, these proceedings have to come to a conclusion at 10 o'clock—you, Sir Michael, or whoever is occupying Chair, have no option on that—yet we are still on the first group of amendments. I was briefly absent from the Chamber, but heard most of the speeches. I certainly did not hear a word of filibustering from hon. Members on either side of the Committee. Yet all these other important aspects of the Bill remain to be discussed, and none of them will be discussed.

When we move on to Third Reading, we will leave a Bill that directly, or indirectly by implication, could affect the lives of many people and change the balance in so far as the liberty of the subject in this country is concerned. When we leave the Bill, we will not have scrutinised it or discussed it in the House of Commons. Yes, it will have four days in the other place. Yes, there are many learned lawyers in the other place who will be able to bring the wisdom and experience that the hon. and learned Member for Redcar brought to her contribution.

I am one of those who believe that the House of Lords, as currently constituted, adds great value to our democratic procedures. I do not suppose that the hon. and learned Lady would entirely agree with that, but I am sure that she would agree that there will be detailed scrutiny and sensible debate down the Corridor. However, we are the elected House and have a duty to hold the Government to account, and, because we do not have a separation of powers, the Government have a duty to allow us to hold them to account. That duty has not been fulfilled in respect of this extremely important Bill.

I have been here now for almost 35 years and others in the Chamber have been here as long. I see the right hon. Member for Oldham, West and Royton (Mr. Meacher) in his place. I do not remember any major piece of legislation—he may, and I will give way to him if he does so—that has aroused such widespread unease in all parts of the House. I do not remember any major piece of legislation put forward by any Government, from the Government of Edward Heath to the present one, for which not a single speaker on Second Reading or in Committee has made an enthusiastically endorsing speech. Yet, in spite of that and of the grave misgivings, which are honourably shared by many on the Government Benches, we are not to have the chance properly to examine and scrutinise.

Many of us made appeals this afternoon in points of order and in other ways. We must have tried severely the patience of Sir Alan, Mrs. Heal and you, Sir Michael, and for that I am sure I can apologise on behalf of us all. However, they were legitimate points of order. We tried very hard to get a suspension so that there could be reconsideration of the timetable and so that we could have another day of debate. If we had had another day of debate on Wednesday, we could at least have discussed in some detail most of the major aspects of the Bill. It is tragic—I use the word deliberately—that the Prevention of Terrorism Bill has become the prevention of parliamentary debate Bill.

I know that people in the country are deeply worried about terrorism; of course they are. I saw, as I am sure almost everyone present will have done, the poll in *The Daily Telegraph* this morning, which showed a large majority of people taking the line, which broadly I take, that if it is necessary to sacrifice a little civil liberty for overall civil protection, then so be it. If that is the line taken, how much more is it our duty to ensure that any Bill that we enact does not bolster the power of any Government or individual Minister, but rather gives the final arbitrating role to a judge or even perhaps, as suggested in one amendment that I tabled, which I am sure was quite properly not selected, to the Select Committee on Intelligence and Security, without the agreement of which and without full consultation with it the Home Secretary could not act. That would be a safeguard.

The hon. and learned Member for Redcar was a little scathing about Lord Donaldson, but my hon. Friend the Member for Stone (Mr. Cash) quoted Lord Hoffmann. There is a certain reluctance among judges past and present. If the decision is not to fall to a judge, at the very least it should be taken by a cross-party group of Members who can advise and work with the Home Secretary. I believe that the hon. Member for Bridgend (Mr. Griffiths) tabled a similar amendment. We tabled them totally independently of each other, neither knowing that the other had done it. Both of us were seeking a solution that would take away the arbitrary power of the Home Secretary, whoever he or she may be.

The Bill will pass to the other place tomorrow. Their lordships will have their four days in Committee. The Bill will then have to come back to us as amended. I echo the plea made by a number of hon. Members earlier in the debate: let us have a generous allocation of time to debate the Lords amendments in this place, because the House of Commons would be held in contempt if it were given one or two hours to discuss such matters of far-reaching importance. Third Reading will be brief, and only one or two hon. Members will have an opportunity to make a few points of principle.

I have great respect for the Minister for Crime Reduction, Policing and Community Safety. She is always courteous and often humorous. She has done

extremely well in her relatively brief time in the House and I wish her well in future, especially in opposition. Will she please listen carefully to the concerns expressed by Labour Members, as well those expressed from this side of the Committee? The Government have not treated Parliament with respect, which they should have done in introducing a Bill that is unprecedented in 300 years or more.

This is a sad day for those of us who care about Parliament. I hope that the Government will never again seek to railroad through a Bill of major constitutional importance with such a ridiculous timetable.

Mr. Blunt: Plainly, I play second fiddle to my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) in terms of parliamentary experience. He has made the point that the concern is shared on both sides of the Committee and that the issue is immensely serious because it concerns the role of the Executive and the liberty of citizens. I have not dealt with more important legislation than this Bill, which concerns the security of the nation balanced against the liberty of the individual.

The way in which the matter has been handled should be an appalling embarrassment to all hon. Members. Earlier, I intervened on the Home Secretary—I am pleased that he is here—in the hope that he would take the opportunity to find a better way to deal with the matter. He replied that because I oppose the principle of control orders and of the Bill, I have no right to invite comment on how the Government should take the matter forward, and he then gave his own presentation of my views.

We should all be appalled that the Government, or anyone else, think it necessary to introduce such measures. If the Government are correct and the situation in which they find themselves and the threat that the nation faces is such that we must put this Bill on the statute book, it should give us extreme pause for thought. The Bill is being introduced in the most enormous hurry, and we have not examined from first principles why it should be put on the statute book. Given the enormous controversy surrounding the Bill, it is essential that the Government take seriously and listen to the debate on this group of amendments, which relates to the role of the judiciary and the courts.

Enormous confusion exists about the need for control orders. If the Government stated that control orders are the only way to deal with the threat that we face, I would be prepared to be convinced. However, the threat from al-Qaeda is not somehow different from the threats that our nation has faced down the centuries. In the early 21st century nations possess significant advantages over non-state actors who are determined to overthrow the state. We have never before come across the quantity of information to which states have access and which they can collect about people.

9.30 pm

I understand that when the Prime Minister was interviewed on "Woman's Hour" today, he said—outside this place—that the orders may be applied to hundreds of people. That, together with the fact that the Leader of the House explained last week that the Bill had to be rushed through the House in six days, suggests that we are facing an emergency and that we are not being given the entire picture. The apparent position is that we must have something on the statute book by 14 March in order to replace the measures that will fall because of the judgment in the House of Lords. Yet the Home Secretary will not apply the control orders under clause 2 to the people who will walk out of Belmarsh and be subjected to a type of control order that does not require a derogation from the convention.

I am confused about the depth of the threat that our nation faces from its own citizens. I want the Government to produce the evidence and convince me of the scale of the threat. The dossier that they produced to support the Second Reading debate is not sufficient to justify measures that fly in the face of 790 years of the tradition of British justice and the liberty of British citizens. I listened the Minister for Crime Reduction, Policing and Community Safety on the radio this morning. Her instinctive assumption that she, as the Minister, must take at face value the requests of the Security Service and the police and give them all the powers that they desire is not good enough. We need a proper case to be made so that we can be convinced by the weight of the evidence.

The Prime Minister, at Prime Minister's questions last week, told the House that the security service was unanimous, but I find that extremely difficult to believe. There are more than 2,000 members of the Security Service, as I understand it, and I find it difficult to believe that although powers on this scale have been met with controversy in the House and in the country, that controversy is not reflected in the Security Service and the police. Members of those services understand the consequences of a lack of faith in Government if the Government take powers to themselves that people see as unfair and potentially unnecessary because there is no proper judicial process to allow people to put the case in their own defence in the proper way.

I identified 23 different debates arising from the first group of amendments, but we all know that there is little point in trying to deal with the detail of the business before us because the Government will put a different Bill before the Lords. If the Bill passes through another place and we in due course consider Lords amendments, I hope that the Government will give the House sufficient time to do its job properly, which it has not done in the first stages of consideration of the Bill.

Mr. Grieve: This has been a fascinating debate. There have been some excellent contributions ranging right across the spectrum, from the right hon. Member for Livingston (Mr. Cook) to my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), who come from opposite political poles and perspectives but take the same view in their dislike of the legislation and, moreover, in their suspicion of the Government's motives in the way that they have presented it. Plenty of other contributions, some from lawyers, whom the Home Secretary appears not particularly to like, highlighted the novel powers that the Government are seeking to take for themselves and urged them on one discrete issue—that is all that this debate is about—to change their mind and to allow non-derogation powers to be properly used by a judge under precisely the powers that would be available if they were derogation powers in terms of reviewing the facts of the case.

[Mr. Grieve]

Even at this late stage, I hope that the Home Secretary will listen. As I fear that he will not, however, I will vote—I encourage every Member in this House, certainly those on my Benches, to do likewise—in support of the amendment tabled by the hon. Member for Bridgend (Mr. Griffiths). As this will in reality be the conclusion of our scrutiny of this Bill, it is essential that this Committee should send a signal to the other place regarding what is troubling us. I ask all hon. Members to think carefully about their own positions and be willing, if they possibly can—although I am sure that some will be loyal to the Government—to go into the Lobby to support the hon. Gentleman's amendment and send out a signal that the Government need to think again on this issue.

I ask the Home Secretary to deal with one last point, which was picked up by my hon. Friend the Member for Reigate (Mr. Blunt). There is a discrepancy between the number of people whom the Home Secretary believes will be affected by these orders and the number whom the Prime Minister says will be affected. I have here the Prime Minister's quote from "Woman's Hour", where he said:

"you have got to give us powers in between mere surveillance of these people—and there are several hundred of them in this country we believe are engaged in plotting or trying to commit terrorist acts—between mere surveillance and being sure enough of proof to prosecute them beyond reasonable doubt".

I hope that the Home Secretary will use the opportunity in winding up this debate to answer that discrepancy so that the Committee can understand what we are dealing with.

More generally, it would be most helpful if the Government would be franker with the Committee about what they want and the difficulties that they face. If they did that, and listened better to what the Committee has to say, they would find it much easier to obtain a consensus on these difficult issues.

Mr. Charles Clarke: I will be brief because I have had more than my fair share of time in this debate. We have had a very full and good debate. First, let me say in response to those right hon. and hon. Members who sought more time for the debate that I will certainly consider with my colleagues through the usual channels the extent to which this House can debate the issues that come back from the other place.

Secondly, I believe that I have made very major and significant movement on the proposals that I originally put. I did so in order to seek consensus in this House on these very important matters, particularly on the very powerful motivating concern that I heard expressed by Members on all Benches regarding the need to have proper judicial scrutiny of deprivation of liberty. I have sought to respond to that central concern.

Thirdly, I want to make it very clear that every decision of the Home Secretary has to be justified on the basis that it is necessary and proportionate and will be subject to judicial assessment in a very full way.

Fourthly, I want to confirm the point with which I started this whole debate—this is a difficult and problematic issue. Lord Carlile, the reviewer of these matters, stated in his report, powerfully and truthfully, and in a way that the whole House should take full account of:

"Having seen extensive material, I am in no doubt that national security could be at risk if certain types of evidence were revealed to the detainees. At risk too would be some individuals' lives. The kind of evidence I have in mind includes that provided by ... human resources including those who might be described as a term of art as 'informants', disclosure of locations used for observation, details of technical facilities available for listening to and/or reading communications, descriptions and identities of police officers and others, and methods of risk assessment used by the control authorities."

Those are serious matters.

The hon. Member for Beaconsfield (Mr. Grieve) cited the hon. Member for Reigate (Mr. Blunt) and raised the Prime Minister's comments on "Woman's Hour" earlier today. It was put to the Prime Minister's official spokesman that my right hon. Friend had said in the interview that there were "several hundred people plotting" a terrorist attack, which is the case. The official spokesman was asked whether that would mean several hundred house arrests. He replied, "No", and said that the Prime Minister had used exactly the same phraseology last week in Prime Minister's questions and made it clear that, at the extreme end of control orders, which we are discussing, we envisage using the provision against very few people.

The hon. Member for Reigate asked whether there was any evidence to show that British citizens were involved in such activity. I cite today's evidence about Mr. Sajid Badat, a British citizen, who admitted to plotting to blow up a plane, in league with Richard Reid, the notorious shoe bomber, who is also a British citizen.

Mr. Blunt: Will the Home Secretary give way?

Mr. Clarke: I shall not. *[Interruption.]*

The First Deputy Chairman of Ways and Means (Sylvia Heal): Order. It is up to the Member who is on his feet—in this case, the Home Secretary—to decide whether to give way.

Mr. Clarke: Thank you, Mrs. Heal.

We are considering major issues. As I have said throughout our proceedings, we must balance national security with civil liberties in relation to British and overseas citizens. I believe that our proposals are right and I hope that Parliament will support them.

Mr. Garnier: The Home Secretary has done his best to explain his change of heart, although I suspect that it is driven more by political expediency than an assessment of the Opposition's argument. None the less, he has done his best and I thank him for the change of policy, even if it was produced through a letter rather than by formal amendments tabled in the proper way.

It is a pity that the right hon. Gentleman's enthusiasm for his case—or at least for the advice that he has been given—sometimes allows him to draw strength from material that is not helpful to it. Let us take the case of Badat. It demonstrates the strength of the criminal justice system, not the need for the sort of proposals that the Home Secretary presented.

No Conservative Member, especially the Leader of the Opposition, could ever be accused of being soft on terrorism. When my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) was Home Secretary, anybody who suggested that he was soft on terrorism would have been laughed out of court. When the Home Secretary mumbles into his beard that the Leader of the Opposition is soft on terrorism, nobody believes him. My right hon. and learned Friend was criticised for being the opposite—far from soft on anything to do with civil liberties or anything that stank of terrorism. It is absurd for the Home Secretary to rely on the Badat case, which went all the way to the Old Bailey and produced a change of plea today, and to bounce off that and claim that the Conservative party is soft on terrorism. We know that that is absurd and so does he.

We all accept the need to protect the nation from terrorist activities by foreign people and British citizens. *[Interruption.]* The Home Secretary says that I do not. I do not know how he thinks that he can read my mind—he can hardly read his own after his performance today. My family and I and my hon. Friends and their families have fought hard against terrorism—we have seen colleagues blown up and killed through it.

We do not need lectures from the Home Secretary about being soft on terrorism—perhaps he would care to button his lip on that and simply listen to people who want him to succeed in dealing with the problem but do not wish him to suborn the parliamentary process in doing so. It is important that the parliamentary process should keep its integrity. When a Government—through a Secretary of State or a Minister—unwittingly or wittingly mislead Parliament about what they intend to do to gain a guillotine, the process is utterly reduced and the Government should be ashamed.

I shall sit down now, but I warn the Government that those in the other place will have listened very carefully to what the Home Secretary has said about the Bill, and to what those on the Labour Back Benches have said. I trust that they will also occasionally have listened to what Conservative Members have said. It is in our shared interest to deal with terrorism and it will not do for the Home Secretary to suborn the parliamentary process. He thinks that he can get away with it because he has a majority of 165, but I suspect that he will find that majority somewhat reduced tonight—

The First Deputy Chairman: Order. This is wide of the amendment under discussion.

9.45 pm

Mr. Blunt: I rise briefly to answer the Home Secretary. Twice today he has chosen to present my views, although they did not represent my views at all. I fully accept that there is a risk from terrorists, both British and foreign, in the United Kingdom. Surely the reason that British citizens were able to be taken to Guantanamo Bay had some basis in the fact that they were taking part in terrorist activity in Afghanistan. Anyone who has listened to the debates taking place in the Islamic community in the United Kingdom—particularly among the most extreme elements of that community, where we have seen people preaching wholly unacceptable messages in the streets—will understand that a small percentage of people in the United Kingdom have some ideological sympathy with the supposed objectives of al-Qaeda. I do not hesitate to say that that potential is out there.

The Home Secretary specifically referred to al-Qaeda on Second Reading. He suggested that it posed a uniquely different threat that had to be met with uniquely different measures. That seems to mean that the Executive will take powers to themselves the like of which we have not seen since habeas corpus was suspended in the face of the threat from the French revolution. In taking those powers, however, the Home Secretary is doing something extreme and unique in the history of the United Kingdom, and it should therefore be beyond peradventure that the Government's case should be extremely strong. I do not accept that the threat is so unique that we should throw out 790 years of British jurisprudence and British traditions of liberty.

The British criminal justice system has brought such people to justice, as my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke) has pointed out. Indeed, the Home Secretary adduced such cases in saying that British terrorists existed. We accept that. We faced down terrorism of an Irish dimension in Britain for more than 30 years, and we made mistakes in that regard when we went too far with the powers of internment. We undermined our case in defending democracy when the state took powers to take on the terrorists that went too far. We then acted as a recruiting sergeant for those—

The First Deputy Chairman: Order. I remind the hon. Gentleman that, although there has been some latitude, he is again going very wide of the amendments under discussion.

Mr. Blunt: I am grateful for your guidance, Mrs. Heal.

The Home Secretary weakens his case in support of the amendments that he is going to table to the Bill in another place, and the case against the amendments that we are considering tonight, when he misrepresents the arguments of people who take a different view from his own. It is extremely important that the Government do not indulge in misrepresentation, particularly given their record on other issues relating to war, peace and the security of this country. It is very important that they should carry as much support from the British people, and achieve as much consensus in this House, as possible. The way in which they have carried on has not assisted that objective at all.

Sir Patrick Cormack: Let me ask the Home Secretary a question that I asked the Minister when I thought that she would respond to this brief debate.

The Home Secretary spoke at length today, and dealt as best he could with many interventions. I hope that on mature reflection he will realise that he has behaved with a degree of arrogance and disdain towards Parliament that does not do him credit. I hope that before 10 pm he will return to the Dispatch Box and at least promise us that when the Bill returns from the House of Lords, where it will be given the scrutiny that we have not been allowed to give it, we will have a proper chance to discuss any substantive amendments made to it in the

[Sir Patrick Cormack]

other place. The Home Secretary owes us that undertaking. The very least he can say is that he will have discussions with the Leader of the House immediately to ensure that proper time is made available.

The Home Secretary may look peeved and fed up, but as Home Secretary he is answerable to the House of Commons. Members in all parts of the House—including many of his own supporters, many of them loyal supporters over the years—are deeply distressed by the way in which the Bill has been handled. I am closer to him on the Bill than many others, because, as I said earlier, I see a need to ensure the greater safety of the greater number, and certain liberties may have to be sacrificed; but he has gone about this in a manner that makes the proverbial bull in a china shop seem a model of taste, decorum, delicacy and decency.

I urge the Home Secretary to tell us that we will have a proper chance to discuss amendments from the other place. He has rewritten the Bill in his letter. He has not tabled amendments so that we can debate them. He has not provided extra time so that we can debate them. He has treated the House of Commons, of which he is a Member, with contempt. I hope that he will now feel able to repent, and to give us the undertaking that I seek. He has eight minutes in which to do it.

Mr. Grieve: As I should have said earlier, I hope to be able to press new clause 6 to a Division. I realise that it is not perfect. I am sure that it could be improved, and a Report stage would have allowed us to do that, but I believe it encapsulates a process that might commend itself to many Members as an alternative to what the Government propose.

Mr. Beith: It is not really possible to understand how clause 1 works without understanding clauses 7 and 8 and the schedule, because they determine what kind of judicial proceedings can take place. Like all the other clauses apart from clause 1, they have not been debated at all. I trust that proper note will be taken of that in another place. It is surely deplorable that such fundamental alterations and reductions in the fairness of our court processes can be approved in the House of Commons without any debate.

Mr. Win Griffiths: I rise with mixed feelings, having heard an excellent debate. Many speakers have been more eloquent than me, and better informed about the legal processes. They have presented arguments intended to sustain my amendment No. 4 and consequential amendments.

I believe that my right hon. Friend the Home Secretary has been traduced by many Opposition Members, because of the way in which they chose to interpret his letter and our debate about that letter. It is clear from that debate that the Home Secretary was prepared to accept the principle of amendment No. 1, tabled by my right hon. Friend the Member for Livingston (Mr. Cook), and consequential amendments, and my amendment No. 6—also relating to clause 2—and its consequential amendments. However, it was also clear that he was not prepared to accept amendment No. 4 and consequential amendments to apply the principle of the court making the decision to the non-derogating orders. We could debate the pros and cons and the nuances of that proposal for another six hours, but I believe that my hon. Friend the Member for Sheffield, Attercliffe (Mr. Betts) was right when he said that, having accepted the court making the decision on derogating orders, there would be no weakening of the fight against terrorism by accepting that for clause 1 and the non-derogating orders. My hon. and learned Friend the Member for Redcar (Vera Baird) pointed out, correctly, that the judicial review process is not strong when one looks at the issues that are at stake with non-derogating orders. Although any one of them did not amount to a loss of liberty, a combination of them could.

Therefore, I hope that, even now, the Home Secretary will say that he would be prepared to accept in principle a change and look at ways of incorporating the principle of the court making the decision on non-derogating orders. I believe that that would make the process involved certain and consistent. By accepting amendment No. 4 along with amendments Nos. 1 and 6, it would mean that liberty and justice were protected in all cases. I hope that, if the Secretary of State cannot accept in principle my amendment, the Committee will have the opportunity to make its own decision.

Question put, That the amendment be made:—

The Committee divided: Ayes 253, Noes 267.

Division No. 101] **[9.56 pm**

AYES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Austin, John
Bacon, Richard
Baird, Vera
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Best, Harold
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Cohen, Harry
Conway, Derek
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Cormack, Sir Patrick
Cousins, Jim
Cummings, John
Cunningham, Jim *(Coventry S)*
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Evans, Nigel
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flynn, Paul *(Newport W)*
Follett, Barbara

Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Griffiths, Win *(Bridgend)*
Grogan, John
Hague, rh William
Hamilton, David *(Midlothian)*
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hermon, Lady
Heyes, David
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackinlay, Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Mahon, Mrs Alice
Malins, Humfrey
Marris, Rob *(Wolverh'ton SW)*
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Meacher, rh Michael
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Naysmith, Dr. Doug
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Pollard, Kerry
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'bry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Savidge, Malcolm
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Stinchcombe, Paul
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trickett, Jon
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Tyrie, Andrew
Viggers, Peter
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
White, Brian
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, rh Alan *(Swansea W)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winnick, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Wood, Mike *(Batley)*
Wyatt, Derek
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. Clive Betts and
Richard Burden

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Banks, Tony
Barron, rh Kevin
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Hill, rh Keith *(Streatham)*

Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*

Tellers for the Noes:
Paul Clark and
James Purnell

Question accordingly negatived.

It being after Ten o'clock, THE FIRST DEPUTY CHAIRMAN, *pursuant to Order [23 February and this day], put forthwith the Questions necessary for the disposal of the business to be concluded at that hour.*

New Clause 6

POWER TO MAKE CONTROL ORDERS

'(1) An application for an order under this section may be made by the Secretary of State if he is satisfied that the following conditions are fulfilled with respect to any person, namely:

(a) that the person is or has been involved in terrorism-related activity;

(b) that, having regard to all the evidence that would be admissible in criminal proceedings, there is no realistic prospect for conviction of that person for any criminal offence relating to their involvement in such activity; and

(c) that such an order is necessary, for the purposes connected with protecting members of the public from the risk of terrorism, to make an order imposing obligations on the individual.

(2) The Secretary of State shall not make such an application without consulting the Director of Public Prosecutions.

(3) Such an application shall be made to:

(a) the High Court in England and Wales in respect of persons resident in England or Wales,

(b) the Outer House of the Court of Session in respect of persons resident in Scotland; and

(c) the High Court in Northern Ireland in respect of persons resident in Northern Ireland.

(4) If, on such an application, it is proved that the conditions set out in subsection 1(1) are fulfilled, the court may make an order under this section (a "control order") imposing any of the obligations set out in subsection 1(8).

(5) For the purpose of determining whether the condition mentioned in subsection 1(a) above is fulfilled, the court shall disregard any act of the defendant which he shows was reasonable in the circumstances.

(6) In determining whether the condition mentioned in subsection (1)(a) is fulfilled, the court must apply the criminal standard of proof.

(7) The obligations that may be imposed on a defendant under this section are limited to the following:

(a) a prohibition or restriction on his possession or use of specified articles or substances;

(b) a restriction on his use of specified services or specified facilities, or on his carrying on specified activities;

(c) a restriction on his association or communications with specified persons or with other persons generally;

(d) a prohibition on his being at specified places or within a specified area at specified times or on specified days; and

(e) a requirement on him to report to a specified person at specified times and places.

(8) The court shall not impose any obligation under subsection (7) unless it is satisfied that the following conditions apply:

(a) that the obligation is necessary for the purposes connected with protecting members of the public from the risk of terrorism;

(b) that the same purposes could not be achieved by less restrictive means; and

(c) that the obligation is consistent with the defendant's Convention rights within the meaning of the Human Rights Act 1998 (c. 42).

(9) The Secretary of State or the defendant may apply to the court which made the control order for it to be varied or discharged by further order.

(10) For the purposes of this Act, involvement in terrorism-related activity is any one or more of the following:

(a) the commission, preparation or instigation of acts of terrorism;

(b) conduct which knowingly facilitates the commission, preparation or instigation of such acts, or which is intended to do so; and

(c) conduct which knowingly gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so.

(11) Evidence established to have been obtained under torture shall not be admitted in any proceedings.'.—*[Mr. Grieve]*

Brought up, and read the First time.

Question put, That the clause be read a Second time:—

The Committee divided: Ayes 194, Noes 284.

Division No. 102] **[10.15 pm**

AYES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Bennsford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. Crispin Blunt and Sir Robert Smith

NOES

Adams, Irene *(Paisley N)*
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy

Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cabom, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Pickling, Anne
Pickthall, Colin
Pickitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, Betty *(Conwy)*
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*

Tellers for the Noes: Vernon Coaker and Mr. Nick Ainger

Question accordingly negatived.

Motion made, and Question put, That clauses 1 to 13 stand part of the Bill, and That the schedule be the schedule to the Bill:—

The Committee divided: Ayes 281, Noes 198.

Division No. 103] **[10.29 pm**

AYES

Adams, Irene *(Paisley N)*
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Buck, Ms Karen
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Nairnshire)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm

Williams, Betty *(Conwy)*
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*

Tellers for the Ayes:
Mr. Nick Ainger and Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bourn'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Sir Robert Smith and Mr. David Ruffley

Question accordingly agreed to.

Clauses 1 to 13 ordered to stand part of the Bill.

Schedule agreed to.

Margaret Moran (Luton, South) (Lab): I beg to report that the Committee has gone through the Bill and directed me to report the same without amendment. *[Interruption.]*

Bill reported, without amendment.

Order for Third Reading read.

Mr. Patrick McLoughlin (West Derbyshire) (Con): On a point of order, Madam Deputy Speaker. How can the Government Whip, the hon. Member for Luton, South (Margaret Moran), say that the House has considered the whole Bill, when quite plainly we have not?

Madam Deputy Speaker: The House has followed the programme motion on which it voted earlier today. I am afraid that that is the fact of the matter.

Mr. Hogg: Further to that point of order, Madam Deputy Speaker. I realise that the House has followed the programme motion, but we have not discussed the Bill. Should it not be in the power of the Speaker to inform the other place that we have not done that which we ought to have done?

Madam Deputy Speaker: The right hon. and learned Gentleman's point of order is not the responsibility of the Chair.

Peter Bottomley (Worthing, West) (Con): Further to that point of order, Madam Deputy Speaker. Is it not a fact that the Whip had no choice and that it is a parliamentary convention that she utter such words? We should deplore the fact that this House has considered just one part of a major Bill. With an hour's Third Reading we are sending it off to the House of Lords, yet we have not had the chance to debate any other of its important parts.

Madam Deputy Speaker: I can only repeat my ruling on the matter, that the House has followed the programme motion which was agreed earlier today.

10.44 pm

Mr. Charles Clarke: I beg to move, That the Bill be now read the Third time.

Today's debate has been very important, and we have discussed the fundamental issues—the freedom of the individual, the right and duty of the state to protect the people within its borders and their interests from attack and the balance to be struck between the two. The Government take the view that we must take all reasonable and practical steps to protect people in this country from those determined to destroy our way of life, and the Prevention of Terrorism Bill does precisely that.

Mr. McLoughlin: Will the Home Secretary give way?

Mr. Clarke: No.

The Bill provides the police and security services with another weapon in their armoury. It is designed specifically to deal with one of the most difficult and challenging problems facing us—how we should deal with those whom we cannot prosecute or deport, but who are nevertheless planning and plotting against this country.

Mr. Grieve: Will the Home Secretary give way?

Mr. Clarke: No.

Mr. Beith: On a point of order, Madam Deputy Speaker. The Home Secretary is purporting to describe a Bill, the clauses of which have not been discussed at all. It is difficult for the House to draw conclusions on Third Reading about the features of the Bill, when it has not had the opportunity to examine whether the clauses bear out the claims that he is making. Do you have an answer to that problem?

Madam Deputy Speaker: I remind hon. Members again that the occupant of the Chair follows the programme motion, which hon. Members agreed earlier today.

Mr. Clarke: Control orders are preventive measures, not punishments, and they will be used carefully and only in serious cases. One has only to examine how sparingly the part 4 powers have been used to see that the Government take their responsibilities very seriously and act only when strictly necessary, and I believe that the same will be true of the new control orders.

As I have indicated today, with legislation of this type I believe—despite today's events—that there is great merit in seeking as wide a consensus as is possible across Parliament. To that end, I have today announced some changes which I propose to make to the Bill in the hope that such a consensus can be achieved.

Mr. Desmond Swayne (New Forest, West) (Con): On a point of order, Madam Deputy Speaker. Am I right in thinking that on Third Reading the Secretary of State is confined to the Bill as it now stands, not as it might become?

Madam Deputy Speaker: The hon. Gentleman is correct in his assumption.

Mr. Clarke: I happily accept your ruling, Madam Deputy Speaker, because it allows me to move on to the main burden of the points that I want to make. We must remember why we are considering the Bill: we are considering it because the whole of this country, and not the Government or the Labour party, faces a terrorist threat. *[Interruption.]* Opposition Members do not accept the truth of that point. We face a terrorist threat, and those who think that we do not, who obviously include many Opposition Members, need to face the facts.

Mr. McLoughlin: Will the Home Secretary give way?

Mr. Clarke: No.

Al-Qaeda and its associates have a strategy to try to destroy the central themes of our democratic society, and this House must decide how best we can address that threat. In so doing, we must seek to analyse and understand the threat that we face, which we have done—we have laid the results before this House and are trying directly to assess the threat. Today's events clearly demonstrate that we must acknowledge that British citizens as well as non-British citizens are focused on the target of seeking to destroy through terrorist activity the society that we seek to represent.

Mr. Edward Leigh (Gainsborough) (Con): Will the Home Secretary give way?

Mr. Clarke: No, I will not give way. I gave way a great deal earlier today, but I will not give way at this point to pettifogging points of the kind that I think hon. Gentlemen are likely to make. We should discuss the arguments of substance around the Bill, and that is what I intend to do. The argument of substance—

Mr. David Wilshire (Spelthorne) (Con): On a point of order, Madam Deputy Speaker. If the Home Secretary is arguing that we should discuss the Bill, why has he denied us the time to do so? Can you not make a ruling that enables him to keep his word?

Madam Deputy Speaker: That is not a point of order for the Chair. I have already ruled on that. I call Mr. Secretary Clarke.

Mr. Clarke: Thank you, Madam Deputy Speaker. It is important that we debate on Third Reading the reason why the Bill is necessary, and why I hope Members will vote for it. The basic reason why I ask the House to vote for it is that we face a terrorist threat from

[Mr. Clarke]

British and non-British citizens—British as evidenced by the case of Mr. Badat today and of Richard Reid, and non-British as indicated by the events that took place in many other areas. We need to take the powers to address that threat.

Simon Hughes: Will the Home Secretary give way?

Mr. Clarke: No, I will not. I acknowledge that in taking those powers, which are serious powers, and as I stated in the House on 26 January, are major issues for the House to address, we need to do so in a way that does our very best to respect individual liberty and the issues that arise in that regard.

Simon Hughes: Our very best?

Mr. Clarke: Our very best.

Simon Hughes: Your very best.

Mr. Clarke: I contend that we have done just that in putting forward the measures that we have in the House. I hope that colleagues in the House making the arguments about Third Reading, as they will, will also face up to the question of how the British state should respond to the threats against it, which really exist.

Mr. Redwood: Will the right hon. Gentleman give way?

Mr. Clarke: No. Should those threats be ignored, as I contend the Conservative Opposition seek to ignore them? Should the measures be amended, as the Liberal Democrats, in fairness to them, have argued throughout the debate? *[Interruption.]*

Madam Deputy Speaker: Order.

Mr. Clarke: I conclude by referring to the core fact that we should all take account of what our electors sent us here to do. Our electors sent us here to protect the liberties of this country. *[Interruption.]*

Madam Deputy Speaker: Order. The House must come to order.

Mr. Clarke: When asked in *The Daily Telegraph* poll today,

"Do you agree or disagree with the following statement? 'It may be necessary sometimes to take action against people who have not yet committed any offence, but about whom the intelligence services have evidence that they are planning an act of terrorism'—

a good question—82 per cent. of Conservative supporters said yes, 13 per cent. of Conservative supporters said no. In the same way, when asked directly whether—this is precisely the point made by a stream of Opposition Members during the debate—

"In opposing the Government's Bill and saying that Parliament should take longer to consider the matter, the Conservatives are playing politics, rather than displaying a genuine concern for civil liberties".

53 per cent. in *The Daily Telegraph* poll said yes, it is true that the Conservatives are playing politics and 29 per cent. said no. Finally—*[Interruption.]*

Madam Deputy Speaker: Order. I understand that feelings are running high in the House this evening, but it does not help us at all when there is so much noise in the Chamber.

Mr. Clarke: Thank you, Madam Deputy Speaker.

Mr. Lilley: Will the Home Secretary give way?

Mr. Clarke: No, I shall not give way. I have made that clear throughout.

As for the charge made against the Government by many hon. Members that the Bill is further evidence that we are instinctively authoritarian and do not care enough about civil liberties, the poll for *The Daily Telegraph* shows that 33 per cent. of people agree with that, while 50 per cent. disagree.

Why do I cite those figures in this Third Reading debate? For one simple reason—*[Interruption.]*

Madam Deputy Speaker: Order.

Several hon. Members *rose*—

Madam Deputy Speaker: Order. I think that the Secretary of State has made it clear that he is not giving way.

Peter Bottomley: On a point of order, Madam Deputy Speaker. If the Home Secretary is going to keep asking questions, will he please say that they are rhetorical questions, to which he does not want an answer?

Madam Deputy Speaker: That is not a point of order for the Chair.

Mr. Clarke: The hon. Gentleman makes a good point, except that he ignores the fact that I have given the answers of the British people, who reject the position of the Conservatives.

I cite these figures because we must never forget, as we consider the very important legal and other arguments about the balance of security versus the issue of individual liberty, that what the British people want us to do is to protect their national security. I hope that this Bill will be given its Third Reading.

10.56 pm

Mr. Grieve: I am truly sorry to see the Home Secretary mired in these fantasies and delusions of his own making. He comes to the House, presents a Bill and commends its Third Reading to the House, yet he knows that the debates in Committee have shown that it contains serious flaws that he has to rectify, and that his Government, through the Whips on his Treasury Bench, have, through their programming, denied the House of Commons any opportunity to consider its details.

We are being invited to vote on a Bill having not considered the following matters: the obligations on the Secretary of State in connection with control orders; the

content of control orders; the definition of "terrorist-related activity"; the balance of proof in relation to the making of control orders; the abolition of a distinction between non-derogating and derogating control orders; the duration of the Act, which some Members might think a most important issue; the content and delivery of a notice of modification of an order; the power of the court to make a conditional discharge; the mechanisms of appeal; the possibility of providing for costs and damages if wrong is done to the individual who is adversely affected by these measures; appeals relating to derogating control orders; reviews; and control order proceedings in the schedule, which, as Members have commented in the short debates that we have been able to have, is clearly a document of the mightiest mischief, because it provides a mechanism whereby this Government—in whom I have to say that I no longer have any confidence whatsoever in terms of the maintenance of civil liberties in this country—can produce whatever they like by way of rules of court in an area of novel power-making.

How has this situation come about? Over the past week, the Home Secretary has weaved backwards and forwards between saying, when he wishes to appeal to one audience, that this is a non-party-political matter that requires serious consideration, and then denouncing one Opposition party or another for playing politics. Most of the time it has been my party that has been accused of playing politics, but when the Liberal Democrats have stood up against him, it is allegedly they who have been doing so.

The shallowness of the way in which the Government have embarked upon this project is breathtaking. Although they have known since 16 December that their existing powers were wholly flawed, all they did in the intervening six weeks was to go behind the scenes and decide to try to cobble something together. Here was an opportunity for the Home Secretary, in the new job that he had acquired, to show that he would rise to his office. He could have approached any party for consultation on a pre-legislative basis, but no. He and the Prime Minister, having decided what they would do, graciously extended the opportunity to come into the big tent. However, the moment any objection is raised, one is cast into the outer darkness.

Simon Hughes: Does the hon. Gentleman agree that, from the time of the Anti-terrorism, Crime and Security Act 2001 and that of the imprisonment of people in Belmarsh, the Government have issued no invitation to take part in two or three-party proceedings to discuss what should happen if, ultimately, the courts ruled, as many of us argued, that their proposals were illegal?

Mr. Grieve: I agree with the hon. Gentleman—what he says is the absolute truth. I believed at the time that the lack of consultation was due to the bizarre and individual attitudes of the previous Home Secretary. However, it has become clear that he has spread contagion throughout the Government because the current Home Secretary has adopted all his worst vices in his approach to the matters that we are considering.

What are we to make of the Home Secretary's coming to the Dispatch Box a few moments ago and reciting a series of mantras about the public opinion polls? I stress to him that 99 per cent. of people in this country might believe in the Bill, but I would not vote for it. Hon. Members who consider their consciences, the way in which the Government have gone about the matter and the enormity of what is involved, can readily dismiss the appeals to public sentiment, whether it is accurate or not.

The Government are highly populist. The Prime Minister picks his position carefully. If he believes that he can take some shallow swing of the popular mood with him, that justifies his doing anything, however authoritarian, illiberal or undermining of the constitution. The long-term damage is enormous.

I cannot understand how a Government who were elected for the first time in 1997 on the back of commendable promises about their standards of integrity could descend so rapidly into the gutter, in the way in which we have witnessed in the past few weeks.

The Bill does not deserve a Third Reading. It is fundamentally flawed. It could be made tolerable, but we have been allowed to do nothing to enable that to happen. Every hon. Member should consider sending a signal to the other place that we need its help. Heaven knows, we do.

We have demeaned ourselves in the past 24 hours. We have allowed a measure that is poor in quality, content and concept to pass through its Committee stage. We have one last opportunity to say that, although we are prepared to consider the problems that confront the Government, we are not willing to put up with such a dog's breakfast, which so undermines the basic principles of liberty in this country. I therefore ask hon. Members to vote against Third Reading and repeat the signal.

We hear a lot about standing up to protect people. I do not need lessons from the Home Secretary about protecting people. I am satisfied that there is a threat to this country but one does not solve it by turning into a coward and dying a thousand deaths, which the right hon. Gentleman appears to invite the population of this country to do. It is possible to respond to and deal with terrorism in ways that are compatible with our freedoms and liberties. The Bill fails that test completely.

11.4 pm

Mr. Dalyell: Third Reading provides an opportunity to ask a question about the constitutional position in relation to Scotland. Jim Wallace, the Deputy First Minister of the Scottish Parliament, raised the prospect of his party at Holyrood triggering a constitutional showdown with the UK Government over the latter's plans for house arrest without trial for terror suspects. He said that the Liberal Democrats would refuse to support aspects of the Bill that fell within the competence of Scottish Ministers and on which Holyrood had to agree, courtesy of a device called a Sewel motion, to allow Westminster to legislate for the whole of the UK. That would mean that, if it came to a Holyrood vote, only Labour MSPs would be certain to support the Sewel motion supporting the Home Secretary. Frankly, I would add that some Labour MSPs would not be dragged by wild horses into such a Lobby.

That would mean that, with the main parties also against the plans, the Home Secretary would fail to secure the agreement of enough MSPs for the legislation

[Mr. Dalyell]

to cover Scotland. The UK Government would have no choice but to ignore the views of MSPs and, for the first time since devolution, impose legislation in the teeth of Holyrood opposition. I ask the Home Secretary for his comments on this serious situation for us north of the border.

11.6 pm

Mr. Heath: This is a debate of the utmost gravity on a matter to which the House should give the highest priority: not only the safety of the people of this country but their liberties. I accuse the Government of dereliction of duty over the past three years for not having sought an acceptable formula to deal with a threat that we acknowledge. I find it incredible that a Bill of this importance should have received no Committee or Report stage today. Instead, it received a mutant form of Second Reading for the second time, which will have to be repeated when the Bill comes back from the Lords in unrecognisable form. A number of new clauses and 227 amendments have simply not been debated today. When will the House get up off its knees and tell the Executive, "Enough is enough. We will not put up with abuses of this kind"?

We are told that the Home Secretary has made a serious concession by accepting the need for judicial oversight of derogating control orders. We are grateful for that; it is a measure that we have argued for and that we believe should be in place. It cannot be right that a citizen of this country should be put under house arrest by the diktat of a member of the Executive, rather than by the courts. Perhaps the Home Secretary believes that that concession is sufficient to win the support of the House, but if he was not disabused of that idea by the debate, I hope that he was disabused of it by the result of the Division and the reduction in his Government's majority. That will send the clearest possible signal to the other place that there is a high level of dissatisfaction with the proposals on both sides of the House.

That is hardly surprising. We have not even seen the concession that we have been promised. The Home Secretary could not bring himself to table amendments on the provision in this elected House so that we could debate it. It is based on a prima facie hearing before a court in which he originally said, with a slip of the tongue, that consideration would be on the balance of probabilities. He then corrected himself and said that there would need to be reasonable grounds to suspect that an individual had been involved in terrorism. That is exactly the low level of proof that has given us so much cause for concern already.

We then come to the argument about non-derogating orders. Most people outside the House will not have a clue what the distinction is between a derogating order and a non-derogating order in the context of the Bill. I have to say that many of us inside the House do not have a clue either. We have heard cogent contributions, particularly from Labour Members, pointing out the deficiency of the proposals in regard to appeals and to the definition of a derogating order.

Mr. Hogg: Does the hon. Gentleman agree that that difficulty of understanding may explain why 59 Labour Members voted against the Government in the first Division, including seven Privy Councillors, the Father of the House and three former Cabinet Ministers?

Mr. Heath: I thank the right hon. and learned Gentleman for putting that on the record, because it makes it clear that for each hon. Member who voted against the Government there was at least one, perhaps two, who disagreed with what they intend to do. If the Government think they can get the Bill through the House in this form, they are mistaken: it will not pass.

I have heard the Prime Minister trying to explain the Government's position, and trying to win the favour of the country in, apparently, an all-out bid to impress readers of *The Daily Telegraph*, as we just heard from the Home Secretary. His basic argument boils down to this: "What would people think if we knew that someone was a danger to the country and did nothing about it, and then an atrocity was committed?" I would ask the Prime Minister and the Home Secretary this in return: what would people think if the Home Secretary knew that someone was a danger to the country, but did not have the tools to do anything about it because of a totally arbitrary distinction between derogating and non-derogating orders and between whether he goes to a judge one week later or in the first instance, and an atrocity was committed?

This is nonsense. It is possible for us to reach a consensus; why on earth are the Government refusing to allow that to happen?

David Winnick: Following the intervention by the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg), may I say that I speak purely and simply for myself? As one of the 59 Labour Members who voted as we did—I make no apologies for that; far from it—I shall vote for Third Reading for reasons given by the Home Secretary, but I shall do so in the hope that, one way or another, what we want and what the hon. Gentleman wants in terms of control orders will be brought about.

Mr. Heath: I hear what the hon. Gentleman says, and I note his intention. I am grateful for his support in the Lobby earlier, but I am saddened that he now feels able to support the Bill in a triumph of hope over experience. I am surprised that he puts his trust in an unelected House rather than in this elected House of Commons to get the legislation right.

There are many points that we have not had an opportunity to debate: the standard of evidence required to deprive someone of his liberty, or restrict his liberty; the rules of court and the admissibility of evidence, and the degree to which evidence can be shared. Of course we understand that there are matters that it would not be proper to share with the accused in this instance because of the risk to security, but it would not be impossible to devise protocols allowing people at least to know the broad outline of the charge against them. That is the basis of our judicial system, and it is not one to be lightly thrown aside. We have had no opportunity to make prosecution under the laws of the land—in a proper court, conducted through the Director of Public Prosecutions—a priority in statute.

Jeremy Corbyn: As the hon. Gentleman knows, I am fundamentally opposed to the principle of Executive detention and Executive orders, but his argument has lost me slightly. Is he saying that the Liberal Democrats do not want defendants to have access to the evidence against them?

Mr. Heath: That is precisely the reverse of my position. I shall leave it at that.

I also think it important to ensure that the conditions of an order are intelligible to the person on whom they are imposed. Many such people will not have English as a first language, but there is no such provision in the Bill. The hon. Member for Beaconsfield (Mr. Grieve) raised another important point, about the temporary nature of the legislation. Surely we do not envisage the state of emergency described by the Government as being of indefinite duration—or perhaps we do. If so, the Bill deserves better scrutiny; if not, there should be a clear limit to its duration.

In short, the Bill as it is formulated simply will not do. I repeat that we recognise the dangers that the Government describe. We recognise the need to ensure that our citizens are properly protected. We are prepared to continue the dialogue and hope that it will be more fruitful than it has so far been, while acknowledging the very small movement that the Home Secretary has accepted. We believe—this is a fundamental principle—that the safety of the people is paramount, but the liberties of the people are also paramount. This House and the Executive have to find the balance. Frankly, this is no way in which to do it.

11.15 pm

Mr. Denham: In the 12 years or so that I have been in the House, the number of days on which what happens in the House of Commons Chamber seems to matter have each year declined dramatically, so it was fun to be here today and last Wednesday, when one got the sense that an actual debate was taking place.

It is interesting to consider how today's and last week's debates will look in two or three years. What conclusions will we draw? I suggest that we will draw a number of conclusions. One will be that some of the complaints were overstated. Our ability to restrict the liberties of citizens and to detain people without trial will be considerably less than that of France, Spain or other countries similar to ours, whatever the outcome of the Bill. That has sometimes been lost sight of in the debate on the current legislation.

Secondly, we may recognise that, in our society, there are many circumstances in which people's liberty is restricted without their appearing before a judge for quite some period—I am thinking of the Mental Health Act 1983 as well as of police powers. So let us put the matter in perspective. Some of the discussion today, which has focused so much on judges, has taken us away from the more fundamental debate, which appeared only from time to time: whether it is right at all to have the sort of restrictions on freedom and liberty that are implied by control orders. I believe that that is necessary and that the terrorist threat justifies it. It is a shame that the inability to resolve the issue about judges has stopped that being the central focus of today's debate because, for a lot of people in the Conservative party and for some Labour Members, that is an even more fundamental issue.

Thirdly, I am sure that the Bill will be amended in another place and we will revisit it. Clearly, it is not capable of giving us the structure that we need to deal with these terrorist issues for the future. We must ensure that, over the next two or three years, that structure is put in place. If I am right in thinking that there is a group of individuals against whom we cannot put together a court case for a criminal hearing and we have to take action, the real challenge is that neither the process of the Home Secretary looking at the evidence nor a judge having it presented to him or her will prove to be adequate. Where the security services produce evidence against an individual, it is important to interrogate that evidence as effectively as possible, to consider not just a control order but the other strategies that could be used against that individual, and to weigh the overall national security risk.

I believe that that role can be performed only if there is a procedure that takes on board some of the elements of the investigating magistrate that one has in other jurisdictions. Judges will be able to consider whether a control order should apply. It is much more difficult for them, in any of the proposed procedures, to consider that option against the other options and strategies that could be considered for dealing with that individual. I tabled amendments, which we did not reach, to expand the role of the Director of Public Prosecutions, not simply so that there was a public certification of the inability to prosecute; it was with a conscious eye on the need to develop some investigative capacity within the state, perhaps with a judicial role, to carry out the type of investigation that is necessary. I am absolutely convinced that that is the direction that we need to explore and move in over the next couple of years. We will make what progress we can on this Bill and get it into the best possible form, but I doubt that we will achieve that by Tuesday.

Mr. Charles Clarke: Does my right hon. Friend accept that I share precisely his view that we need to address this issue in the round? He has explained the situation admirably, and the time scale of two to three years that he sets out is the right way to proceed. We cannot deal with this issue immediately, and the direction that he has describes is entirely correct.

Mr. Denham: I am grateful to my right hon. Friend. When the Bill is debated in another place, I hope that the Minister with responsibility for it will be able to give a little more in the way of a definite commitment in that direction. Many of us would be happy with the Bill if we thought that further movement would be made along those lines.

Simon Hughes: Does the right hon. Gentleman accept that the logic of his argument is that we should seek to deal with the problem that will present itself in March, when we will be unable to renew an illegal law and people will have to be released from prison? If we limited ourselves to doing that and nothing else, we could give proper time in due course to the wider issues that he talks about.

Mr. Denham: I do not entirely agree with the hon. Gentleman, and for this reason. The law that we would have to renew in March, but which we cannot because

[Mr. Denham]

of the Law Lords' judgment, applies solely to foreign nationals. I do not necessarily believe that we have a year or two before needing to put in place a framework to deal with British citizens who might be involved in terrorism; some moves in that direction are necessary now. But I say with all due respect to my right hon. Friend the Home Secretary—he has approached this entire debate with great openness, but he needs to respond further—that although he has at no stage proposed anything that deserves the name "Executive detention", the proposal looks like that and can be presented as such. We need a proposal that cannot be described in those terms, because the wider misinterpretation of the Bill will be too damaging. Our constituents must not be made to feel that their liberties are being restricted by Executive action.

Lynne Jones: Is my right hon. Friend not concerned about paragraph 8(2) of the schedule in particular? The effect of non-derogating control orders not being subject to prior judicial decision will be that, even if an order is quashed or a court refuses to renew it, the Home Secretary will be able to exercise his power to make a new order in respect of the same matters—in whole if necessary—because he failed to achieve such an order in the first place. In other words, it is rather like the cat and mouse Act, in that the Home Secretary can keep bringing the matter back before the courts. In the meantime, the person subject to the control order has had their liberties infringed.

Mr. Denham: I cannot answer for the Home Secretary, but I believe that he said earlier that he is willing to look at the schedule's wording. However, it is a shame that that has to be done in another place, rather than here. Round-tripping of the sort that my hon. Friend describes would clearly be unacceptable, because that would be getting into the territory of Executive action untrammelled by judicial review. *[Interruption.]*

I hear a number of Members asking how I can say that the proposal does not constitute Executive detention. A process initiated by the Home Secretary, swiftly followed by a judicial process, cannot be equated with those regimes around the world in which people are locked up simply on the say so of politicians. To make that equation is to distort what has taken place; none the less, the danger that the Government must recognise is that that is how the Bill will be presented in the popular language, unless it is further amended. The only way out of this situation now is to have an initial judicial role for all types of control order.

I finish on this note. However hard we now work to get the Bill in order, it is only a stop-gap measure. It cannot provide the lasting framework that we need to deal with a problem that, I am afraid, will be with us for many years.

11.24 pm

Peter Bottomley: The right hon. Member for Southampton, Itchen (Mr. Denham) has done the House a service in talking about the Bill as part of the approach that the Government and Parliament need to adapt to the problems of terrorism and justice. One of the issues that matters to me is what happens when someone becomes subject to a control order. Who can speak for them; who can advise them; who can raise queries about them on the basis of information?

In evidence provided to the Select Committee on Constitutional Affairs six days ago, the special advocates said that they were first briefed by a man from the Treasury solicitors who was not security cleared and who was then unable to provide them with information relevant to the security problems that had to be faced. Even if we believe that 95 per cent. of the people who are fingered or targeted under the legislation are in some sense guilty or rightly suspected, let us assume that neither the Government nor their agencies are 100 per cent. correct. It seems that a special advocate, who is appointed not by the person under suspicion but by the Government, is not allowed to resign. That may be a technical issue for some people, but it really matters.

It is significant that the sort of terrorist suspect that we saw during the IRA troubles could secure a lawyer such as Gareth Peirce to establish alibis and demonstrate that suspicions were not well founded. If that is to be thrown away, I firmly believe that the House has a duty not to leave the Bill to the other place, but to call the Government, the Leader of the House and the Chief Whip to account and invite the Home Secretary to explain openly the problems that justify the approach that he is adopting in the Bill.

The truth is that some of us, probably including the Leader of the House, took pride in breaking control orders when they were applied to people in South Africa or when prevention of terrorism legislation was used to control people such as the late Reverend Beyers Naude, or when the defence and aid fund was used to channel funds from Scandinavia, north-west Europe and this country in order to defend people in South Africa. Yet the legislation that we are now proposing will prevent people from being defended in a similar way because they will not have been accused. People will not know what they have been charged with.

I put that simple point to the Home Secretary and Labour Members, including the 59 who did not vote with the Government in the Lobbies this evening, and to those who should have crept in to join the 59. I hope that those creepers will feel ashamed of themselves for their inaction this evening. Just eight more hon. Members would have changed the result of the vote. I hope that the media, who occasionally watch our proceedings, will grasp the significance of how close the Government came to defeat on a simple point of justice and law. The Government have got it wrong.

The Government should not simply pass the buck to the House of Lords. They should come back before this House and test the arguments again. They should reflect on what the Select Committee has suggested. I hope that they are strong and brave enough to improve the Bill through proper debate and agreement. They need to secure the best possible protection against terrorism without throwing justice and the tenets of democracy out with the bathwater.

11.26 pm

Mr. Fisher: I am grateful for the opportunity to speak briefly in the debate. I want to say that none of those who voted in favour of the amendment proposed by my hon. Friend the Member for Bridgend (Mr. Griffiths)

and against the Government on various other provisions are unaware of the dangers of terrorism. Indeed, I do not believe that a single Member is complacent or soft on terrorism. We are all, frankly, frightened and concerned about it. The idea that any one of us cares more about the security of this country than anyone else is a wrong-headed mistake. Every Member cares deeply, on behalf of constituents, about the security of this country and would do nothing to put it at risk.

Nevertheless, as the Home Secretary has seen, many of us remain unconvinced by the Bill or the way it has been conducted. My right hon. Friend the Member for Southampton, Itchen (Mr. Denham), whose contributions on both days have been distinguished and extremely thoughtful, was typically generous to the Government in saying that the detention orders did not really amount to Executive action. Whether my right hon. Friend is right or wrong, the Home Secretary has moved some way today. Given that he has done so, many Members are baffled about why he cannot go the whole way and move on both derogating and non-derogating orders. It is incomprehensible.

The Home Secretary was wholly unconvincing in his answers today, and it is not at all brave of me to predict that the Bill will be changed in the other place. I do not know why the Home Secretary insisted on resisting that change here, in the democratic Chamber of our Parliament, when he must know that his position is illogical and will not do. It will be thrown out, and we will back here again in a few days' time. He will then have to explain to the House why he has had to think again and why the Executive will not be involved in the decision on either type of order. It baffles me why he has not given way on that today, but I am sure that that will change. There is no point in getting heated about it, because it will change.

Many of us have been so distracted by that issue today that we hardly noticed that we did not have a chance to express our grave concerns about evidence in these matters. That part of the Bill has not even been explored. I would have thought that every Member of this House, regardless of party politics, must be concerned about somebody's liberty being put at risk without their even knowing of what they are accused. I accept that the Home Secretary will say, "Ah, these are very difficult matters. These are very dangerous people." Well, we came across those issues in Northern Ireland and nobody pretends that there is an easy call to make, but surely we can do better than we have done with this Bill? There must be avowals that we can put in place to allow a judicial process to hear the evidence and let the accused know of it—even if only in the most general way, as my hon. and learned Friend the Member for Redcar (Vera Baird) said. It is essential that someone on a charge that threatens to remove their liberty should have the right to hear the evidence against them.

Mr. Redwood: Is not there also a danger to our security if one of these orders is imposed too early on, say, a junior member of a network, before the intelligence services have learned as much as they might do and before they have evidence to bring a charge of conspiracy? We would then be in a worse position because the other members of the network would be alerted.

Mr. Fisher: I am grateful to the right hon. Gentleman, because that is a very good point. Indeed, my right hon. Friend the Member for Southampton, Itchen made a similar point. That is a concern that is shared across the House, and it is a valuable contribution to the debate.

The issue of evidence, and the accused's right to hear it, is difficult, but we must be able to do better than the present Bill. The same applies to intercept evidence. It is a difficult issue, as the Home Secretary rightly pointed out to us, but we have not really attempted to grapple with it at this stage. We must do so.

Parliament has been bounced. We have had three years to think about this issue and we have failed to do so. That is not only the fault of the Government, because Members have not bombarded the Government with demands for debates or further legislation. Many of us, on both sides of the House, knew that this issue was simmering, but we, just as much as the Government, failed to do anything. However, we have undoubtedly been bounced in the past week. The Bill was published on 22 February, and only six days later we have had a rushed Second Reading and—to the huge discredit of this Chamber—a farce of a Committee stage, in which we have not properly considered the Bill. That is what we are sent here to do by our constituents. We are sent here to scrutinise legislation and to try to make our laws good, sensible and workable. We have failed tonight.

The Government did not help by bouncing the Bill through on a ridiculous programme motion, but we had the ability to throw that out. We could have said to the Government, "Don't be ridiculous. On a Bill of this enormous constitutional importance, we cannot accept a ridiculous timetable like that." We can certainly warm our hands at the indignity of the Government, who have imposed the measure on us, but we, too, are to blame because it was in our hands to throw out that thoroughly discreditable programme motion. We are as much to blame as the Government.

Anne Picking (East Lothian) (Lab): My hon. Friend is discussing the merit and credit of the House, but does he agree that the House took a decision? He may think that the decision was discredited and that it was not what he wanted to hear—*[Interruption.]*

Mr. Deputy Speaker (Sir Michael Lord): Order.

Anne Picking: Thank you very much indeed, Mr. Deputy Speaker.

Surely to goodness, my hon. Friend the Member for Stoke-on-Trent, Central (Mr. Fisher) must agree that democracy and the majority prevailed; and as much as he disagrees with it, that is the will of the House. It was done correctly through proper procedure. There was a vote and a majority decision. What is the point in harping on about it?

Mr. Fisher: I hear what my hon. Friend says and, of course, she is right: the House voted. I was saying that the House did not think carefully enough when it voted.

[Mr. Fisher]

On Second Reading, the House was pretty empty. I made a short contribution at the end of that debate deploring the fact that so few Members were in attendance for such an important Bill. That debate was of high quality, as was the debate today, when the attendance was much better. The House comes out of that better today than on Second Reading.

Mr. Michael Jabez Foster (Hastings and Rye) (Lab): Does my hon. Friend understand how distressing and upsetting it is for Members who disagree with him intensely? Many of us fully support the Bill and have no problem with it at all. He says that no thought has been given to it, but many of us have given enormous thought to the Bill and we simply think it is right.

Mr. Fisher: My hon. Friend misses my point. The Bill is of enormous importance. It started by— *[Interruption.]*

Mr. Deputy Speaker: Order. I think we ought to finish—*[Interruption.]* Order. I think we ought at least to finish the day in an orderly manner.

Mr. Fisher: My hon. Friend the Member for Hastings and Rye (Mr. Foster) misses my point. Of course, Members on both sides of the House are entitled to vote and to believe passionately what they believe. We are all honourable Members and we have serious views. I am not complaining that my hon. Friend does not feel the same way about things as me. I am saying that the House has not had time to go into the detail of the Bill.

There is a schedule that explains how control orders work, but we have not had a moment—not even a minute—to discuss it. These are serious matters, but we have not taken them seriously. I fully respect my hon. Friend's views and opinions, but we have not scrutinised a hugely important Bill. We have not done ourselves credit.

We are sent here to scrutinise. I feel that on these Benches we have put too much blind trust in party and have not trusted enough in our own consideration. However, everybody comes to their own view. It is not yet beyond the wit of the House to get this right. The extraordinary thing about the debate is that beneath the criticism and, sometimes, the bad temper there is clearly a will on both sides of the House to get the Bill right. There were flickerings of that when the Prime Minister and the Home Secretary invited the other parties to Downing street. It is clear that everybody, because they are concerned about the threat of terrorism, wants to try to find a solution, but that will not be achieved by the adversarial process inherent in both our judicial system and the House; it must be through consensus and debate. Intercept evidence in court and other matters are difficult.

We shall not reach a solution by opposing each other. The Government must go into discussion with the other parties. I detect good will from all the other parties in the House to try to find a solution and a compromise.

I do not pay attention to the opinion polls that the Home Secretary was shoving down our throats. I do not think that the public will take it kindly if we come up with ill considered, ill-thought-out legislation. They will not respect us. We should give ourselves the time to come up with the difficult and quite subtle things that are needed to sort out these problems. I believe that we can do that, but it is ridiculous that we are now dependent on the other place. We ought to be ashamed of ourselves, and we ought to learn from this and ensure that the House insists in future on its will to have time to debate important legislation and the wit, good will and respect for one another to come to difficult, but possible, compromises.

11.40 pm

Mr. Shepherd: The good hon. Member for Stoke-on-Trent, Central (Mr. Fisher) is making a bid to become Home Secretary, but that was much more in evidence with the distinguished speech by the right hon. Member for Southampton, Itchen (Mr. Denham). However, they are confronted by the same question as all other Members are confronted with: should the Bill, as unamended, have a Third Reading? That is the question. The Home Secretary's long exegesis about the dreams that he will have down in another place is irrelevant to the vote that we take tonight. Do we, the House of Commons, approve of the Bill that we have been discussing today? It is simple as that.

Mr. Garnier: Will my hon. Friend give way?

Mr. Shepherd: I hope that my hon. and learned Friend will forgive me if I do not give way, because I want to concentrate our minds on exactly what we are doing.

If we vote for the Bill, it is an expression by the House that it believes in every clause and detail of it. All the arguments that we have heard today, including the exegesis by the Home Secretary, have demonstrated again and again in which way and what way the Bill is flawed. Some of us feel deeply and passionately that it is flawed because it touches on the very intimacy of the relationship of the British citizen to the British state. It suggests fundamentally and profoundly to many of us that the due process of law is that we should know with what we are charged, and we should be able to answer that charge before we lose our liberty. That is so profound and fundamental that the justification for change must be clear and overwhelming. That is not in the Bill.

What the Bill says relates to orders. As the hon. Member for Stevenage (Barbara Follett) so compellingly told the House last Wednesday, the pass laws of South Africa stand out as a beacon of what we should not do. The actions taken by Mr. Mugabe in pursuit of his ends or by the Burmese junta are not appropriate for this country. That passionate belief has been expounded across the Floor of the House both last Wednesday and again today, but we come back to what we do when the vote on Third Reading is called.

The Bill must not be passed even in the terms that the Home Secretary has presented us with this afternoon, when he says that this is not the Bill that the country will be presented with if it becomes an Act of Parliament. If that is the case, how can we be self-respecting and stand up for the rights and appropriateness of the House by voting for the Bill when we know that it is not the Act of Parliament that will pass? So we should, in our sense of being who we are as a Parliament, reject it.

It being one hour after commencement of proceedings on the motion, MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [23 February and this day].*

Question put, That the Bill be now read the Third time:—

The House divided: Ayes 272, Noes 219.

Division No. 104] **[11.44 pm**

AYES

Adams, Irene *(Paisley N)*
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benton, Joe *(Bootle)*
Blackman, Liz
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clelland, David
Coffey, Ms Ann
Colman, Tony
Cooper, Yvette
Corston, rh Jean
Cranston, Ross
Crausby, David
Cruddas, Jon
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mallaber, Judy
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sarwar, Mohammad
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*

Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*

Tellers for the Ayes:
Mr. Nick Ainger and Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burden, Richard
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Cohen, Harry
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flynn, Paul *(Newport W)*
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Grogan, John
Hague, rh William
Hamilton, David *(Midlothian)*
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Lloyd, Tony *(Manchester C)*
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Mahon, Mrs Alice
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Mr. Crispin Blunt and Sir Robert Smith

Question accordingly agreed to.

Bill read the Third time, and passed.

DELEGATED LEGISLATION

Mr. Deputy Speaker (Sir Michael Lord): I propose to put together the Questions on the motions on constitutional law.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation).

Constitutional Law

That the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005, which was laid before this House on 18th January, be approved.

That the draft Scotland Act 1998 (Modifications of Schedule 5) Order 2005, which was laid before this House on 9th December, be approved.

That the draft Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005, which was laid before this House on 25th January, be approved.—*[Mr. Jim Murphy.]*

Question agreed to.

NORTHERN IRELAND

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation).

That the draft Drainage (Amendment) (Northern Ireland) Order 2005, which was laid before this House on 26th January, be approved.—*[Mr. Jim Murphy.]*

Question agreed to.

REGULATORY REFORM

Motion made, and Question put forthwith, pursuant to Standing Order No. 18(1) (Consideration of draft regulatory reform orders).

PRISON OFFICERS (INDUSTRIAL ACTION)

That the draft Regulatory Reform (Prison Officers) (Industrial Action) Order 2005, which was laid before this House on 11th January, be approved.—*[Mr. Jim Murphy.]*

Question agreed to.

EUROPEAN UNION DOCUMENTS

Motion made, and Question put forthwith, pursuant to Standing Order No. 119(9), (European Standing Committees).

FINANCING OF AGRICULTURAL AND RURAL DEVELOPMENT POLICY

That this House takes note of European Union Documents No. 11557/04, draft Regulation on the financing of the Common Agricultural Policy, and No. 11495/04 and Addenda 1 to 9, draft Regulation on support for rural development by the European Agricultural Fund for Rural Development; and supports the Government's objective of encouraging and sustaining development in rural areas through diverse, competitive and sustainable farming methods, in line with Common Agricultural Policy reform already agreed in June 2003 and consistent with the wider EU's shared rural development and environmental priorities.—*[Mr. Jim Murphy.]*

Question agreed to.

BUSINESS OF THE HOUSE

Ordered,

That, at the sitting on Monday 7th March, notwithstanding the provisions of Standing Order No. 16 (Proceedings under an Act or on European Union documents), the Speaker shall put the Questions necessary to dispose of proceedings on the Motion in the name of Mr Stephen Timms relating to Future European Union Finances not later than three hours after their commencement; and the proceedings may continue, though opposed, after the moment of interruption.—*[Mr. Jim Murphy.]*

Mental Health (North-East Cambridgeshire)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Jim Murphy.]*

11.59 pm

Mr. Malcolm Moss (North-East Cambridgeshire) (Con): I am most grateful to the House for this opportunity to raise this important issue in my constituency. At the heart of this debate is the proposed closure of an elderly mental health in-patient unit with 16 beds at a facility known as the Alan Conway Court at Doddington hospital near March.

I understand the situation in which the Minister finds himself—I am most grateful to him for replying to the debate—in so far as I have been in his position. I was the Minister responsible for health in Northern Ireland for two and a half years before 1997, during which closures of hospitals and facilities came up fairly regularly, so I am fully aware of such situations and sympathise with all those from the Minister downwards who have to deal with often difficult decisions. I also recognise that the Minister's response would normally be, "That's all very well, but we devolve these decisions to the strategic health authorities and the primary care trusts, and the closure of a small hospital in someone's constituency doesn't really come within my ambit."

However, it is important that I raise the issue not just because it is very important to those in my constituency who are concerned, but because it reflects a more general situation in the health service, particularly in the provision of mental health services throughout the country. Lessons of a more general nature could be learned as a result of looking at and focusing on what has happened in this case, as there are mitigating circumstances surrounding the proposed closure. In microcosm it highlights some of the problems that are being faced and dealt with by many of those running mental health trusts throughout the country, and by those in the PCTs whose responsibility is on the one hand to deliver Government mental health policy and on the other to make extremely difficult decisions about their overall funding positions.

There are two key players in the scenario. First, there is the amalgamated Cambridgeshire and Peterborough Mental Health Partnership NHS Trust, which according to internal memorandums inherited a deficit of £2.5 million at inception. After a very short period in operation, the predicted deficit for the current financial year had risen to some £4.5 million. I have in front of me some notes from a board meeting held on 30 June 2004, which state:

"The Trust has an underlying deficit of over £4 million arising from an inherited deficit (£2.5 million) and cost pressures associated with national mental health strategy and technical and fiscal policy changes. Recent surveys show that most mental health Trusts throughout the country face the same problems . . . local funding proposals do not enable the Trust to meet its statutory obligation to achieve financial balance and to address nationally determined priority service developments without reducing some of its existing services."

So, there are two points from the board itself: cost pressures in meeting Government targets and policy changes, and the fact that it does not have the financial resources to meet them without reducing some of the existing services.

[Mr. Malcolm Moss]

The trust's financial position was complicated by its history. Its services were formerly provided by seven predecessor organisations, some of which had dissolved, such as Lifespan Healthcare NHS Trust and North West Anglia Healthcare NHS Trust, but most of which have continued to provide other services—for example, Addenbrooke's hospital and Hinchingbrooke Healthcare NHS Trust.

The process of identifying the direct and indirect costs of mental health services in those organisations was extremely complicated and it was accepted that some costs could not be released in the short term and that some might never be realisable. In January 2004, at a key meeting with the local PCTs and the SHA, it was agreed that the trust had inherited a deficit of £2.5 million and outline proposals were agreed for dealing with it.

In a written answer, I was surprised to learn that the Department of Health does not seem to realise that the amalgamation to form the new trust included not only Lifespan Healthcare NHS Trust and North West Anglia Healthcare NHS Trust, but five other hospital trusts within the county. This is the written answer that the Minister signed off:

"I am advised that Cambridgeshire and Peterborough Mental Health Trust"—

a clever use of the word "advised"—

"did not inherit any deficit from its predecessor bodies. Surpluses were reported in both 2003–04 and 2004–05".—[*Official Report*, 3 February 2005; Vol. 430, c. 1118W.]

With the best will in the world, my constituents might give a bit of fair wind to the local trusts in reaching certain conclusions, but when they see and read that the DOH does not know what is going on in Cambridgeshire, they are more inclined to think that the wrong decisions have been taken.

The second player in this scenario is East Cambridgeshire and Fenland Primary Care Trust. In the current year, it is £7.9 million below its formula funding level, which is about 6 per cent. below target, and it is been well below its funding formula target since its inception. Initially, it was funded by the area health authority, and in the past two years the DOH has funded it, but it has always had a funding shortfall. Both the two key players making the decision are stressed financially. One has got a fairly substantial deficit and the other has been trying to deliver Government policy with a 5 to 6 per cent. shortfall in its funding formula since it was formed.

I accept that the Government have recently addressed the problem of the underfunding of PCTs. It would be churlish for me not to welcome the substantial increase that the East Cambridgeshire and Fenland PCT will receive for the next two years, starting next year—our PCT has received one of the largest increases, which is welcome. At the end of those two years, however, the PCT will still be 3.5 per cent. below its funding level, which is better than 6 per cent. below, but I calculate that it will still be £7 million in deficit by 2007. That ongoing funding shortfall will not help to fund current service pressures from providers such as the mental health trust.

The reconfiguration of the area health authorities and the PCTs in my constituency meant that the new PCT inherited two in-patient elderly mental health units, one in Wisbech at the Queen Elizabeth hospital, King's Lynn, which was in the North West Anglia Healthcare NHS Trust area, and the other at Alan Conway Court, Doddington hospital, near March. Some of the problems have arisen as a result of Government policy and tinkering with the organisation of health care delivery in places such as Cambridgeshire with the development of PCTs and the reconfiguration of the Cambridgeshire Mental Health Trust. That has meant that the current PCT inherited two elderly mental health in-bed units, perhaps in the wrong geographical locations.

The trust approached all the PCTs in Cambridgeshire to help fund its deficit. Without spare funds—as I pointed out, the East Cambridgeshire and Fenland PCT was well below its funding target—it was forced to consider service reductions to help balance the books of the mental health trust. That was confirmed to me in a letter from the chief executive of the Cambridgeshire Mental Health Trust in June 2004. The proposal was to close the Alan Conway Court facility, thus saving some £500,000 in operational costs for the trust. The PCT would save some £350,000 because it would reinvest £150,000 of that £500,000 to boost the community mental health service which, as the report pointed out, was under-developed in that part of Cambridgeshire.

The report from the Cambridgeshire Mental Health Trust suggested that the decision to close the unit was predicated not solely on the requirement to save money, but on the assessment that the East Cambridgeshire and Fenland PCT area was over-provided with in-patient beds and under-provided with community mental health services. That is somewhat surprising, because a recent National Institute for Mental Health in England survey demonstrated that the trust as a whole—that is, the Cambridgeshire Mental Health Trust—has fewer acute beds than the average for the strategic health authority, and that the authority has fewer beds than the average for England. Even so, the number of people who need to be sent to expensive out-of-county placements, often outside the NHS, is comparatively low. Community staffing levels are also significantly below average. So the report from the National Institute for Mental Health in England states that although there might be more beds in one PCT area, the county as a whole is rather low on acute beds. I am puzzled why the conclusion has been reached that we could close a 16-bed unit when the evidence points in an entirely different direction.

Another important consideration is the population profile, which in the case of East Cambridgeshire and Fenland is skewed towards an elderly population. After Greater Peterborough, the PCT area had the second highest population over 65 in the whole county. It also had the highest proportion of over-65s to total population of any PCT and was also the fastest-growing group of over-65s. Perhaps the decision was based on short-termism rather than looking at the future, even the immediate future. There is a fear that the facility may be closed this year or next year, and a few years down the line we will say, "Pity we did that because we need such a facility for our growing population."

The point is emphasised by the letter I received recently from Lord Rooker, dated 18 February. I quote:

"I am writing to you in relation to the Department of Health announcement on 9 February about their revenue allocations to Primary Care Trusts for 2006/07 and 2007/08.

I have been working closely with John Hutton, Minister for Health, and we are fully committed to establishing healthy sustainable communities in the growth areas."

He continued:

"The Department of Health has now included a Growth Areas Adjustment in determining 2006/07 and 2007/08 target allocations to Primary Care Trusts in the Growth Areas that will shortly experience additional burdens from high levels of growth . . . The Growth Area Adjustment is of course one element in working out the final resource allocation for each PCT, but it is important that we give proper recognition to the needs of growing communities."

In population terms, Cambridgeshire is probably one of the fastest-growing counties in the country, with a disproportionately fast-growing elderly population. It is a very attractive area in which to settle. One can sell one's house in London or the south-east, buy a much cheaper house in the fenland area, and put the rest in the bank. Large numbers of people are retiring to the area, and they will eventually feed through into putting greater pressure on resources of this kind.

Another ingredient in the equation is the fact that when East Cambridgeshire PCT amalgamated with Fenland PCT—there are so many amalgamations going on that one sometimes gets rather confused—an arrangement was made whereby elderly, mentally infirm patients, some with dementia or Alzheimer's, would go to Fulbourn hospital on the edge of Cambridge. It is felt in my constituency that were that arrangement not in place, the facility at Alan Conway Court at Doddington could just as easily meet the requirements of some of the people who live in east Cambridgeshire. In some respects, we seem to be robbing Peter to pay Paul. The Alan Conway Court facility is to close, while the Fulbourn unit in Cambridge is sustained by the purchasing of services from the amalgamated trust.

Local people are very disillusioned with the so-called consultation process, because once it had begun they were told that they were not being consulted on whether the unit at Alan Conway Court should close, but on the implications and ramifications of such a closure. In other words, the closure seemed to be a done deal. It will therefore come as no surprise that this has left a very bitter taste.

More recently, over the past year the county council's health and social care scrutiny committee and the four former area health and social care scrutiny panels have considered in detail the mental health services in the county. The scrutiny committee said:

"The Government's National Service Framework . . . for mental health requires the development of a range of specialist community services: early intervention, crisis resolution and assertive outreach . . . There are two key challenges associated with the development of these services in Cambridgeshire."—

First:

"The need to maintain existing levels of acute provision until community services are developed, at a time of great budgetary pressure".

The second key point that it mentions is:

"The need to develop services which both comply with the requirements of the NSF and also reflect local needs and the diversity of the County."

The health and social care scrutiny committee recognised that all health partners in Cambridgeshire—the strategic health authority, the mental health trust and the four primary care trusts—operate in a context of deficit budgets for 2004–05 and severe financial constraints in 2005–06. The committee will discuss the most effective ways of lobbying nationally and at strategic health authority level for the Government to give greater priority to mental health in their guidance to primary care trusts on the allocation of funding and more national health service resources for mental health in Cambridgeshire.

A decision was made to close a relatively small in-patient unit, which is only a decade old, for dementia and Alzheimer's sufferers in the village of Doddington outside the town of March in a rural area. It was built partly with subscriptions from local people and was much respected and valued by them. More than that, it was loved by those people, who care deeply about the facility. Out of the decision to close it, partly to save money and perhaps partly to reconfigure the service with a greater emphasis on community mental health provision, we realise that there are problems nationally with mental health service provision, funding for mental health and setting centralised targets by the Government, which are not adequately funded through the system. That all creates the sort of difficulties that I outlined.

I do not expect the Under-Secretary to leap up and say that he will intervene to stop the closure. I hope that he does but I do not expect it. However, I should like him to consider some of my points. After all, when the mental health trust amalgamated, the area health authority promised that any deficits would be made good. That has not happened. We no longer have an area health authority but somebody—hopefully, the strategic health authority—should honour the commitment. With an extra £2.5 million, the closure need not go ahead.

12.22 am

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): I congratulate the hon. Member for North-East Cambridgeshire (Mr. Moss) on securing the debate and the courteous way in which he has marshalled his arguments. However, as he predicted, I must begin by disabusing him of one or two matters.

Despite what the hon. Gentleman might believe to be the case, the Cambridge and Peterborough Mental Health Partnership NHS Trust has had a balanced financial position since its formation in 2002. I readily acknowledge that that was a significant achievement, given that, as he said, seven separate organisations were merged to create the trust. We should pay tribute to the staff who achieved that.

"Shifting the Balance of Power", which is the Government's policy to shift power to local level, means that the decisions are for the local primary care trusts and the local mental health trust to make. The hon. Gentleman cited a written answer from me in which I said that the local trust "advised" me of specific facts—that is precisely what it means. I was "advised" because the decisions are no longer a matter for central Government but for the local trusts. It is up to them to balance their books and decide how they will configure their services.

[Dr. Stephen Ladyman]

By devolving funding to the front line, we have given the NHS the power to make decisions where they are best made and by the people who are best capable of making them—in the local area by local people.

The hon. Gentleman said that, on 9 February, my right hon. Friend the Secretary of State announced that £135 billion had been allocated to English primary care trusts for the financial years 2006–07 and 2007–08. The money will guarantee that the NHS continues to move forward. As a direct result of the £135 billion, the hon. Gentleman's PCT—East Cambridgeshire and Fenland PCT—will receive £179.2 million in 2006–07 and £203.9 million in 2007–08. Those figures represent a cash increase of £48.5 million or 31.2 per cent. over the two years, compared with a national average of 19 per cent.

It is worth adding that that investment is well in excess of what would have been available to the hon. Gentleman's constituents if NHS funding had been delivered using the distribution formula that we inherited from the previous Conservative Government. When he says that, even at the end of the two years, the PCT will be 3 per cent. behind target, that target is the one that this Government have set as the figure that we would like his PCT ultimately to reach. It is substantially more than the previous Conservative Government's formula would have allowed his local PCT and the local population to have.

I turn now to the level of funding available for the provision of services for those with a mental illness in North-East Cambridgeshire. First, I want to stress that the Cambridgeshire and Peterborough Mental Health Partnership NHS Trust has received an increase in its income of £18.2 million since 2002–03, which means that its income this year is £113.5 million. As I said at the start of my speech, the trust has achieved financial balance in its first two years.

The hon. Gentleman mentioned an underlying deficit of £2.5 million, or £4.5 million, depending on how people wish to express it. Since the trust has achieved, and is achieving, financial balance, I can only assume that his definition of an underlying deficit is the difference between the amount of money that the trust has to spend on services and the amount that it would like to spend on services. It is not an actual debt or deficit.

Mr. Moss: Will the Minister give way?

Dr. Ladyman: Very briefly, as the hon. Gentleman has not given me much time to respond.

Mr. Moss: This is an important point. A real deficit was inherited, and it built up. Otherwise, why would the mental health trust call in the PCTs and tell them that if it did not receive additional funding from them, it would have to cut services to save money, which is what happened in the East Cambridgeshire and Fenland PCT?

Dr. Ladyman: My understanding is that there might have been a notional inherited debt from the merger. However, it has accrued year on year, so it has not been necessary for the PCT to eat into that sum of money in any particular year. The fact is that the trust is achieving financial balance and it will relieve the debt of £2.5 million—or £4.5 million, whichever it is—by disposing of unwanted assets over a period of time.

That is very different from suggesting that Alan Conway Court is part of the reconfiguration of the services. Indeed, the PCT and the trust have suggested to me that, irrespective of any saving that they might achieve from Alan Conway Court, they would still want to carry out the reconfiguration. That is because they want to put money into providing services for people in their own home. People do not want to be put into that type of facility nowadays, so the PCT and the trust want to increase the level of service available to people at home. That is why the reconfiguration is taking place, and the money that will be saved by it will be put to that purpose.

As I said earlier, it is our policy that local NHS bodies should decide the priorities for local services. They have the specific knowledge and expertise to make those decisions, and that is very much the case with Alan Conway Court's in-patient facility. I stress that Alan Conway Court is not closing; it is only the in-patient facility that is being closed under the proposals. It is my understanding that the PCT and the mental health partnership trust have conducted a 10-week joint public consultation process relating to the reconfiguration of mental health services for older people in the area, which concluded in December 2004.

The options included closing the Alan Conway Court in-patient facility and consolidating in-patient beds at Rowan Lodge. Doing this will allow investment in the community mental health team. This proposal is not driven by any cash limitations, real or imagined. I am advised by the mental health trust that, even if it had an endless pot of money, it would still be reconfiguring the services that it provides, in order to provide services in people's own homes—

The motion having been made after Ten o'clock, and the debate having continued for half an hour, MR. DEPUTY SPEAKER *adjourned the House without Question put, pursuant to the Standing Order.*

Adjourned accordingly at twenty-nine minutes past Twelve o'clock.

House of Commons

Tuesday 1 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

PRIVATE BUSINESS

LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL *(By Order)*

Order for Second Reading read.

To be read a Second time on Tuesday 8 March.

Oral Answers to Questions

FOREIGN AND COMMONWEALTH OFFICE

The Secretary of State was asked—

Iran

1. **Mr. Win Griffiths** (Bridgend) (Lab): Whether he plans to visit Tehran in the next two months to discuss with the Iranian Government their adherence to international treaties and conventions. [218392]

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw): I have no immediate plans to visit Tehran. The Government continue to urge Iran to comply with its international obligations. I discussed Iran's responsibilities under the nuclear non-proliferation treaty with Dr. Hassan Rouhani, the secretary-general of Iran's supreme national security council, on 13 December. The Under-Secretary of State for Foreign and Commonwealth Affairs, my hon. Friend the Member for Harlow (Mr. Rammell), raised Iranian adherence to international human rights treaties with the Iranian ambassador on 7 February.

Mr. Griffiths: I thank my right hon. Friend for that answer, although I am disappointed that he is not going to visit Tehran before the general election. I remind him—he well knows this—that the Government's annual human rights report for 2004 shows continuing deterioration in the human rights conditions in Iran. The rights of religious minorities, especially the Baha'i, continue not to be respected.

The United Nations rapporteur's report on freedom of expression from more than a year ago has still not been implemented. The July visit of the UN rapporteur on enforced disappearance had been cancelled and no new time arranged. In 2003 there were more than 100 public executions—

Mr. Speaker: Order. The question is far too long.

Mr. Straw: I wonder if I could correct my hon. Friend the Member for Bridgend (Mr. Griffiths) in one respect: there is to be no general election in Iran in the near future, but there will be presidential elections on 17 June. It remains to be seen whether I can get there before then. I am sure that that was what he had in mind.

My hon. Friend raised an important and serious point about Iran's human rights record, which has been poor in a number of significant respects—it has gone backwards, not forwards. We continue to raise the issue in every way, including through negotiations following the Paris agreement in mid-November and the agreement between the three Foreign Ministers and Dr. Rouhani in mid-December.

Mr. Peter Luff (Mid-Worcestershire) (Con): I am grateful for what the Foreign Secretary said about human rights issues. Can he confirm that although the Christian faiths enjoy recognition in Iran at least nominally—there is massive discrimination against Christian churches—the Baha'i faith enjoys no such recognition, with particularly important implications for access to higher education, for example. Will he raise that point with the Iranian ambassador?

Mr. Straw: I can confirm that I shall raise that point, not only with the Iranian ambassador but with the Iranian Foreign Minister when I next see him.

Mr. Tam Dalyell (Linlithgow) (Lab): In a week when the new Iranian ambassador is going on Wednesday, Thursday and Friday to Scotland, at the beginning of his ambassadorship, basically on good will, does the Foreign Secretary accept that in Scotland the Iranian ambassador will be warmly received by the university of Edinburgh and others, and that there are many people with connections with Iran who want better relations with Iran?

Mr. Straw: Yes, I do and I know—in fact, I have just learned and should have known before—that my hon. Friend is rector of one of the oldest universities in the United Kingdom. I appreciate the work of the new Iranian ambassador. We have diplomatic relations with Iran and we wish to see them improved. I hope that my hon. Friend and all those whom the new ambassador meets in Scotland will not only pass back, through His Excellency the ambassador, the United Kingdom's desire further to strengthen relations with Iran in every particular, but say that, in addition to the nuclear dossier, it is the Iranian regime's human rights record that is a serious bar to significant improvement in those relations.

Sir Teddy Taylor (Rochford and Southend, East) (Con): Would it not be easier for the Government to persuade the Iranians to go along with them if American troops were not providing protection for the Mujaheddin-e-Khalq terrorist organisation, at Camp Ashraf in Iraq? We should bear in mind that the MKO is a proscribed terrorist organisation with an appalling record of killing individuals in Iran.

Mr. Straw: The MEK is a proscribed organisation; indeed, as Home Secretary I proscribed it in the first batch of proscriptions following the Terrorism Act 2000. There are changes in the position of MEK and I should be happy to brief the hon. Gentleman in detail

about that. There has been more co-operation, as I think he may have been informed, between the coalition forces in Iraq and the Government of Iran in respect of MEK, which is a nasty terrorist organisation that has to be contained.

European Constitution

2. **Mr. Julian Brazier** (Canterbury) (Con): If he will make a statement on scope for the revision of the proposed constitutional treaty for the European Union. [218394]

The Minister for Europe (Mr. Denis MacShane): The text of the EU constitutional treaty has been agreed by the Heads of State and Government of all EU member states. It is now being approved, according to the constitutional requirements of each member state. The text of the treaty can be amended only by an intergovernmental conference. No such IGC is in prospect.

Mr. Brazier: Given that the Government have signed all six European Union asylum directives, will the common asylum policy prescribed by the treaty become mandatory for us, or will there still be scope for us to opt out of it?

Mr. MacShane: Of course we have an opt-out on the application of that part of the treaty. I believe that the directives to which the hon. Gentleman refers allow the United Kingdom, for the first time, to send so-called asylum shoppers back to other EU member states, and about 200 are being sent back each month. That is something achieved by this Government after the utter failure of the Conservative party, which left us with the whole problem of Sangatte. Without that co-operation in Europe, we would be much worse off.

Mr. Kelvin Hopkins (Luton, North) (Lab): Do we not now have something of a pick-and-mix European Union? Would it not have been easier to disaggregate the treaty before now, specifically taking out all the components relating to the eurozone? Given that only a minority of member states belong to the eurozone, would that not have made my hon. Friend's campaign for a yes vote easier?

Mr. MacShane: My campaign to ensure that Britain does not isolate itself by repudiating the treaty would be made a lot easier if my hon. Friend supported me occasionally.

The treaty contains references to enhanced co-operation within a framework of rules. I thought that that was once the policy of the Conservatives, but they are now going so fanatically down the Rothermere road of rejecting Europe and reverting to the isolationism of the 1930s that there is no hope of support from them. I hope that my hon. Friend and I will be on the same platform when this big question is debated next year.

Mr. William Cash (Stone) (Con): Does the Minister accept that at present, but only at present, it is open to Parliament to ensure that it retains its right to legislate on its own terms—subject, of course, to the question of a referendum? Does he accept that that is because the new treaty revokes all the existing treaties and laws and reapplies them under the primacy of the constitution and under a new jurisdiction of the European Court of Justice? Does he accept that that is not the original primacy of 1972, and that we now face a fundamental change? That is why the Government have now had to accept a referendum. The new primacy undermines the supremacy of Parliament, and is the real reason why a referendum became essential.

Mr. MacShane: I warmly welcome the hon. Gentleman's contribution. It is an important and refreshing change for him to admit that the primacy of the European Court of Justice was established in 1972, after a lengthy debate in the House. It is very helpful of him to reaffirm that.

I remind the hon. Gentleman—perhaps you could remind all Members, Mr. Speaker—that this House is supreme. We could leave Europe, and we could revoke treaties when we want to. I very much doubt that that would be good for Britain, for British business and for British jobs, but it will be tested in the general election, in the House when we finally debate the Bill, and of course in a referendum, when the British people will not follow the isolationist passions of the hon. Gentleman and his party.

Mr. Graham Brady (Altrincham and Sale, West) (Con): We know the real reason why the Government agreed to a referendum, and we know of the rather colourful advice that the Minister gave the Foreign Secretary, because he has put it on record elsewhere.

Last week the German Europe Minister described the EU constitution as the "birth certificate" of a united states of Europe. That contrasts starkly with the claim of Ministers here that it is a simple codification of existing treaties. Does the Minister understand that most British people now think the Government are being dishonest about the constitution? If he is serious about wanting a debate on Europe so that he can put his case, why has the European Union Bill had no Committee stage? Will there be a Committee stage before Easter, or was the Second Reading three weeks ago just a cynical ploy?

Mr. MacShane: The Conservatives insisted that we bring the treaty and the referendum to the House in the form of a Bill. We have discharged that duty; now what the Conservatives requested over a long period has become "a cynical ploy".

I read the account in the *Daily Mail* of the German Europe Minister's speech in the Bundestag. I was amused to read today that in the 1930s Lord Rothermere was writing letters to Adolf Hitler telling him to invade Romania and make one of his sons King of Hungary. At that time, the *Daily Mail* loved Nazi Germany; today, it hates democratic Germany. Mr. Bury has said time and again that he wants a Europe of states and citizens, and the idea that anyone in Germany wants to be run from Brussels any more than we do is ganz Unsinn—complete and utter nonsense.

Zimbabwe

3. **Mr. Michael Jack** (Fylde) (Con): What representations he has made to the Zimbabwe Government on the conduct of the next general election in Zimbabwe. [218395]

The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Chris Mullin): I summoned the Zimbabwe ambassador on 22 February to object strongly to the continued intimidation of the media and Opposition. I made it clear that we wanted to see free and fair elections, and that these developments augured badly. We had a robust exchange.

Mr. Jack: I am pleased that the Minister is making some representations, because I have yet to see anything seriously tangible to suggest that the elections in Zimbabwe will be fair. In the past two years, four newspapers have closed down and a new law has been proposed to attack civil society, in contravention of agreements at African level that civil society is important to democratic elections. Given the resources that were mobilised in Iraq to ensure that the democratic voice of the people was heard, what similar forces will be deployed to ensure that all those in Zimbabwe have their say in their general election?

Mr. Mullin: No, we are not going to invade Zimbabwe. Indeed, the right hon. and learned Member for Devizes (Mr. Ancram) ruled that out some time ago. I agree with most of what the right hon. Member for Fylde (Mr. Jack) had to say, however. We see no sign that Zimbabwe is preparing for a fair election. As in the past, the electoral register contains thousands of ghost voters, while many people who are entitled to vote have been left off it. The registrar general is refusing to provide the Opposition with an electronic version of the register that can be checked. Journalists are being harassed, independent newspapers suppressed and opposition meetings broken up. As I say, we see no sign that Zimbabwe is preparing for a free election. We are watching closely and we shall not hesitate to share what we find with the right hon. Gentleman and the wider world.

Hugh Bayley (City of York) (Lab): The British Government have been in the lead in expressing opposition to Mr. Mugabe's regime, but does my hon. Friend agree that if we really want to influence events in Zimbabwe, it is important for us to work with other Commonwealth and African countries? It would have a much greater impact on events if we worked in common with others, instead of appearing to be the old colonial power acting on its own.

Mr. Mullin: My hon. Friend is absolutely right. His words are very wise, and Opposition Members would be wise to heed them. In the past month, we have succeeded in persuading the European Union to roll over the sanctions against Zimbabwe for a further 12 months. I wonder whether a Tory Government, with their policy of isolation in Europe, could have persuaded the other 24 members of the EU to achieve a similar result. I somehow doubt it.

Sir Peter Tapsell (Louth and Horncastle) (Con): Have this Labour Government explained to Mr. Mugabe the splendid opportunities for electoral fraud offered by the widespread introduction of postal voting?

Mr. Mullin: No, we have not. When it comes to electoral fraud, there is not a lot we can teach Mr. Mugabe.

Ann Clwyd (Cynon Valley) (Lab): As my hon. Friend knows, the Inter-Parliamentary Union human rights commission has met representatives of the Zimbabwe Government on several occasions to discuss the imprisonment and harassment of many existing Members of Parliament in Zimbabwe. Will my hon. Friend tell us in what conditions Mr. Roy Bennett and other Members of Parliament in Zimbabwe are now being held? The last account that we had was that they were pretty dire, and I wonder whether he has had any further news on the situation.

Mr. Mullin: I have no up-to-date information about the prison conditions of Mr. Roy Bennett. He is in prison and has been barred from standing again in the election. As far as I know, he is the only serving Member of Parliament to be imprisoned in Zimbabwe. My hon. Friend might be interested to know that his wife proposes to stand in his place.

Rev. Martin Smyth (Belfast, South) (UUP): The EU's decision is welcome, but has the Minister had any consultation with other African countries to see whether they are in a position to observe the election, and whether they are in a position even now to see what is happening, as it is close to the day of the election?

Mr. Mullin: That is an important point. There is a lot that other African countries can do. We are looking in particular for the Southern African Development Community delegation to observe the credibility of the election. That will be a test of the credibility of SADC as well as that of the Zimbabwe Government. SADC has laid down some clear guidelines, and we hope that it will insist on those being adhered to. It is also important that election monitors examine the entire process, not just the event on the day, so that they can take account of whether circumstances exist in Zimbabwe for a free election to be held. As I said, that is a test of SADC's credibility as much as of that of the Government of Zimbabwe.

Mr. Michael Ancram (Devizes) (Con): Given the Foreign Secretary's vocal support for democratic elections in Iraq and Ukraine, what is the reason for his deafening silence on Zimbabwe's coming election? With opposition candidates being beaten up, newspapers banned and politicians rather than judges imprisoning political opponents such as Roy Bennett, quiet diplomacy and quiet words with the high commissioner for Zimbabwe are simply not enough. What will the Government do to protect the democratic rights of the people of Zimbabwe from Mugabe's tyranny?

Will Mugabe once again, for the third time under this Government's watch, be allowed to laugh in the face of democracy while this Government walk by on the other side?

Mr. Mullin: We are always in the market for constructive suggestions, but we do not hear many from the right hon. and learned Gentleman and his hon. Friends. All that we hear is a great deal of huffing and puffing, which will not make the slightest difference—indeed, it plays straight into Mr. Mugabe's hands, as one of the planks of his electoral platform is that the opposition in Zimbabwe are British stooges. Of course that is not the case, but every time the right hon. and learned Gentleman and his hon. Friends start making their mouths go, it rather gives that impression. He is well aware that we have not been at all silent on what is going on in Zimbabwe. *[Interruption.]* The hon. Member for Altrincham and Sale, West (Mr. Brady) asks what we have achieved. One thing is the rollover for another 12 months of European Union sanctions. As he knows, we have also played a leading part in trying to get the United Nations interested in what happens in Zimbabwe.

Iran (Nuclear Programmes)

4. **Mr. Michael Moore** (Tweeddale, Ettrick and Lauderdale) (LD): If he will make a statement on Iran's nuclear programme. [218396]

6. **Tony Lloyd** (Manchester, Central) (Lab): If he will make a statement on progress in negotiations with Iran concerning the development of nuclear technologies. [218398]

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw): The aim of the work undertaken by the French and German Foreign Ministers and by me, since summer 2003, has been to ensure that Iran's nuclear programmes are for peaceful purposes only. Following the November 2004 Paris agreement, senior officials are now involved in detailed negotiations to pin down objective guarantees about Iran's nuclear activities and in respect of technological and economic co-operation and political and security issues.

Mr. Moore: I am grateful for the Foreign Secretary's statements. Both sides of the House will agree about the undesirability of Iran obtaining a nuclear weapons capability. Certainly, we support the diplomatic efforts of the United Kingdom, France and Germany in seeking to prevent that from happening. Is he alarmed, however, that as yet it does not appear that the International Atomic Energy Agency is getting unfettered access to all potential nuclear sites? Does he agree that that must put in jeopardy the closer economic ties that we all want?

Mr. Straw: As I understand it, the access of the IAEA to Iran's nuclear sites has generally been satisfactory, but in some cases it has not been. Iran is required to comply with the terms of the nuclear non-proliferation treaty and its own safeguards agreement with the IAEA. It has also signed but not yet ratified the additional protocol that requires extra inspections. Whether Iran gives proper access to the IAEA will most certainly be one of the factors that the agency's board of governors will weigh in the balance when it comes to consider its next steps.

Tony Lloyd: May I congratulate my right hon. Friend on his role in pushing forward these important talks, as there is no doubt that a nuclear-armed Iran would be a driver of nuclear proliferation throughout the region? However, does he accept that Iran has legitimate security concerns? It has nuclear neighbours within the region and faces a potential conventional threat from those on its own borders. Within that context, would not it make sense to bring together the international community to say that some form of security guarantee was needed for Iran within a stabilised region? Obviously, Iran would have to be a player within that security framework, but security guarantees might help to ease the pressures that Iran itself faces.

Mr. Straw: Iran, like any other nation in the region, has security concerns, but none of its concerns—I am pleased to hear my hon. Friend endorse this—would justify its acquisition of nuclear weapons, which would make the security of the whole region, including Iran, significantly worse, not better. We accept its security interests; security has been one of the aspects of the discussions that have followed the Paris agreement in November and of the discussions that the three Foreign Ministers, including myself, had with Dr. Rouhani in December. But Iran has to take steps itself, and one of the most important that it could take to improve the security of the whole region would be to accept a two-state solution in respect of Israel and Palestine and to acknowledge Israel's right to exist, as required by UN Security Council resolutions.

Richard Ottaway (Croydon, South) (Con): With the Israelis alleging that the Iranians will have a nuclear weapon within six months, the situation is clearly getting serious. I accept the Foreign Secretary's assertion that verification is key, but does he accept that it is not just the E3 who must be satisfied with verification, but the United States?

Mr. Straw: I have seen these reports, but not their provenance. Our discussions with the Iranians are based on their failure to make disclosures in accordance with their safeguards agreement under the non-proliferation treaty. That has been well recorded, including in a Command Paper that I presented to the House, and is based on suspicions about the dual use of Iran's nuclear activities. There is no concrete evidence that Iran is developing nuclear weapons; let me make that clear to the House. I accept that in addition to the E3—France, Germany and the United Kingdom—we must involve all the other partner members of the IAEA board of governors, including the Russian Federation, whose Foreign Minister I met this morning, and especially the United States, whose Secretary of State I shall be seeing this afternoon.

Llew Smith (Blaenau Gwent) (Lab): Does the Secretary of State accept that the Government will be guilty of double standards if we continue to lecture Iran

on meeting its obligations under the non-proliferation treaty while failing to meet our own obligations, particularly article 6, under which we are committed to negotiate away—in good faith and at an early date—our nuclear weapons, something we are failing to do?

Mr. Straw: I do not accept what my hon. Friend says; the factual basis of his question is simply wrong. Under article 2 of the non-proliferation treaty, we are allowed to hold nuclear weapons. That applies to all five permanent members of the Security Council as so-called "nuclear weapons states", in contrast to all others, who are categorised under article 4 as "non-nuclear weapons states". Moreover, there is a requirement for gradual but multilateral progress towards full-scale nuclear disarmament. We have taken more steps than any of the other permanent members of the Security Council. We are also involved in constructive discussions on the forthcoming review conference on the non-proliferation treaty.

Mr. Malcolm Savidge (Aberdeen, North) (Lab): My right hon. Friend's role, together with his two European counterparts, in the delicate negotiations with Iran over non-proliferation deserve full support. Does he welcome the evidence that the Bush Administration are becoming more supportive? Does he agree that it would be helpful if they considered supporting any positive incentives that Europe might offer to Iran?

Mr. Straw: I am grateful to my hon. Friend for his opening comments. Let me make it clear that we have worked closely from the very start with the United States Administration, who have a key interest in this issue. The US is a permanent member of the Security Council, as are we, and at each stage it has actively backed the resolutions passed unanimously by the IAEA board of governors. I look forward to the collaboration and co-operation with the US Government in respect of Iran—as in respect of so many other issues—continuing.

European Constitution (Spanish Referendum)

5. **Mr. Wayne David** (Caerphilly) (Lab): If he will make a statement on the recent referendum in Spain on the constitutional treaty for the European Union. [218397]

7. **Keith Vaz** (Leicester, East) (Lab): If he will make a statement on the result of the Spanish referendum on the constitutional treaty for the European Union. [218399]

The Minister for Europe (Mr. Denis MacShane): The EU constitutional treaty is good for Britain and for the rest of Europe. While referendums are of course a matter for each individual state, we are pleased that Spain has approved the treaty in its referendum.

Mr. David: I thank the Minister for that reply, but does he agree that one lesson to be learned from the referendum campaign in Spain is that if any Government—including this one—take a decisive lead in arguing for a yes vote, a yes vote will be secured? Is he also aware that St. David was a good European?

Mr. MacShane: My hon. Friend is wearing proudly on St. David's day the sign of the leek—*[Interruption.]* I meant to say the daffodil. All the founding members of the great kingdoms of the United Kingdom were fine Europeans and he is right: it is for the Government of the day to take a lead on this issue. No sensible British citizen, business or voluntary organisation that reads this short but powerfully written treaty will want to do anything other than endorse it wholeheartedly.

Keith Vaz: The Minister for Europe will recall that when the previous Conservative Government signed the Maastricht treaty, qualified majority voting was extended in a number of areas, as will be the case under this constitution. An analysis of the votes on the European Council shows that whenever that method is used, Britain is almost always on the winning side. Does he not agree that the extension of QMV is fully in line with Britain's reform agenda—as he pointed out in Sheffield's *The Star* last Saturday and in *Le Figaro* yesterday—and that it is extremely important that we make sure that that agenda is also part of Europe's reform agenda?

Mr. MacShane: If I may return from that fine European flower the daffodil, my hon. Friend is of course right: the substantive move to QMV happened under the Single European Act. Not a single part of this now open market of 450 million people buying British goods and services would have been possible without the very significant move to QMV that former Prime Minister Lady Thatcher initiated. Of course, the other big shift happened under the Maastricht treaty. It is a sign of the sadness and bankruptcy of the Conservatives that, having given birth to QMV to advance British interests, they are now resiling from a measure that is absolutely essential to ensuring the open playing field in Europe for British businesses that we all want.

Mr. Paul Goodman (Wycombe) (Con): Before the Minister gets too carried away with the result in Spain, will he simply remind the House of the percentage of Spanish people who actually voted in the referendum?

Mr. MacShane: It was considerably more than the percentage who voted in the local government elections in the hon. Gentleman's constituency, considerably more than the percentage who voted for the European Parliament Tory candidates in his region, and a bit less than the percentage who voted in the US election. Some 42 per cent. voted, and the large majority secured within that figure shows that Spain has achieved the right result. I also welcome the ratification in Lithuania, Slovakia and Hungary, which I will be visiting later today. I shall convey to our Hungarian friends the Conservative party's opposition to their ratification of the treaty. The hon. Gentleman might care to reflect on the extent to which his party is isolated from every other Christian Democratic and Conservative party in Europe.

Mr. David Drew (Stroud) (Lab/Co-op): Does my hon. Friend accept that if there is not a decent vote in favour of the treaty in this country, the legitimacy of the whole process will be open to question? Should we consider, in the time-honoured way, whether there should be a minimum turnout level in order to give some legitimacy to our referendum?

Mr. MacShane: I am not an expert on my hon. Friend's constituency, but I would caution him against setting minimum levels of participation under British constitutional theory and practice. Let us not forget that the treaty will be debated and voted on in the House of Commons. It will be a matter for discussion and debate during the forthcoming general election, when sensible patriotic candidates who support Britain in Europe will, I think, gain a handsome majority. When the referendum comes, there will be a clear yes vote. In my many years in politics I have enjoyed counting huge majorities, but I am always happy just to win.

Mr. Michael Ancram (Devizes) (Con): Given the Minister's welcome of the result of the Spanish referendum, what is his real view of Prime Minister Zapatero's comment at the time that, under the constitution,

"We will undoubtedly see European embassies in the world, not ones from each country . . . We will see Europe with a single voice in security matters."

At the time, the Minister described that on the radio as a "complete myth", but was not his friend the Spanish Prime Minister merely daring to tell a truth that the Minister and the Foreign Secretary are desperately trying to hide from the British people?

Mr. MacShane: If the right hon. and learned Gentleman were to say to the President of France, the Chancellor of Germany, or indeed the King of Spain, that their foreign policies would be decided in Brussels, he would be laughed out of Paris, Berlin and Madrid. Spanish, British, French and German embassies are not going to close. I am not responsible for what Mr. Zapatero says in Spanish—

Mr. Ancram: He is your friend.

Mr. MacShane: He is indeed my friend, and I believe that it is important to have friends in Europe. Perhaps at some time in the future the Conservative party might find some—other than the French Communist party and all the other loony nutters who are opposed to Europe. Under the treaty, foreign policy is decided by unanimity and there is nothing in it that works against British foreign policy goals.

Mr. Ken Purchase (Wolverhampton, North-East) (Lab/Co-op): Does the Minister agree that during the post-war period in which European unity and co-operation has developed, Britain has managed to avoid signing any treaty until it became pretty obvious that it was the sensible thing to do, at which point we have started to squirm? A little later, when it becomes inevitable, we sign—but always too late to have made a real impact on the value of that treaty to the British nation.

Mr. MacShane: If my hon. Friend is talking specifically about European Union treaties, he is right. However, we were present in shaping this particular treaty from the very beginning. I shall not waste the House's time reading out a list, but in much of the continental media, it is described as "la constitution anglo-saxonne", or even as a Blairite constitution, which is why it is so popular across the channel. The Government have taken a key lead in defining and shaping this constitution and ensuring that it works both to advance British interests and to enhance peace, stability and democracy in today's Europe and, I hope, in tomorrow's world.

Sir Patrick Cormack (South Staffordshire) (Con): Will the hon. Gentleman tell the House clearly whether it is the Government's intention that the Bill that secured its Second Reading some weeks ago will be brought back for its Committee stage before Easter?

Mr. MacShane: That is obviously a matter for discussion among the usual channels. I can speak only for myself, but I would be delighted to debate any of the Bill's provisions further. It is for the hon. Gentleman to ascertain from his Front-Bench colleagues whether they are prepared to help find time for this important issue.

Bolivia

8. **David Taylor** (North-West Leicestershire) (Lab/Co-op): If he will make a statement on recent political developments in Bolivia. [218400]

The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Bill Rammell): Bolivia faces many challenges. The Government support President Mesa's efforts to achieve a national consensus on reducing social conflict and taking the country forward. We remain committed to working in support of democracy in Bolivia and to promoting the country's economic and social development.

David Taylor: Bolivia is south America's poorest country, but the last regime made the situation worse by caving in to World Bank pressure to privatise water and sewerage services in exchange for financial assistance. Following huge public demonstrations, that privatisation has been reversed and the protesters now have ending the privatisation of electricity, gas and oil in their sights. Does my hon. Friend agree that to coerce the acquisition by foreign companies of an impoverished nation's vital resources is often morally wrong and economically pointless? It is also politically undesirable, in that it can destabilise poorer countries and weaken a nation's democratic control over its affairs.

Mr. Rammell: I do not believe in coercion, but neither do I agree that the private sector should never be involved in delivering essential natural resources, whether in Bolivia or elsewhere. One of the problems in Bolivia is that although the state water industry is effective at reaching existing markets, it is not very effective when it comes to securing the investment and resources needed in poor areas in marginalised parts of the country. Bolivia desperately needs foreign investment, and we are concerned to ensure that it gets it. Our aid programme, and in particular the debt relief announced recently by my right hon. Friend the Chancellor of the Exchequer—in which Britain is taking the international lead—will help to create the backdrop to the successful reform that Bolivia desperately needs.

Lebanon

9. **Mr. Iain Luke** (Dundee, East) (Lab): If he will make a statement on the political situation in Lebanon. . .
[218401]

The Minister for Trade and Investment (Mr. Douglas Alexander): Since the bomb attack that killed former Prime Minister Rafik Hariri on 14 February, Lebanese opposition politicians have worked closely together to demand a full investigation into the attack and the full implementation of the Taif accord. On 28 February, in the face of public protests following the attack, including a general strike, the Lebanese Government resigned. As my noble Friend Baroness Symons of Vernham Dean made clear when she visited the Lebanon last week, the UK urges all parties in Lebanon to implement United Nations resolution 1559, which supports the sovereignty of Lebanon and the exercise of its rich tradition of democracy.

Mr. Luke: I am sure that my hon. Friend the Minister and the House as a whole share my concern for Lebanon and its democratic institutions after the brutal assassination two weeks ago of former Prime Minister Hariri, and yesterday's resignation of Prime Minister Karami. Other concerns centre around the continued presence in Lebanon of Syrian intelligence forces. As a member of the Inter-Parliamentary Union delegation to that beautiful country last year, I was privileged to see the economic and political progress that has been made there since the end of the civil war. Will my hon. Friend do all that he can to ensure that that progress is maintained and improved on?

Mr. Alexander: I concur that real progress has been made in Lebanon. Our compass to guide us forward is UN Security Council resolution 1559, which made it clear that there should be respect for that country's sovereignty, territorial integrity, unity and political independence. It urged all remaining foreign forces to withdraw and called for the disbanding of all Lebanese and non-Lebanese militias.

Angus Robertson (Moray) (SNP): The European Commission has approved a new aid package worth €50 million for Lebanon in 2005–06. Does the Minister agree that the best trade and development guarantees between the EU and Lebanon arise through the upholding of democracy and independence in that country?

Mr. Alexander: I assure the hon. Gentleman that we are working closely with EU partners in respect of the UN Security Council resolution to which I referred, and also in respect of the ongoing aid and development support. Democracy is important, and that is why we were keen to support the resolution when it came before the UN.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): Lebanon has a long history of trouble as a result of foreign interference. Does my hon. Friend the Minister agree that means that we must work with the EU, the UN and other international bodies to achieve a framework in that country that will enable free and fair elections to be held, and a degree of stability to be secured?

Mr. Alexander: I concur that international organisations have an important role to play, not least in respect of the investigation of the assassination that took place this month. That is why we welcome the steps taken by the UN Secretary-General in that regard.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): News emerged yesterday that elections are to be held in Lebanon and, as the hon. Member for West Bromwich, West (Mr. Bailey) said, they must be free and fair. Does not that make it all the more urgent that UN Security Council resolution 1559, and the comments by UN Secretary-General Kofi Annan that Syrian troops should be withdrawn by April at the latest, are acted on?

Mr. Alexander: I certainly concur that it is important that the terms of that Security Council resolution should be taken forward, and I understand that those issues are being discussed with EU partners and others at the margins of today's important meeting in London. In addition, the same points were made forcibly by my colleague Baroness Symons when she visited Lebanon last week.

David Cairns (Greenock and Inverclyde) (Lab): May I draw my hon. Friend's attention to the situation in southern Lebanon, where the writ of the Lebanese Government has not run for years and which is under the control of Hezbollah, which uses its position there regularly to launch attacks into northern Israel? As well as encouraging Syria to withdraw its regular troops from Lebanon, should we not also encourage it at every opportunity to desist from giving financial and military support to Hezbollah?

Mr. Alexander: The British Government have proscribed Hezbollah's external security organisation as terrorist, and we take every opportunity to make clear the importance of ending terrorism from whatever source and directed towards whomsoever in the middle east.

Mr. Mark Simmonds (Boston and Skegness) (Con): The Opposition welcome yesterday's resignation of the pro-Syrian Government in Lebanon, although we are concerned about the potential for instability in both Lebanon and the regime in neighbouring Syria. If Syria does not withdraw from Lebanon—thus failing to comply with UN Security Council resolution 1559—continues to back terrorists in the middle east and Iraq, fails to plug its porous borders and fails to disarm the Hezbollah militia in Lebanon, how will the Government assist the US in enforcing the UN resolution?

Mr. Alexander: I would not want to anticipate all those circumstances, because clearly, work continues to avoid them. The Syrians have recently withdrawn a number of troops from Lebanon—of course, that is to be welcomed—but we are clearly of the view that the terms of the Security Council resolution should be upheld. As for the hon. Gentleman's concern about instability, I understand that the Prime Minister of

Lebanon will form a caretaker Administration while President Lahoud consults on a new Administration, and we are certainly committed to supporting the opportunity for the Lebanese people to have their say in democratic elections in due course.

Middle East

10. **Mr. John MacDougall** (Central Fife) (Lab): What assessment he has made of the measures the new leadership of the Palestinian Authority is taking to prevent terror attacks being launched against Israel. [218402]

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw): I am sure that I speak for the whole House in condemning utterly the terrorist outrage in Tel Aviv on Friday last, in which four Israelis were killed and many more were injured, and in sending our condolences to the Government and the people of Israel.

The new President of the Palestinian Authority, Mahmoud Abbas, condemned that outrage in unequivocal terms last Friday, and he did so again at this morning's meeting of the London conference, which is being held at the Queen Elizabeth II centre, across Parliament square. In his opening address to that conference, President Abbas set out his plans greatly to improve the Palestinian Authority's security structures, with help from the international community. Co-operation with the Israeli security services has already been significantly strengthened.

Mr. MacDougall: I thank my right hon. Friend for that reply. He mentioned affairs in Tel Aviv on Friday, which suggest an inability to tackle the terrorists effectively and directly—a requirement that must be addressed. Indeed, he also mentioned today's conference. Can he give an assurance to the House that that conference has resulted in comprehensive international scrutiny of, and therefore support for, the Palestinian Authority in their efforts?

Mr. Straw: The conference is still continuing, but I shall ensure that once it is concluded, the formal resolution conclusions of the conference are made available to the House immediately. Part of the draft conclusions are about better support by the international community—including the United Kingdom, which is playing a leading role in this respect—for the security sector reform of the Palestinian Authority. The expectation by the whole international community, and by the Government of Israel in respect of the Palestinian Authority, is that the Authority and its security services make every effort to control terrorist organisations operating in the occupied territories, but the expectation cannot be that there will be no terrorist outrage from the occupied territories, because it needs to be understood that those terrorist organisations, while their main and immediate aim is the killing of innocent Israelis, are also seeking to undermine the authority of the democratically elected Palestinian Authority.

Sir Menzies Campbell (North-East Fife) (LD): I am sure that the Foreign Secretary agrees that nothing, but nothing, justifies a suicide bomb of the kind that was detonated in Tel Aviv, particularly if there is evidence to suggest that that atrocity was instigated or even encouraged by another country in the region. He is right to remind us there are those who reject any proposals for a peace settlement and will take any action they consider may have that result. On the eve of today's important meeting, the Foreign Secretary was reported as having endorsed the need for a full-scale peace conference. Does he agree that it is essential to maintain the momentum? When might we expect a full-scale peace conference?

Mr. Straw: The endorsement of an international peace conference is not something that happened yesterday; that endorsement has long been the position of the British Government following our support for the road map, which has in phases 2 and 3 the need for such an international conference. A theme of the discussions that I heard before coming to the House for Question Time was the need for the conference, and for it to be held as soon as possible. I am afraid that I cannot give the right hon. and learned Gentleman or the House an exact time scale, because that depends on progress. However, the quicker the progress on the matters laid out in the first phase of the road map—that is essentially the agenda for today's discussion—the better the confidence between Israel and the Palestinians will be, and the more quickly we can get on to such conferences in phases 2 and 3.

Mrs. Louise Ellman (Liverpool, Riverside) (Lab Co-op): What steps can my right hon. Friend the Foreign Secretary take to undermine support for rejectionist groups such as Hezbollah and Hamas? Is he prepared to take stronger measures against support for such organisations in this country?

Mr. Straw: I was the Home Secretary who proscribed the military wings of Hamas, Hezbollah and Islamic Jihad. Whether the remaining activities of those organisations can be proscribed is an evidential matter, not a matter of the Government's intention. The issue is being kept under close and active review by my right hon. Friend the Home Secretary.

Mr. Michael Ancram (Devizes) (Con): May I associate the Conservative party with the Foreign Secretary's words of condemnation of the horrific suicide bombing in Tel Aviv last week?

We welcome the meeting that is taking place in London. Support for Mahmoud Abbas is crucial at this pivotal time. Can the Foreign Secretary assure Mahmoud Abbas that so long as he is committed to peace and the eradication of terrorism we will stand firmly by him? Can he go further, and offer assistance in pursuit of the sponsors and armourers of the suicide bombers, whose sole intention is the sabotage of the peace process? Would he be prepared to propose an international initiative on the ground within the west bank to help Mahmoud Abbas to crack down on terrorist activity?

Mr. Straw: I am grateful for the right hon. and learned Gentleman's initial remarks and his support for the London meeting. We are doing what I believe he anticipates—giving a great deal of practical financial

support to the Palestinian authority so that it can improve its security apparatus. I saw that when I visited the UK-financed and trained staff of the control room in Ramallah. We are ready to do more, as, I believe, are the United States Government. It is one thing to improve operational capacity on the ground in Gaza and, more importantly, the west bank. However, alongside that, we are engaged in serious discussions with some of Israel's neighbours, particularly Syria and Iran, about their need not to be equivocal in respect of those organisations that the rest of the world regards as terrorist organisations, and to end whatever support they are giving to Hamas, Hezbollah and any other rejectionist organisations.

Mr. Ernie Ross (Dundee, West) (Lab): I agree with everything that my right hon. Friend has said, and I remind the House that one way of dealing with rejectionist forces is to improve the lot of the Palestinians in the west bank and Gaza. Does my right hon. Friend agree that the sooner we can conclude the conference and move the agenda forward for ordinary Palestinians, the more likely they are to go along with us in the actions necessary to stop the people whose sole objective is to destroy peace?

Mr. Straw: I completely agree with my hon. Friend. His remarks echo those made this morning by Jim Wolfensohn, head of the World Bank, who in an eloquent address to the London meeting said that economic development requires security, but that security requires economic and social development. The more quickly we can raise the living standards of everyone in the area, the better security will be.

Turkey

11. **Bob Russell** (Colchester) (LD): What recent discussions he has had with the Turkish Government on their wish to join the EU. [218404]

The Minister for Europe (Mr. Denis MacShane): The Government strongly support Turkey's bid to join the EU. The Secretary of State is in regular contact with the Turkish Government on its EU aspirations, and I will visit Turkey in a few days to discuss those and other matters.

Bob Russell: Will the Minister confirm that it is the UK Government's position that until such time as Turkey brings its human rights record in line with the rest of Europe, and in particular makes its Kurdish citizens equal within its borders, we will not support Turkey's application to join the EU?

Mr. MacShane: We are supporting Turkey's application precisely because it has made massive strides in improving human rights for Kurds, journalists and others. Perhaps the news from Istanbul has not reached Colchester, but I assure the hon. Gentleman that considerable improvements have been made in, for example, education and broadcasting in Kurdish. Efkan Ala, the governor of Diyarbakir, the main Kurdish city, said that the majority of Kurds saw a fully democratic Turkey within the European Union as offering the best prospect of guaranteeing their democratic rights. Perhaps if the governor were invited to Colchester, the hon. Gentleman would learn something to his advantage.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): Can my hon. Friend point to any serious research that has been done to evaluate the social and economic impact on the EU and the UK of Turkey joining the EU? Has his Department commissioned any such research, and if so, may we know about it?

Mr. MacShane: The European Commission has undertaken research and the Turkish Government have undertaken extensive research, as have several Turkish universities to whose staff I have had the pleasure of talking. I am happy to try to convey some of what they told me to my hon. Friend. We believe strongly that a Turkey that is oriented towards Europe and embraces the European values of democracy, the rule of law and the open market will be a powerful addition to British national interests, which want stability in that part of the Mediterranean and Black sea world. We urge Turkey to stay the course of continuing reforms and raising its game. Turkey in the EU is an enormous prize for all of us who value that relationship, especially as it will involve a largely Muslim country showing that a Muslim population can live fully within the norms of democracy, under the rule of law and with respect for human rights.

GCHQ

12. **Mr. Laurence Robertson** (Tewkesbury) (Con): If he will make a statement on security provisions at GCHQ. [218405]

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw): Senior management and all staff at GCHQ take security very seriously, and so do I. The security provisions are subject to constant review, although the hon. Gentleman would not expect me to go into too many details.

Mr. Robertson: I thank the Foreign Secretary for that response. I am sure that GCHQ is better able to assess the potential threat than I am, but in an era when we rightly see London as a possible target for terrorist attacks, I remind the right hon. Gentleman—although I am sure that he does not need it—that the GCHQ building is very conspicuous and is also close to a small airport. The building is just outside my constituency, but thousands of my constituents work there. It must be considered a potential terrorist target, and I trust that the Foreign Secretary will take all the measures necessary to protect it.

Mr. Straw: I readily acknowledge the hon. Gentleman's constituency interest as so many of his constituents work there. We are grateful to them, and to the others who do so, for the important national task that they undertake. The building is obvious; I have visited it on several occasions, and from the earliest stages have discussed its security and the possible risks. Although the other buildings were lower and not such a landmark, they too were obvious. Of course, as part of

the continuous security review, both the prospect of penetration through the perimeter of the building and risks from local airfields are taken into account.

Middle East

13. **Mr. Anthony Steen** (Totnes) (Con): When he last met the Israeli Foreign Minister to discuss the situation in the middle east; and if he will make a statement. [218406]

The Secretary of State for Foreign and Commonwealth Affairs (Mr. Jack Straw): I last met Israeli Foreign Minister Silvan Shalom during my visit to Israel on 24 November 2004. We continue to engage closely with the Israeli Government at all levels, including in preparation for today's London meeting on supporting the Palestinian Authority.

Mr. Steen: In order to show solidarity with the Palestinian Authority against the terrorist threat to their security, will the right hon. Gentleman use the London conference as an opportunity to add Hezbollah in its entirety to the UK list of terrorist organisations? Will he press the EU to do likewise, because the organisation is not on its list at all?

Mr. Straw: As I said in answer to an earlier question, this is not an issue of intention, because it is all a matter of evidence. The Terrorism Act 2000, for which I had ministerial responsibility, laid down clear procedures for proscription. I might say, in recalling last night's interesting debate, that the House is quite right to impose specific obligations on Secretaries of State and to make provision for the judicial review of decisions in such circumstances. Such decisions cannot be taken capriciously or without evidence, even though people say to us, "We know that the whole of Hezbollah is a terrorist organisation." That is not enough in the British system, with a Government who are proud of introducing the Human Rights Act 1998, and who live by that Act every day of their existence.

Points of Order

12.31 pm

David Winnick (Walsall, North) (Lab): On a point of order, Mr. Speaker. I know that you can in no way be held responsible for the questions that appear on the Order Paper, but do you accept that it is unfortunate that we have not had the opportunity today to express our strongest condemnation of the butchery that happened yesterday when more than 100 Iraqis were murdered and, at the same time, to say that the murderous gangsters responsible will not triumph in the end?

Mr. Speaker: The hon. Gentleman will know that questions are picked at random, which is why the opportunity did not arise.

The hon. Gentleman raised a matter about "Yesterday in Parliament" a week ago after reading a diary piece. I have now received word from the BBC that the diary piece was completely untrue. Perhaps that reinforces my case that we should always watch what we read in the papers and take it with a pinch of salt.

Sir Patrick Cormack (South Staffordshire) (Con): On a point of order, Mr. Speaker. Given that the Foreign Secretary is still in the Chamber, could you possibly arrange for him to meet the Home Secretary so that he can explain to the Home Secretary how the House of Commons should be handled?

Mr. Speaker: I understand that they meet on a regular basis.

Mr. John Bercow (Buckingham) (Con): On a point of order, Mr. Speaker. While the Foreign Secretary is still in the Chamber and willing and able to give us his attention, do you agree that in light of the fact that the question on Sudan, which would have allowed contributions on the subject of Darfur, was not reached, it would be immensely helpful if the Foreign Secretary or the Prime Minister were minded to come to the House to make a statement about the continuing crisis in Darfur, which has both a humanitarian and a human rights character? Millions of people may wonder why, in the course of an hour, we were unable to debate a matter of the most momentous magnitude for the future of that country.

Mr. Speaker: The hon. Gentleman is trying to extend Question Time.

David Winnick: On a point of order, Mr. Speaker. I accept entirely what you said about "Yesterday in Parliament", but I want to get the record straight. Obviously, reports of the butchery that occurred appeared in newspapers, but no one has contradicted the fact that more than 100 Iraqis were murdered. I hope that you, Sir, were not indicating—I am sure that you were not—that the matter that I raised on a point of order did not take place.

Mr. Speaker: I was not doing that. The hon. Gentleman raised a point of order a week ago, so I thought that I would bring him up to date while I had the opportunity.

BILL PRESENTED

Small Renewable Energy Developments (Permitted Development)

Mr. David Drew, supported by Mr. David Chaytor, Alan Simpson, Mr. Andrew Stunell, Norman Baker, Mr. John Horam, Mr. Simon Thomas, Sue Doughty, Mrs. Patsy Calton and Peter Bottomley, presented a Bill to require the Secretary of State to extend permitted development status to small renewable energy developments and issue guidance to planning authorities in connection with such developments; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 15 April, and to be printed [Bill 67].

Bus Services (Quality Contracts Schemes)

12.35 pm

Mr. Paul Truswell (Pudsey) (Lab): I beg to move,

That leave be given to bring in a Bill to amend the requirements for making quality contract schemes under the Transport Act 2000.

The Bill is born out of a tale of two cities. One is London, where bus services were never deregulated. The other is any other city—or, for that matter, town, village community or neighbourhood—in Britain. Bus services outside London were deregulated in 1986 by the then Conservative Government. Since then, quality and standards have fallen dramatically. Fares have gone up by almost 50 per cent. in real terms, and the number of passengers has fallen by more than one third in my area of West Yorkshire. It is a typical picture. In regulated London, on the other hand, patronage has increased by one third.

Deregulation means that bus companies can pick and choose what services they provide. They are free to make profits while providing a poor service. Week in, week out, services are chopped, changed, missing or late. Passengers suffer or they vote with their feet. Bus use outside London fell again last year, by 3 per cent. In this deregulated system, there is little that passengers, communities, MPs, councillors, local authorities or passenger transport executives can do to make private bus companies maintain or improve their services. The result is that many people have been denied a reliable and affordable bus service to work, to school and college, to shops, to health centres and to hospitals.

Let me quote just one letter, which I received today by coincidence, from one of my constituents, Mrs. M. Jubb, to the managing director of First Leeds. It says:

"Dear Mr. Graham

I am writing once again to plead with you to give us back our early morning . . . bus service down Hough Side Road.

I cannot tell you enough that you are causing so much misery to myself and my neighbours in the Hough Side area. Please come and walk down Hough Side Road or up Hough Side Lane at 6.30 in the morning, keeping in mind the people who use these buses are women. I am sure you would agree with me that these buses are essential to us especially in winter time.

I know that these days everything is about keeping shareholders happy. I cannot however believe that you make so much . . . money"

that

"just bypassing these 4 stops down Hough Side Road"

is acceptable. That letter is not unusual; it is typical.

When we ask operators to reconsider bus service cuts, we can summarise the response—appropriately—with two fingers. First, they say that the services are not profitable, and secondly, they suggest that we ask Metro to subsidise them. One private operator, Arriva, summed up its approach with admirable but brutal honesty when it said:

"Outside London our approach, to what is currently a mature market, is to focus on a twin-track strategy of targeting investment to deliver growth and eliminating low margin and loss-making routes."

Trimmed of its business-speak, that could be the epitaph etched on the tombstone of so many local services.

The decline affects everyone, not just passengers. Poor services mean increased car use, which creates even more congestion, pollution and road safety hazards in our communities. Other modes of transport, such as rail and tram, have a role to play, but buses provide three quarters of local passenger transport journeys, and among lower income groups, the proportion is even greater.

Quality contracts already exist under the Transport Act 2000 and operate to good effect in London, where services were never deregulated. Bus use in regulated London increased by nearly 10 per cent. last year. Outside the capital it fell by 3 per cent. On average, bus companies make 7.5 per cent. pre-tax profits in London, but 15 per cent. in PTE areas.

My Bill would make it easier for PTEs like Metro in West Yorkshire to introduce quality contracts. They would specify the routes, the quality and the performance of bus services over a wider area. Bus operators would have to tender for these contracts, rather than being able to cherry-pick. Services could then be properly monitored and better safeguarded. At the moment, the conditions that the PTEs have to satisfy to implement a quality contract are much too severe. My Bill would reduce that barrier.

So far, no quality contract proposals have been submitted to the Secretary of State. That is mainly because the legislation requires such proposals to surmount a number of formidable obstacles before they can be approved by the Secretary of State. A quality contract must satisfy three conditions. First, the proposed scheme must implement the policy set out in the proponent's bus strategy; that is fair enough. Secondly, it must represent value for money in terms of economy, efficiency and effectiveness; again, that is a fair test. Thirdly, it must be the "only practicable way" of implementing the relevant policies in the strategy. That last test is far too onerous. The present system has failed to provide customers with a basic, reliable and affordable bus service. The bus operators have had 19 years to show that they can work in partnership, but they have failed.

The Transport Act 2000 requires PTAs and local authorities to demonstrate that their proposals are "economic, efficient and effective". That should be the main test. In any case, the final power to grant a quality contract rests with the Secretary of State, not the local authority. The "only practicable way" test is superfluous and is discouraging the local intervention that the Government seek to promote in the provision of bus services.

In the four years the 2000 Act has been on the statute book, no local authority has sought to use these powers. When one does, it is inevitable that its proposals will be tested through the courts, given the severity of the test that it has to meet. Moreover, the process is lengthy and complex. Realistically, it would take two and a half years to introduce a quality contract under the 2000 Act, even with the shortening of the process recently introduced by the Government. Although that move is welcome, it will not alter the fundamental problem of the legislation, which dictates a lengthy, complex and difficult process whereby the "only practicable way" test remains a formidable and unnecessary obstacle to the

delivery of better bus services. It remains a steeplechase with a huge first fence; it is not enough simply to reduce the length of the course.

Partnership, which is the Government's preferred way forward, has worked to a degree in some areas, including parts of Leeds, my own city. However, partnerships invariably involve special circumstances that cannot be replicated easily, particularly in northern city regions served by PTEs. One example is that of West Yorkshire Metro's guided bus projects, where patronage growth of 50 per cent. has been achieved. But these are isolated examples where it suits the operators to engage. PTEs are completely dependent on local monopoly providers who choose to act responsibly and to take a long-term view, and that is far from the norm.

Yes, we do need partnership where it can work, and we must continue to invest in it where it delivers, with operators who are prepared to take a long-term view, but we also need much tighter regulatory intervention, which the Bill would help to achieve. It would take away the requirement on PTAs and local authorities to demonstrate that quality contracts are the "only practicable way" to implement their statutory bus strategies.

This Bill is dedicated to the millions of passengers, including my constituents, who have seen their services decline and disappear over the past 19 years and fares increase by 50 per cent. in real terms, and who have waited in vain in all weathers for bus services that increasingly arrive late or not at all, and which, when they do turn up, are provided by increasingly shabby vehicles. I commend the Bill to the House.

Question put and agreed to.

Bill ordered to be brought in by Mr. Paul Truswell, Mr. Dennis Turner, Mr. David Clelland, Mr. Clive Betts, Mr. George Howarth, Mr. Graham Stringer, Mr. John Grogan, Colin Burgon, Mr. Fabian Hamilton, Mr. Colin Challen, Mr. John Battle and Mr. George Mudie.

Bus Services (Quality Contracts Schemes)

Mr. Paul Truswell accordingly presented a Bill to amend the requirements for making quality contract schemes under the Transport Act 2000: And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 68].

Orders of the Day

Constitutional Reform Bill *[Lords]*

[3rd Allotted Day]

Considered in Committee [Progress, 1 February].

[Sylvia Heal in the Chair]

[Relevant Documents: First Report from the Constitutional Affairs Committee, Session 2003-04, HC 48-I and 48-II, on Judicial appointments and a Supreme Court (court of final appeal), and the Government's response thereto, Cm 6150; and the Third Report, Session 2004-05, HC 275-I and 275-II, on the Constitutional Reform Bill [Lords]: the Government's proposals.]

Clause 8

Head and deputy head of criminal justice

12.45 pm

Mr. Dominic Grieve (Beaconsfield) (Con): I beg to move amendment No. 360, in page 4, line 29, at end insert 'in England and Wales'.

The First Deputy Chairman of Ways and Means (Sylvia Heal): With this it will be convenient to discuss the following amendments:

No. 352, in page 4, line 34, at end insert 'in England and Wales'.

No. 353, in clause 9, page 5, line 2, at end insert 'in England and Wales'.

No. 354, in clause 9, page 5, line 4, at end insert 'in England and Wales'.

Mr. Grieve: I have a slight impression of living in the Chamber at the moment, but I hope that the afternoon will be a little more tranquil than yesterday.

The amendments are probing; they were designed, as the Minister will see, to write it into the Bill that when we are talking about a head and deputy head of criminal justice or a head and deputy head of family justice, we are dealing with England and Wales. I realise that that is what the Minister intends us to be dealing with. I certainly did not read the Bill as suggesting that we were covering Northern Ireland. I just wondered whether that should be clarified and whether there was any harm in not clarifying it.

It is noticeable that when clause 7 refers to the president of the courts in England and Wales it makes explicit to whom we are referring. While Scotland does not bother me, in the sense that it is a completely different jurisdiction, it seems to me that the amendment might just tidy up the Bill somewhat.

The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. Christopher Leslie): I echo the comments made by the hon. Member for Beaconsfield (Mr. Grieve). I am looking forward to a tranquil but quite long afternoon, looking at the weight of business in front of us.

Clauses 8 and 9 create new judicial leadership roles in criminal and family justice, namely, the head of criminal justice and the head of family justice. The first role will

[Mr. Christopher Leslie]

be exercised by the Lord Chief Justice or a person appointed by him. The second role will be exercised by the president of the family division. Those new offices will exist in the judicial system of England and Wales only. In Scotland, such responsibilities are the preserve of the Lord President of the Court of Session, and new equivalent clauses are being tabled for Northern Ireland.

While I understand the rationale for the amendments, I do not think that they are necessary, not least because clause 119 explicitly states that clauses 7, 8 and 9 extend only to England and Wales. There can be no possible ambiguity with the present titles in view of the extent provisions; they can apply only in the judicial system of England and Wales. The amendment would cause more confusion, as the statutory title Head of Civil Justice, which is established separately under the Courts Act 2003, does not refer to England and Wales. That title is not "Head of Civil Justice in England and Wales", even though it extends only to England and Wales.

So, first, as it is not necessary because of the nature of clause 119 and, secondly, for the sake of consistency with other statutory titles in the Courts Act 2003, I hope that the hon. Gentleman will recognise that the amendments are not necessary.

Mr. Grieve: I am grateful to the Minister for his response. I accept his comments, and will ask in a moment for leave to withdraw the amendment.

The Minister alluded to the size of the scrutiny that we have to carry out this afternoon. At the risk of straying a little from the precise matter under discussion, I should like to put it on record that it is unsatisfactory that we should have to consider hundreds of Government amendments at a late stage in the proceedings on the Bill. That is not because the amendments are contentious; many of them are not. However, their sheer volume makes proper scrutiny extremely difficult. I hope the Minister will take that back when considering how Bills are proceeded with in future.

Mr. Leslie: I understand the position taken by the hon. Gentleman and I hope that in the course of today's business, which has broadly been agreed through the usual channels, we will be able to focus on matters of substance. The great majority of the amendments are consequential or supplemental to other principal aspects of the Bill. I hope we will not neglect debate on any signal or important aspects, and I do not anticipate that that will be the case.

Simon Hughes (Southwark, North and Bermondsey) (LD): I had not intended to make my comment at this stage, but as the issue has been raised, I shall do so. I have been observing progress on the Bill from a distance. My hon. Friend the Member for Somerton and Frome (Mr. Heath) has been doing the work and sends his apologies today. I am trying to catch up and deal with it. That gave me a chance to reflect on the huge number of amendments.

I make two observations. I accept that many are drafting and tidying-up amendments, and there are not many significant amendments. That will be reflected, I anticipate, by the relatively small number of votes today. However, if at this stage in the Bill we are dealing with so many amendments, of which almost all are Government amendments, that shows how necessary it is for Bills of constitutional significance to receive proper consideration. This is such a Bill, and it was considered at length in the House of Lords. Amendments such as those that we are debating, relating to the names of courts, whether they refer to England and Wales as well as Scotland, or whether they have United Kingdom titles, were debated and rightly so, because the courts have different names and traditions in different parts of the United Kingdom.

The Bill is a constitutional measure and we are giving it relatively good scrutiny, even though there is so much to amend at a late stage. That contrasts with the Bill that we considered yesterday, which was about the substance, not the process, of what the courts do. On that we had almost no chance for debate on.

The First Deputy Chairman of Ways and Means: Order. I have allowed the debate to go a little wide of the amendments before us. The remarks that have been made will be noted. I hope that we can now confine our remarks to the amendments under discussion.

Simon Hughes: I respect that, of course. I was trying to be careful about mentioning the names of courts, to make sure that I was well and truly in order, but I shall come back to that.

This is a small debate, which is quite proper, about the title of courts and the title of people in the courts. I hope we will learn the lesson that we need to give greater consideration to matters of substance, which are much more important.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): I could make a similar comment about the sheer quantity of Government amendments, which cover provisions from the 16th century to the 20th century amending other statutes. That presents a practical problem for those who have to deal with it, and further illustrates the folly of trying to abolish the office of Lord Chancellor on a Thursday afternoon and discovering that it takes about a year to find out the vast extent of his functions.

The amendment relates to courts in England and Wales, and it is apposite to remind ourselves that we are not looking sufficiently carefully at the different implications of the legislation for England and Wales and for Scotland. I point out by way of illustration that it became clear at a Committee hearing this morning that the sort of powers conferred later in the Bill to make court rules for Northern Ireland, for example, do not arise from this Bill or from the Prevention of Terrorism Bill, which we discussed yesterday. It will not be possible for the Government to make rules imposing Special Immigration Appeals Commission procedures on the Court of Session in Scotland. In drawing attention to an England and Wales element in the present clause, the Conservative Opposition have usefully reminded us that we need to be careful about the different ways in which the two pieces of legislation impact on the different jurisdictions of the United Kingdom.

Mr. Grieve: I am grateful to the right hon. Member for Berwick-upon-Tweed (Mr. Beith) for his comments.

which echo the reasons why I saw fit to highlight the issue. I also agree with the hon. Member for Southwark, North and Bermondsey (Simon Hughes). Subject to those matters, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: No. 25, in page 4, line 37, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

Question proposed, That the clause, as amended, stand part of the Bill.

Mr. Leslie: I spoke earlier about the creation of the new judicial leadership roles and how, in clause 8, the head and deputy head of criminal justice are being created. I do not feel that I need to comment further.

Mr. Grieve: I welcome the creation and formalisation of the positions of deputy heads. In practice we have had a deputy head of criminal justice. There is ample evidence to show that that post was badly needed because of the over-burdening of the Lord Chief Justice with administrative work and the management of the courts. A deputy head of family justice has recently been created and I have no doubt that that is a desirable move as well. The formalisation of those posts is a sensible move, which I welcome.

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9

HEAD AND DEPUTY HEAD OF FAMILY JUSTICE

Amendment made: No. 26, in page 5, line 7, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

Question proposed, That the clause, as amended, stand part of the Bill.

Mr. John Bercow (Buckingham) (Con): I hope I am not too late to ask the Minister a question about subsection (3), which at least in part replicates a provision of clause 8. I do not feel the need to expatiate at length on this important matter. I know that you, Mrs. Heal, will be relieved by that, as will the Minister, my hon. Friend the Member for Beaconsfield (Mr. Grieve) and representatives of the Liberal Democrats. It is purely a quizzical inquiry on my part.

Subsection (3) tells us that the Lord Chief Justice must not appoint a person under subsection (2)—that is, a deputy head of family justice—unless two conditions are met. One of those conditions is that the Minister has been consulted. I cannot criticise the subsection on the grounds that it is verbose. It is not. It is extremely short and pithy. However, I would welcome an explanation from the Minister as to exactly what that consultation must embrace. Is it a case of consulting the Minister and being guided by him or her, or is it simply a formal process of informing the Minister of the wish of the Lord Chief Justice, satisfying the Minister that that person is not of suspect character, and the decision then resting? I should like to be clear about what exactly is entailed. It is a very innocent inquiry, as are most of my inquiries, Mrs. Heal, as I am sure you will testify.

1 pm

Mr. Leslie: The hon. Gentleman is indeed exceptionally innocent and we love him for that, or at least I used to think that it was an endearing characteristic. Clause 9(3) contains the requirement for the Lord Chief Justice to consult the Lord Chancellor on who may be a suitable person for appointment as deputy head of family justice. It is apposite that the hon. Gentleman raises that matter because, at many other points throughout the consideration of the Bill, we will look at the difference between consultation and concurrent agreement between the Lord Chief Justice and the Lord Chancellor. The concordat between the two has in many ways framed the partnership that forms so much of the Bill.

In short, consultation does not require the Lord Chancellor or the Lord Chief Justice to do what the other expressly wishes to happen—it is a consultation—but the spirit of partnership will prevail. There will be an expectation that the one will seriously consider the views of the other party. Ultimately, however, the decision, as the clause sets out, rests with the Lord Chief Justice. I hope that that helps the hon. Gentleman to elaborate on that point, and I am grateful to him for raising it.

Mr. Bercow: I am satisfied.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10

POWERS TO MAKE RULES

Question proposed, That the clause stand part of the Bill.

Mr. Leslie: Clause 10 introduces schedule 1, which provides for the transfer and amendment of functions relating to rule-making powers that are not made by rule committees but which are currently conferred on the Lord Chancellor alone. The making of rules of procedure for courts is clearly a judicial matter and the power will transfer to the Lord Chief Justice as detailed in schedule 1. However, the Lord Chancellor must have involvement in rules that may impact on his duty to ensure the efficient running of the administration of the court system. Therefore, as agreed with the Lord Chief Justice, his concurrence will be required.

The Lord Chancellor will also have a more general power to require changes to be made to existing rules, or to make new rules to achieve a desired outcome. That mirrors the proposals for rules made by rule committees.

Question put and agreed to.

Clause 10 ordered to stand part of the Bill.

Schedule 1

POWERS TO MAKE RULES

Amendments made: No. 27, in page 54, line 12, leave out 'Minister' and insert 'Lord Chancellor'.

No. 28, in page 54, line 24, leave out 'Minister' and insert 'Lord Chancellor'.

No. 29, in page 54, line 25, leave out 'Minister' and insert 'Lord Chancellor'.

[Mr. Leslie]

No. 30, in page 54, line 26, leave out 'Minister' and insert 'Lord Chancellor'.

No. 31, in page 54, line 29, leave out 'Minister' and insert 'Lord Chancellor'.

No. 32, in page 54, line 30, leave out 'Minister' and insert 'Lord Chancellor'.

No. 33, in page 55, line 3, leave out 'Minister' and insert 'Lord Chancellor'.

No. 34, in page 55, line 9, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

Mr. Leslie: I beg to move Government amendment No. 490.

The First Deputy Chairman: With this it will be convenient to discuss Government amendment No. 370.

Mr. Leslie: These are purely technical amendments to schedule 1 and are consequential to amendments made elsewhere in the Bill in relation to the Lord Chancellor's rule-making powers. Amendment No. 490 to section 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1996 clarifies that the rule-making power under section 5(1) of the Act is to be exercisable in accordance with the rule-making procedure under section 5(6), rather than the procedure under section 5(2).

Section 65(3) of the Mental Health Act 1983 relates to the exercise of jurisdiction of mental health review tribunals, subject to rules made by the Lord Chancellor under that Act. The Bill currently repeals the reference in subsection (3) to rules made "by the Lord Chancellor". Following reinstatement of the Office of Lord Chancellor, that reference will remain correct, and amendment No. 370 ensures that it is not repealed. I hope that these technical changes will stand in the Bill.

Mr. Beith: It is perhaps an opportune moment to point out that, whereas schedule 1 makes provision for the Lord Chief Justice or a judicial officer nominated by the Lord Chief Justice with the agreement of the Minister to make designated rules, the legislation that went through the House like a dose of salts yesterday goes in the opposite direction and gives the Lord Chancellor the power to make rules, subject to consultation with the Lord Chief Justice in matters relating to the subject matter of that Bill.

The schedule applies only in England and Wales. To exercise any rule-making power in relation to Northern Ireland, the Lord Chancellor has to bring forward a statutory instrument, which I think requires an affirmative order. The situation in Scotland is different again, in that he has no power to make rules and indeed the Government have no power to enforce upon the Court of Session any particular set of rules. It is a bit puzzling that, on Monday, we gave the Lord Chancellor responsibility to make rules subject to consultation with the Lord Chief Justice, while on Tuesday we are affirming that it is the Lord Chief Justice who makes rules subject to the agreement of the Minister.

Perhaps the Under-Secretary of State for Constitutional Affairs, the hon. Member for Shipley (Mr. Leslie), could reflect on that point and throw a little light on the situation.

Mr. Grieve: I endorse what the right hon. Member for Berwick-upon-Tweed (Mr. Beith) has said. It is central to the Government's proposals, as I see them embodied in this Bill, that there should be no suggestion of political ministerial interference in the way in which rules of court are drawn up. The Government were certainly proposing yesterday a form of judicial process for dealing with those against whom there was suspicion of being implicated in terrorism. It is very strange that in yesterday's Bill the formula that was proposed for the rules being made should be so different from the one the Minister is now properly putting forward.

I hope that the Minister will be able to respond to that point. It seemed axiomatic from the presence on the Front Bench yesterday of the Under-Secretary of State for Constitutional Affairs, the hon. Member for Tottenham (Mr. Lammy), that there had been at least discussion with the Department for Constitutional Affairs in relation to yesterday's anti-terrorism Bill. I hope that the Minister will take the opportunity, as we are in a discursive frame of mind, which perhaps yesterday was difficult to pursue, to explain why he is going down this sensible route, while in an area where it would appear that a judicial process of some description is being set up, he is not following it.

Ross Cranston (Dudley, North) (Lab): I think that the correct position is that, under the Bill that was considered yesterday, the Lord Chancellor has discretion to formulate the first set of rules, but under schedule 1 to this Bill, if the Lord Chancellor does not do that, those rules will be made in the ordinary way. Certainly, subsequently, once those rules are launched, they will be dealt with by amendment and by substitution in the ordinary way. The argument that is being advanced is not relevant to the Bill that we are considering.

Mr. Beith: I encourage my good colleague on the Select Committee on Constitutional Affairs and the Minister to reflect on one further point. In order to achieve what the hon. and learned Gentleman has just described for the purposes of the Prevention of Terrorism Bill, the Lord Chancellor could have simply relied on the schedule that we are now discussing. I do not understand why it was felt necessary to include those provisions yesterday. Paragraph 5(1) of schedule 1 allows the Minister to give the Lord Chief Justice

"written notice that he thinks it is expedient for designated rules to include provision that would achieve a purpose specified in the notice."

That seems to go directly to the situation that we have in the other Bill. The Lord Chancellor may be concerned that certain kinds of evidence need protection and therefore the rules of the court may have to preclude the person who is the subject of the proceedings being fully aware of the evidence against him, or even of what he is charged with or described as having done. A specified purpose could be put in the notice. In order to protect national security, the rules must make provision for certain parts of the evidence not to be disclosed. That is

quite a controversial provision. It did not need the sledgehammer of yesterday's legislation to do that, because the Minister has provided for it in the schedule. I refer again to paragraph 5(1):

"This paragraph applies if the Minister gives the Lord Chief Justice . . . written notice that he thinks it is expedient for designated rules to include provision that would achieve a purpose specified in the notice."

Why is that not good enough?

The First Deputy Chairman: Order. I remind hon. Members that we are today discussing the Constitutional Reform Bill.

Mr. Leslie: I understand that there is a sort of overflow of feeling from yesterday's proceedings on the part of some hon. Members, although I have to admit in my defence that I was not the Minister for the Prevention of Terrorism Bill. Therefore I will not be drawn into that, not least because we are talking about Government amendments Nos. 490 and 370, which are pretty far removed from that point. However, I understand the issue that has been raised.

My hon. and learned Friend the Member for Dudley, North (Ross Cranston) is correct. He rightly explained that the arrangements that are set out in the Prevention of Terrorism Bill, which we discussed yesterday, are special. In any case, my understanding is that the rule-making arrangements in that Bill, for example, are UK-wide, not just England and Wales-wide, and that the same approach is taken with respect to the similar UK-wide rules in the Constitutional Reform Bill. If I am wrong, I apologise in advance to the right hon. Member for Berwick-upon-Tweed (Mr. Beith).

Mr. Beith: The Lord Chancellor confirmed in open session this morning that the powers in the Prevention of Terrorism Bill, as opposed to those that we are discussing now, are not UK wide. That is to say that no Minister has the power to direct the Court of Session to have certain rules. That provision simply does not exist and the Lord Chancellor confirmed as much today, so the Minister may be basing his argument in such a complex area on a mistaken premise.

Mr. Leslie: I will certainly defer to the judgment of my superior, the Lord Chancellor. As one of his junior Ministers, I would not seek to demur from his judgment. My general point, which was not related to the Prevention of Terrorism Bill, was that there are slight differences between UK-wide rule-making arrangements and England and Wales-wide arrangements, and that those are set out in different provisions in the Constitutional Reform Bill. I understand and hear what hon. Members say on that, but ultimately I do not think that that affects the validity of Government amendments Nos. 490 and 370.

Amendment agreed to.

Amendment made: No. 370, page 56, line 26, leave out paragraph 15. — *[Mr. Leslie.]*

Schedule 1, as amended, agreed to.

Clause 11

POWERS TO GIVE DIRECTIONS

Question proposed, That the clause stand part of the Bill.

Mr. Leslie: The clause introduces schedule 2, to which there are substantive amendments later and which provides for the transfer of functions in connection with practice directions.

As with rules, the making of practice directions for courts and tribunals is clearly a judicial matter and that power will transfer from the Lord Chancellor to the Lord Chief Justice. However, the Lord Chancellor must have some involvement in practice directions that may impact on his duty to ensure the efficient running of the administration of the court system. Therefore, as agreed with the Lord Chief Justice, the Lord Chancellor's concurrence will be required for making directions.

It would be inappropriate, however, for the Lord Chancellor to have a power to intervene in making directions that concern guidance as to the law or the making of judicial decisions. Therefore, his concurrence will not be required for those types of directions. Further, the Lord Chancellor should not have a veto over directions that concern the criteria for allocating judges to hear individual cases. Those are essentially a judicial matter, but about which the Lord Chancellor, as the responsible Minister, should be consulted.

In practice, the power to make directions would usually be delegated by the Lord Chief Justice to the heads of division. Others may make directions only with the consent of the Lord Chief Justice and the Lord Chancellor.

Mr. Grieve: I was going to engage in a small debate on amendment No. 371, which we shall reach in a moment. It would almost be possible to do that now, but, in order to follow properly the rubric, I am happy to restrain myself and simply flag up to the Minister that I shall return to the issue in a moment.

Simon Hughes: I have one question for the Minister that, again, he can answer now or in the next debate. He has alluded to the fact that, as we know, there has been discussion with the judiciary as a whole. Can he indicate whether there are any matters that are the subject of Government amendments today that do not have the agreement of the judiciary? Is there any remaining area of controversy between the Government and judges following all the consultation, particularly in relation to the transfers of powers from one office holder to another, as proposed in the Bill?

1.15 pm

Mr. Leslie: My understanding is that there are no more areas of dispute on amendments to the Bill between the Lord Chief Justice and the Lord Chancellor. After so many months—years, even—of consideration of the Bill, I am glad that we have now achieved consensus with the judiciary on its contents.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Schedule 2

POWERS TO GIVE DIRECTIONS

Amendments made: No. 35, in page 58, line 30, leave out 'Minister' and insert 'Lord Chancellor'.

No. 36, in page 59, line 6, leave out 'Minister' and insert 'Lord Chancellor'.—*[Mr. Leslie.]*

Mr. Leslie: I beg to move amendment No. 371, in page 59, line 10, at end insert—

'(2A) Sub-paragraph (1) does not apply to designated directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be made or given only after consulting the Lord Chancellor.'.

The First Deputy Chairman: With this we may take Government amendments Nos. 372 to 375.

Mr. Leslie: At present, schedule 2 provides a uniform mechanism for making practice directions across all jurisdictions and in all levels of court. It provides for the Lord Chief Justice to make practice directions with the concurrence of the Lord Chancellor, except, as I explained earlier, where those directions relate to the application and interpretation of the law or judicial decisions.

The exception to that general approach, agreed in the concordat, is where the practice directions relate to deciding the appropriate level of judge to hear particular classes of case. It was agreed that for those directions the Lord Chief Justice would be required only to consult with the Lord Chancellor rather than to seek his concurrence. Amendments Nos. 371 to 375, agreed with the Lord Chief Justice, qualify the existing practice direction-making mechanisms in schedule 2 in relation to that class of practice directions.

In cases where directions set out criteria for allocating judges to hear particular categories of case, the Lord Chancellor will be consulted rather than required to give consent. That is in recognition of the fact that such directions are essentially matters for the judiciary, after taking into account any ministerial views.

Mr. Grieve: I am mindful of what the Minister has said, but on reflection I wonder why it is felt that the Lord Chancellor needs to retain control over the allocation of judges to hear particular categories of case.

I appreciate that the role of the Lord Chancellor will be to continue to ensure the smooth overall administration of the courts process. Also, I am obviously reassured by what the Minister said about the fact that the Lord Chancellor will not have the power to allocate a particular judge to a particular case. That is important, because, given the Government's wish to ensure judicial independence or a move towards the separation of powers—I prefer the expression "judicial independence"—any suggestion that a tame judge is being appointed to deal with a case that might be controversial for the Government must be avoided.

Equally, however, I wonder to what extent it can be seen as part of administration, rather than simply the sensible working procedure of the courts, that the Lord Chancellor should be able to allocate particular categories of cases. Those who will know which judges are best suited to dealing with certain categories of cases are going to be the heads of division—or, indeed, the Lord Chief Justice. Why, then, the continuing need for the Lord Chancellor to make the decision, even if it is in consultation with the Lord Chief Justice?

The reality, as I understand, is that the Government are keen to move towards greater flexibility—that is, judges moving around more between different categories of case, if such cases are in their expertise and, I dare say, if those judges have received the proper training from the judicial studies board. In those circumstances, why not leave it to the Lord Chief Justice to make the decisions? Why involve the Lord Chancellor and give him a right of veto? After all, if the system is breaking down the Lord Chief Justice ought to be in a position to do something about it.

I am probing a little. It would be helpful if the Minister would amplify his remarks.

Mr. Leslie: I understand and in some ways agree with the hon. Gentleman that heads of division are often best placed to know about some of these matters, but that is the rationale behind some of our amendments. They move away from the consent requirement to a requirement for consultation. The hon. Gentleman seems to be suggesting that the consultation element itself is not necessary, although I think he must admit that there is a residual public policy interest in knowing the level of a judge who is to hear a particular class of case. We think that we are striking the right balance in moving away from the concurrence requirement, and I feel that in some respects that is in the spirit of the hon. Gentleman's argument.

Mr. Grieve: The Minister and the Government have been moving in what I regard as a very sensible direction. The question is, why have they not gone further?

I hope I have understood the position correctly. In the Crown court there are some judges who, as we barristers used to say, have their licence to kill: although they are Crown court judges, they are entitled to hear murder cases. The same applies to rape and other very serious offences. As I understand it, the Lord Chancellor will retain a determining direction over that category of cases. Why? The person who will actually make the decision is the Lord Chief Justice.

I must make a concession to the Minister, and accept that there is a logistics issue. One of the reasons for identifying judges who can hear particular categories of case is need. If there is a discussion between the Lord Chief Justice and the Lord Chancellor, the Lord Chief Justice may say "We need more judges on the south-eastern circuit who can try murder cases." I believe that there are three or four Crown court judges who are clearly capable of doing that, but in those circumstances why cannot the Lord Chief Justice do it on his own?

There may well be a large number of other categories that can be considered. A Crown court judge may be doing only general civil work, family law work or work on children's law. The list is endless. I also recognise that there is a lock-on effect. If—in, I suppose, a reversal of the process—the Lord Chief Justice were to say that a particular judge should no longer deal with a particular category of case, which does occasionally happen when

it is felt that a judge does not show enough familiarity with a category, the Lord Chancellor may be required to say that the Judicial Appointments Commission should think of appointing another judge to boost the number.

I realise that a dialogue will be necessary, but I do not quite understand why the buck must stop with the Lord Chancellor. The Minister may be able to provide complete reassurance on that, however.

Mr. Leslie: I understand where the hon. Gentleman is coming from, but the buck would not stop with the Lord Chancellor. As I have said, the amendments move away from concurrence towards consultation, which ultimately gives the power to the Lord Chief Justice. I think that consultation is necessary simply for the smooth running of the courts, which are of course a partnership between the judiciary and the Executive when it comes to administrative, resourcing and staffing requirements. We need to know if the Lord Chief Justice feels that a different level of judge should hear a particular class of case. For information purposes as much as anything else, we feel that a consultative element is needed. I hope that that satisfies the hon. Gentleman.

Mr. Grieve: The Minister's argument was extremely cogent, and I am happy to accept it. I accept, of course, that the amendments move away from concurrence; but I hope that the Minister will forgive me if I say that I am always slightly hesitant when something can be done only after someone else is consulted. Although the amendments allow for the possibility of the Lord Chief Justice consulting the Lord Chancellor and, after the Lord Chancellor has said no, going ahead with his action, I suspect that in reality, considerable influence over the decision-making will remain with the Lord Chancellor. Nevertheless, I understand the Minister's point.

Amendment agreed to.

Amendments made: No. 372, page 59, line 11, after 'If', insert 'sub-paragraph (1) applies but'.

No. 37, page 59, line 11, leave out 'Minister' and insert 'Lord Chancellor'.

No. 38, page 59, line 12, leave out 'Minister' and insert 'Lord Chancellor'.

No. 373, page 60, line 14, at end insert—

'(6) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case, but the directions may, to that extent, be given only—

(a) after consulting the Lord Chancellor, and

(b) with the approval of the Lord Chief Justice.'.

No. 374, page 60, line 33, at end insert—

'(5) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case, but the directions may, to that extent, be given only—

(a) after consulting the Lord Chancellor, and

(b) with the approval of the Lord Chief Justice.'.

No. 375, page 61, line 7, at end insert—

'(5) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case, but the directions may, to that extent, be given only—

(a) after consulting the Lord Chancellor, and

(b) with the approval of the Lord Chief Justice.'—*[Mr. Leslie.]*

Schedule 2, as amended, agreed to.

Clause 12

TRANSFER OF APPOINTMENT FUNCTIONS TO HER MAJESTY

Question proposed, That the clause stand part of the Bill.

Mr. Leslie: Clause 12 introduces schedule 3, which provides that appointments to the judicial offices listed in it will in future be made by Her Majesty The Queen on the recommendation of the Lord Chancellor, rather than by the Lord Chancellor himself. The appointments are those of district judges, High Court masters and registrars, and the senior district judge or chief magistrate. The relevant appointing provisions are amended, and the power to assign district judges to districts and district registries is transferred from the Lord Chancellor to the Lord Chief Justice. The power to determine the salaries of civil district judges and High Court masters and registrars is made subject to the proviso that their salaries cannot be reduced, which brings them into line with the district judges (magistrates courts) and more senior members of the judiciary. Those appointments are also listed, with others, in schedule 12, meaning that they are in future to be made on the basis of selection by the Judicial Appointments Commission.

Simon Hughes: I have a factual question for the Minister, which he may be able to answer now or may answer when we debate the schedule. It may have been covered earlier, but as far as I am aware, it has not been.

What is the maximum number of district judges whom we are currently allowed to have in England and Wales, and how many are currently in office? What is the maximum number of High Court masters and registrars and the number in post, and what is the maximum number of senior district judges—the old chief magistrates?

I have a supplementary question about chief magistrates. The change in terminology is still relatively recent. When people went along to the magistrates courts, they used to know the person who, they are now told is the senior district judge, as the local stipendiary magistrate or the local resident magistrate. Will those appointed according to this process always be appointed with a geographical title attached to their appointments? For example, if someone were appointed to the Tower Bridge magistrates court would that be the appointment, and if that person were then moved would the move take place formally or could that person informally, without any process, be transferred from Tower Bridge to Camberwell Green or from Camberwell Green to Greenwich? Would he be attached to his court from now on, or would he be appointed and, once appointed, be able to be moved around according to the jurisdiction of his superiors?

Mr. Leslie: I understand the hon. Gentleman's points. Ever since the term "stipendiary magistrate" became "district judge (magistrates courts)", it has been necessary to make the position clear and comprehensible. My understanding is that there is no maximum number of district judges and magistrates courts set out in statute and, not surprisingly, I do not have to hand the exact number that we have in England and Wales at the moment. Perhaps I can write to the hon. Gentleman on that point.

1.30 pm

I am aware of the hon. Gentleman's point on the geographical nature of the district judges. I do not think that there is any specific formality attached to the geographical area in a district judge's title. Nor do I think that anything formally limits them from being redeployed elsewhere, but if I am wrong, I shall put the correct answer in my letter to the hon. Gentleman.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Schedule 3

TRANSFER OF APPOINTMENT FUNCTIONS TO HER MAJESTY

Mr. Leslie: I beg to move amendment No. 644, in page 63, line 6, leave out 'Supreme Court' and insert 'Senior Courts'.

The First Deputy Chairman: With this it will be convenient to discuss Government amendments Nos. 645 and 647 to 650.

Government new clause 44—*Renaming of the Supreme Courts of England and Wales and Northern Ireland.*

Government new schedule 3—*Renaming of the Supreme Courts of England and Wales and Northern Ireland.*

Government amendments Nos. 651 to 666.

Mr. Leslie: This group of amendments gives effect in part to the recommendations of the Select Committee on the Bill in the other place that the supreme court of England and Wales and the Supreme Court of Judicature of Northern Ireland should be renamed and, when necessary to avoid confusion, the short titles of legislation relating to these courts should also be changed.

The supreme court of England and Wales, as it is now known, is to be renamed the Senior Court of England and Wales, and the Supreme Court of Judicature of Northern Ireland will be renamed the Court of Judicature of Northern Ireland. The renaming does not affect the courts in question in any other way than changing the names by which they will be known. The new names were selected in consultation with the senior judiciary in each jurisdiction with a view to avoiding confusion not only with the creation of a new United Kingdom supreme court, but with other courts. There are also references in the Bill that will require amendments in line with the general renaming, and many of the amendments in this group are consequential on the change.

Mr. Grieve: We now come to the first bone of contention of the afternoon. It is quite a small bone, but it irritates me sufficiently to make me want to take the matter forward. Indeed, unless I can persuade the Minister to change his mind, I shall probably divide the House.

The Minister knows that we were against the setting up of a supreme court of the United Kingdom. In those circumstances, he will probably agree that there was no need to consider renaming the current Court of Appeal, which is covered by the Supreme Court of Judicature Act 1873. I have to accept that, for the purposes of the Bill as it now stands, we are going to have a supreme court of the United Kingdom. However, the Minister's proposal to rename the courts covered by that Act "Senior Courts" strikes me as bizarre. We do not have any junior courts, and the expression "Senior Courts" is an odd one.

I do not see the new name catching on anyway because, as the Minister well knows, nobody refers to the High Court and the Court of Appeal by anything other than those titles. Only lawyers are aware of the fact that the High Court and the Court of Appeal were created by the Supreme Court of Judicature Act in the 19th century. Those titles offer a correct description of the purpose those courts were set up to fulfil. Although we are going to have a supreme court of the United Kingdom, those courts are, in reality, the supreme court of England and Wales, and I can think of no good reason for changing their title. I am not sure that the Minister, in his very brief speech, provided me with a persuasive reason for going back on that viewpoint.

This matters because we must consider the issue in the context of the English and Welsh judicial system. The reality is that the House of Lords, in its current role, is half removed from the mainstream judicial process. Appeals to the House of Lords take place only in fairly exceptional circumstances. It spends a great deal of its time turning down applications for leave to appeal, not because the issues involved are not interesting, but because they do not raise the kind of point with which the House of Lords considers it should concern itself. The Minister has not suggested that the new supreme court should approach its work load any differently from the way in which the House of Lords has done, although I acknowledge that one or two small areas of devolution law will be transferred from the Judicial Committee of the Privy Council to the new supreme court.

Why not leave well alone? There is not going to be a muddle and the court does not need another name. "Senior Court" is a rather sad name. It has a sad feel to it—

Mr. Peter Atkinson (Hexham) (Con): It sounds like a pensioner.

Mr. Grieve: Yes, that is rather what it sounds like. It also has a slightly 'prissy tone because of the way in which it contrasts the senior court with other courts. As the Minister knows, judges from other courts are now invited to sit in the Court of Appeal and, sometimes, on judicial review proceedings in the Supreme Court of Judicature.

For all those reasons, I urge the Minister to drop the idea. We do not need the amendments, and if he wants to press on with them I shall vote against them unless he can provide me with an extraordinarily cogent reason for changing my mind.

Simon Hughes: I do not anticipate a day full of great controversy. Nor do I expect there to be a huge number of votes. Indeed, if there are, our colleagues could be somewhat surprised. I think that this is the only occasion on which there might be a vote, and I shall be voting not with the hon. Member for Beaconsfield (Mr. Grieve) and his colleagues but with the Minister. That is because I accept the Minister's proposition, which is consistent with the view taken by my colleagues. I understand the argument put forward by the hon. Member for Beaconsfield, but I support the Minister's proposal, although we might view it slightly differently.

My colleagues and I have argued for years that there should be a modern judicial system, that we should have a supreme court separate from the Judicial Committee in the House of Lords, and that we should separate the judicial system from the legislature. That is why we have supported the thrust of the Bill. We shall therefore create a supreme court of the United Kingdom, wherever it ends up sitting. That has been slightly controversial, but I understand that the preferred location is still over the road at the Middlesex guildhall.

In the light of that, the renaming of the next tiers of courts—the Court of Appeal and the High Court—as the "Senior Courts" represents an understandable and straightforward shorthand. Subject to only the supreme court being above them, they are the next in the hierarchy. "Senior" might be a slightly trite or mundane word, but at least it describes their position. They are the courts to which we look up, and they are in the hierarchy of senior courts. The hon. Member for Beaconsfield said that we have no junior courts. Well, it is a bit like "The Screwtape Letters". We do not have senior devils and junior devils. However, we do have junior courts—bluntly, the magistrates courts and the county courts are the junior courts. Colloquially, people know that. They know that cases start in a magistrates court and that, on appeal, they go up the hierarchy. People also know that if they are dissatisfied with what happens in the county court, an appeal on the civil side will go to the High Court. So I think that the shorthand is understandable. It will be more understandable if we distinguish between the supreme court and the others.

Lastly, it seems to me that, by definition, we cannot have more than one supreme something. Something is either supreme or it is not. I, like the hon. Member for Beaconsfield and others, am a lawyer, and I was brought up to be able to walk around with the white book, a great volume of all the rules of the Supreme Court of Judicature. One of the failings of the current system is that that was basically the rules of all the senior courts from, I think, the Judicial Committee of the House of Lords all the way down through the Court of Appeal to the High Court. I stand to be corrected if the House of Lords is not included, but that is my recollection—I have not looked at it for a long time.

Mr. Grieve: I was going to raise a separate issue with the hon. Gentleman. He will be aware that there have been at least some suggestions lurking around that there will be a new unified court structure in which the High Court and lesser courts, or junior courts, would effectively be merged. It is not clear in what direction that is going. Certainly, however, the Government seem to be quite keen, for instance, on getting rid of some of the distinctions between the divisions in the High Court. The whispers are no more than that. Were that to happen, of course, we would be back to the drawing board anyway, as the Court of Appeal would become potentially quite distinct from the High Court. Whether that is desirable is another matter, but the hon. Gentleman might feel that that reinforces the reason for just leaving it well alone. I think that the distinction is perfectly obvious.

Simon Hughes: These are not issues that will ultimately make a fundamental difference. This Bill has been thought about and talked about for years and years. The reform of the judicial system has been thought about for a long time. My judgment is that we ought to try to get the best possible outcome and the simplest structure.

I want to deal with the two points raised by the hon. Member for Beaconsfield. There might be a further debate later about whether we structure the court system hierarchically and vertically. Ultimately, we might end up with a supreme court, with the Court of Appeal below that and the senior courts below that. The words may change eventually.

Divisions might also be considered. There are arguments for different divisions of the court system. There might well be an argument now for having an administrative division of the High Court. There is certainly an argument for reviewing where some of the boundaries come in work done. The family division is a relatively new one and is worth while. Eventually, we might amend the title of the Queen's bench division, because that is a general title relating to the famous courts of yore which used to sit Downstairs, but it does not mean much to someone who is not a lawyer and has not studied legal history. That is not an argument for changing it categorically.

I shall end where I began. This is a sensible proposal for the time being. I am sure that, in time, a Government will say that further work needs to be done and the judges might say that they want to propose further reforms. Let us have one supreme court, let it be known as the supreme court, let it be recognised as the supreme court and let us have the courts under it regarded for the time being as the senior courts. I think that most people will understand what is meant by that.

Keith Vaz (Leicester, East) (Lab): I was not proposing to speak in this debate until I heard the hon. Member for Beaconsfield (Mr. Grieve). When we started proceedings this afternoon and I looked through the long list of proposed amendments and the important aspects of policy being changed, of all the matters on which I thought that we would divide I never believed that it would be on the question of a name.

[Keith Vaz]

I fully support the Government on their proposal, which is a sensible and clear enactment of the modernisation process. I am really puzzled, however, about why the hon. Member for Beaconsfield chooses to get cross about this name. It is quite obvious for all those who practise in the courts what these courts are called. All that this seeks to do is to clarify the situation.

Mr. Grieve: Let me reassure the hon. Gentleman that the last thing that I can be described as on this matter is cross. If the vote goes against me, I shall not lose hours of sleep as I toss and turn in my bed and consider gnashing my teeth about the infamy that the Government have perpetrated. Nothing could be further from the truth. I just happen to think that the Government are wrong. Seeing that these are matters on which the House's opinion is sought, and must be sought, I stand by my view that it is a silly idea.

Keith Vaz: I did not expect the hon. Gentleman to be cross as he is very friendly, even though he is a member of the Opposition. I remember how cross he was at the Dispatch Box last night when dealing with the Bill that we were considering then. He read out from Mr. Speaker's provisional selection all the aspects of that Bill that could not be discussed. He put the case eloquently. Of all the elements in the current provisional selection, however, the renaming of the supreme courts of England, Wales and Northern Ireland is hardly of earth-shattering importance. I wonder why we must waste 15 minutes on a Division if he is not going to stay up all night worrying about it.

1.45 pm

I have a simple suggestion for my hon. Friend the Minister, who has conducted these proceedings in an absolutely brilliant way, despite all the opposition of the Conservative party, which said that it would oppose everything that he did, root and branch. It has come down to this. Let us have a competition called, "Name that court". Let us use the Conservative party website and let Opposition Front-Bench Members text their views on what this court should be called. If he is prepared to allow that to happen, perhaps the hon. Member for Beaconsfield will not force the issue to a vote.

Mr. John Redwood (Wokingham) (Con): I support my hon. Friend the Member for Beaconsfield (Mr. Grieve), who has been maligned in this short but interesting debate. What is in a name? It is tradition, history and continuity, which established who we are and where we come from. With the Government's hectic modernising reforms, particularly in the constitutional area, we worry that they have no sense of history or tradition, and no understanding of why things are as they or have been named as they were. They seem to want to root out everything that was not created after 1997.

By defending some names, and the larger institutions that they represent in many cases, we are saying that all is not wrong because it was thought up a long time ago, because it has evolved and served us well over many centuries or because it has some idiosyncrasies or quirks that do not seem rational or logical to the modernising mind of Labour and new Labour. We are saying to the Government that they should pause. Do they really need to dream up this ghastly name today and shove it through so that we will be cursed for the weeks and months ahead, if not years, with having to call our courts "Senior"? I believe that is a word that the Americans use to describe pensioners, which creates an unfortunate impression for the important bodies that the Government are trying to transmute.

I often feel that this Government are in the alchemy business, but they take gold and transmute it into base metal rather than the other way around. What is in the name is what we stand for, who we are and how these great institutions have come about. If we destroy the name and the institution at the same time, something magic has gone.

Mr. Leslie: I am going to accuse the hon. Member for Beaconsfield (Mr. Grieve) of being a Conservative. I know that the Leader of the Opposition might be considering changing their party's name, possibly to move to a new era, but the hon. Gentleman exemplifies that they remain Conservatives. Despite the eloquence of my argument, he has almost resolutely said that he will not be persuaded, whatever I say.

The hon. Member for Beaconsfield says that it is bizarre to change the title of this cluster of courts now known as the supreme courts of England and Wales to the senior courts, not the superior courts—we chose not to go for superior as there are other superior courts of record elsewhere. One of the justifications for calling them senior courts was that we wanted to avoid the word superior. We did that in consultation with the judiciary, who now agree that the concept of senior courts is right, and not least that it should be courts—plural—as we are talking about a cluster of courts. That is not reflected in the current name of the supreme court for England and Wales.

If, in the bigger picture, we are creating a new United Kingdom supreme court, for those in the wider country who are not immersed in the world of the law as the hon. Member for Beaconsfield might be we need to avoid confusion and have wider understanding and comprehension of how our courts work in this country, right up to the UK supreme court. That is why we think that it makes good sense, as do the judiciary, to change the title to "Senior Courts of England and Wales".

I was sorry that the hon. Gentleman and other Opposition Members seemed to say that there was something sad in the term "Senior". I think that seniors are happy and wonderful people. He seems to have a sense that they are somehow miserable and not to be favoured. I am all in favour of seniors, and I want to put that on the record, too. I do not see the logic of his conservatism.

The hon. Member for Southwark, North and Bermondsey (Simon Hughes) and my hon. Friend the Member for Leicester, East (Keith Vaz) adequately explained why now is the time to move to the title of "Senior Courts of England and Wales". I commend the amendments to the House.

Question put, That the amendment be made:—

The Committee divided: Ayes 278, Noes 93.

Division No. 105] **[1.50 pm**

AYES

Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Beith, rh A. J.
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Breed, Colin
Brennan, Kevin
Browne, Desmond
Bruce, Malcolm
Burden, Richard
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Doughty, Sue
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzsimons, Mrs Lorna
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Francis, Dr. Hywel
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Griffiths, Nigel *(Edinburgh S)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Keeble, Ms Sally
Keetch, Paul
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
Mactaggart, Fiona
McWilliam, John
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miller, Andrew
Mole, Chris
Moonie, Dr. Lewis
Moore, Michael
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
Oaten, Mark *(Winchester)*
O'Brien, Bill *(Normanton)*
Olner, Bill
O'Neill, Martin
Opik, Lembit
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stringer, Graham
Sutcliffe, Gerry
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Willis, Phil
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*

Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Jim Fitzpatrick and Margaret Moran

NOES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Barker, Gregory
Baron, John *(Billericay)*
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Collins, Tim
Conway, Derek
Curry, rh David
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Forth, rh Eric
Gibb, Nick *(Bognor Regis)*
Gray, James *(N Wilts)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Hendry, Charles
Hermon, Lady
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Moss, Malcolm
Murrison, Dr. Andrew
Ottaway, Richard
Page, Richard
Paice, James
Pickles, Eric
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Smyth, Rev. Martin *(Belfast S)*
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Streeter, Gary
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tyrie, Andrew
Waterson, Nigel
Whittingdale, John
Wiggin, Bill
Wilshire, David

Tellers for the Noes:
Mr. Peter Atkinson and Mr. David Ruffley

Question accordingly agreed to.

Schedule 3, as amended, agreed to.

Clause 13

Other functions of the Lord Chancellor and organisation of the courts

Mr. Leslie: I beg to move amendment No. 491, in page 5, line 35, leave out 'certain functions of' and insert 'functions to or from'.

The First Deputy Chairman: With this it will be convenient to discuss the following: Government amendments Nos. 492, 376, 377, 493 to 498, 378, 499 to 501, 379, 502 to 507, 380 to 385, 508, 509, 386 to 395, 510 to 512, 396 to 400, 513, 401, 514, 402, 404, 405, 515, 406 to 408, 516, 409 to 411, 517, 412, 413, 518 to 527, 415 to 420, 528, 421 to 425, 529, 530, 427 to 429, 531 to 534, 430 to 433, 535 to 538, 434, 435, 539 to 544, 436 to 453, 545 to 556, 454, 557, 456 to 459, 558, 460 to 462 and Government new schedule 1.

Mr. Leslie: This group of amendments is very substantial—the most substantial that we will debate today—and makes detailed and technical amendments to schedule 4 in five separate areas. It will therefore assist the Committee and perhaps speed debate if I set the scene and list the areas affected before considering each in more detail, thereby providing an overview of this "super-group" of amendments.

Schedule 4, which is a key part of the Bill, gives effect to the concordat agreed between the Lord Chancellor and the Lord Chief Justice. It provides for the Lord Chancellor's current statutory functions relating to the judiciary and to the organisation of the courts to be amended, so that they require consultation with, or the concurrence of, the judiciary, or transferral to the Lord Chief Justice or to another senior judicial office holder.

The amendments are designed to complete the schedule and to make sure that it fully reflects concordat principles. Five separate areas are covered. The first batch of amendments in the group covers a number of individual functions in Northern Ireland under legislation that extends throughout the United Kingdom, and it introduces a new schedule relating to Northern Ireland that corresponds to schedule 4. The second batch contains provisions that support arrangements for ending the Lord Chancellor's ecclesiastical patronage and, as the Government announced on 2 March 2004, its future exercise by the Prime Minister.

The third batch of amendments makes arrangements for appointments and removals from tribunals that cover the whole of the United Kingdom or other parts of the UK in addition to England and Wales. The fourth batch makes a number of corrections and updates to ensure that the transfer of functions is fully in line with the concordat. The fifth batch transfers to local registering authorities in England the power to set fees for local charge services, with the exception of fees for personal searches of the register.

Simon Hughes: Before the Minister finishes summarising the amendments and deals with the detail, can he say how many transfers of patronage in respect of Church of England livings are expected as a result of this shift from the Lord Chancellor to the Prime Minister?

Mr. Leslie: I will come to that issue in a moment. I want first to talk about Northern Ireland appointments, removals to UK tribunals, the introduction of the new schedule and, in that context, amendment No. 491 and the associated amendments. Those amendments cover a number of individual functions in Northern Ireland and create new roles for the Lord Chief Justice of Northern Ireland. In addition, a new schedule relating to Northern Ireland is introduced that corresponds to schedule 4, which affects England and Wales. Amendment Nos. 491 and 492 amend clause 13 to provide for the transfer of the Lord Chancellor's

functions in Northern Ireland, and for the introduction of the new schedule. Amendments Nos. 493 to 558 amend schedule 4 to deal with a number of the Lord Chancellor's functions in legislation with UK-wide extent.

To return to the intervention from the hon. Member for Southwark, North and Bermondsey (Simon Hughes), as stated in the Lord Chancellor's written statement to the House on 2 March 2004, the Crown's ecclesiastical patronage rights currently exercised by the Lord Chancellor will remain with the Crown. The basis of the Lord Chancellor's exercise of this patronage is historical; it is not based in statute. In future, that patronage will be exercised on the advice of the Prime Minister, who already deals with a range of ecclesiastical appointments. Passing responsibility for exercising this patronage can be achieved through non-statutory means.

The amendments to the Pluralities Act 1838, the Ecclesiastical Leasing Act 1842, the Inclosure Act 1859, the City of London (Guild Churches) Act 1952 and the Pastoral Measure 1983 are consequential on that transfer, and change statutory references to the Lord Chancellor in provisions relating to patronage to reflect the decision to transfer such matters to the Prime Minister. *[Interruption.]* I have been inspired to point out that some 442 aspects of ecclesiastical patronage will be transferred to the Prime Minister; I hope that that is not too precise a figure for the hon. Member for Southwark, North and Bermondsey. Those amendments will ensure that the ending of the Lord Chancellor's ecclesiastical patronage is satisfactorily completed and that any uncertainty is removed. They have of course been discussed with the Church, and agreement has been reached on this outcome.

Amendments to the Ecclesiastical Licences Act 1533 and the Public Notaries Act 1843 relate to the Lord Chancellor's functions in respect of appeals under those Acts.

Mr. Bercow: Sadly, my right hon. Friend the Member for Suffolk, Coastal (Mr. Gummer) is not with us. If he were, I feel certain that he would be able to advise us of the significance or otherwise of these provisions. In his absence, can the hon. Gentleman tell the Committee whether, as it stands, this represents, following Bagehot, a dignified or an efficient part of the constitution? In other words, in practice, is the Prime Minister going to take advice and, if so, from whom, or is he seriously going to preoccupy himself with any significant number of these nominations?

Mr. Beith *rose—*

Mr. Leslie: I shall give way to the right hon. Gentleman, who has conducted wider inquiries into some of these matters, in a few moments.

The Prime Minister, in his capacity as First Lord of the Treasury, already provides advice to the sovereign on a wide range of ecclesiastical appointments, and officials dealing with parish appointments are already based at No. 10 Downing street, but currently work both for the Prime Minister and the Lord Chancellor. It makes pragmatic and practical sense to continue with the rationalisation of these arrangements in the light of responses to consultation on the issue.

Mr. Beith: Does the Minister recall that the Constitutional Affairs Committee had an interesting evidence-gathering session on this matter? It was made clear that the same officials would continue to do the work. Rarely, in my experience, has a group of public officials been so widely commended by the customers and clients of their work. If any other course of action were to be adopted, such as a transfer of these functions to the Church authorities, there was no agreement as to which part of the Church's structure they should be attached to.

Mr. Leslie: The right hon. Gentleman has neatly summed up the rationale behind many of the amendments, which is why I would not demur from them.

Mr. William Cash (Stone) (Con): Will the hon. Gentleman guide us as to the connection, if any, between these provisions and what are known as Royal Peculiars? Arrangements stemming from the 10th to the 15th century governed the relationship between the papacy and the Crown and established spiritual jurisdiction in respect of colleges and prebends. Windsor castle is one example, not to mention St. Stephen's, Westminster and many others in my constituency—for some reason, Staffordshire and Shropshire have a significant number of these Royal Peculiars, otherwise sometimes known as royal free chapels.

My question is whether the transfer from the Lord Chancellor to the Prime Minister will in any way affect those Royal Peculiars. I have an idea that, unbeknown to some people, the residual spiritual jurisdiction vested in the Crown as a result of the Royal Peculiars might be of some assistance at some point in time in respect of the problems that have arisen with Windsor castle. I wonder whether the Minister—

The Temporary Chairman (Mr. Roger Gale): Order. The hon. Gentleman has made his point; he is making an intervention.

Mr. Leslie: I would not want to accuse the hon. Gentleman of trying to grab the headlines—certainly not in this debate, at least. My understanding is that many of the Royal Peculiar functions are already undertaken under prime ministerial patronage, but I will try to check on the point, in case I am wrong. The amendments that we are proposing in this group make no further changes in that respect; they are simply designed to amalgamate the ecclesiastical patronage arrangements of the Lord Chancellor with those of the Prime Minister. Other functions are more judicial in that they relate to appeals under legislation such as the Ecclesiastical Licences Act 1533 and the Public Notaries Act 1843, so they are transferred in line with the ending of the judicial role and functions of the Lord Chancellor. The amendments also provide for the Chancellor of the High Court to delegate the function of hearing appeals to another judge.

Simon Hughes: I have a somewhat less esoteric question for the Minister, whom I commend on his

[Simon Hughes]

mastery of the brief in connection with such a detailed issue. The daffodil in my buttonhole suggests that I might be an Anglican, but I am part of the disestablished Church, not a member of the Church of England. Having said that, I do not believe that denominations are important. There is one Church and denominations have often been a curse, not a merit, of that Church.

Given that we are talking about the transfer of ecclesiastical functions to the Prime Minister—as my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) said, there is a well established system of officials who deal with these matters—will the Minister give an assurance on the record that there will always be consultation with the "customers or clients", to use my right hon. Friend's words, or the parishioners before the Prime Minister makes any appointments under his new powers?

2.15 pm

Mr. Leslie: I suspect that that will be the case. I can give that undertaking in so far as we do not propose to make any changes to the practice of making those patronage appointments. It is simply a matter of the formality of who will make the appointments on the advice of the Prime Minister to the Queen.

The third tranche of amendments in the group deal with the Lord Chancellor's powers to appoint and remove from tribunals that have a UK-wide jurisdiction. Amendments Nos. 399 and 430 transfer the Lord Chancellor's duty to consult the Secretary of State for Health or the chief medical officer in respect of certain tribunal appointments.

The others deal with tribunals with a UK-wide jurisdiction or a jurisdiction covering more than one part of the UK. Those require special arrangements in respect of some appointing and delegating functions and removals from office. The power to remove usually lies with the Lord Chancellor, with the agreement of the Lord Chief Justice of England and Wales, but in respect of Scottish members, removal should be with the agreement of the Lord President of the Court of Session; and in respect of Northern Irish members, removal should be with the agreement of the Lord Chief Justice of Northern Ireland. Those seem to me sensible and appropriate changes. The relevant judge in each case is referred to in the amendments as the "appropriate senior judge".

The fourth group of amendments deal with miscellaneous technical changes to schedule 4. For example, amendments Nos. 442 to 444 provide for the Lord Chief Justice to appoint someone other than the Master of the Rolls to the post of head of civil justice, bringing the legislation into line with the appointment procedure for the heads of criminal and family justice in clauses 8 and 9, which we discussed earlier. Amendment No. 397 transfers to the Lord Chief Justice the Lord Chancellor's power to prescribe new business for the central office, which we will now call the senior courts. There are also a series of amendments to omit statutory references to the now redundant power of the Lord Chancellor to alter rules made by rule committees.

Mr. Redwood: Why are there so many amendments? Is it because the Minister did not bother to check the provisions in the first place, or is it simply that the Government are making it all up as they go along and that this is the new material that they have recently come up with?

Mr. Leslie: Neither of those two options apply. We have certainly consulted the judiciary and many of the amendments are a consequence of that. We have also had a prolonged period of scrutiny of the legislation, including, as the right hon. Gentleman will recall, scrutiny by a special Select Committee in the other place, not to mention debate and suggestions from the Constitutional Affairs Committee. Not all the amendments arise from those particular considerations, as many stem from consequential changes to other pieces of legislation. I realise that the volume of amendments is a burden on the Committee, but it is right and necessary to be as accurate as possible.

Mr. Jonathan Djanogly (Huntingdon) (Con): I shall come back later to the point raised by my right hon. Friend the Member for Wokingham (Mr. Redwood). If the head of civil justice is not to be Master of the Rolls, what is the purpose of having a Master of the Rolls? In other words, what would he do?

Mr. Leslie: There may well be other tasks for the Master of the Rolls to do in place of having the post of the head of civil justice. I have already set out, in our discussions on clauses 8 and 9, the point of having some flexibility among the senior judiciary. We will always have persons to head the senior divisions of our courts. There will not be vacancies for long in respect of any of those posts, but we need to ensure that we retain a degree of flexibility. That idea was not simply thought up by my Department, but in agreement with the Lord Chief Justice and others.

Mr. Djanogly: I am not quite sure what the Minister is getting at. If the Master of the Rolls is not going to carry out the job allocated to him, why should not the person who subsequently gets his job be called the Master of the Rolls?

Mr. Leslie: That is because the Vice-Chancellor was head of civil justice. The Bill changes a number of titles among the senior judiciary. The president of the civil division of the Court of Appeal will have that post, but we must put the new arrangement in place to allow greater flexibility. If it will help the hon. Gentleman, I shall write to him with some more detail about our discussions with the Lord Chief Justice on this matter. The arrangements in the Bill are ones that we have agreed with him, as I set out earlier.

Simon Hughes: I want to raise another matter that may have been dealt with earlier when I was not present, but will the Master of the Rolls retain his judicial oversight of solicitors? Is that role to be transferred as well?

Mr. Leslie: Our intention is that the Master of the Rolls will retain that function in relation to solicitors.

There are a number of other minor and technical amendments in this group that serve to change the wording in various places, alter references to sections

and paragraphs, provide cross-referencing to other legislation, and so on. In addition, they correct the Bill's provisions when a function's transfer is not entirely in line with the concordat arrangement.

The most significant change, however, is to the renewal of recorder appointments set out in Government amendment No. 385. The new provisions mirror what has been the practice for some time—that is, that appointments are automatically renewed except where there are grounds for non-renewal. The Bill will now require the Lord Chief Justice's agreement to the grounds given for non-renewal or removal from office, and to any decision that those grounds are fulfilled in any particular case. The remaining amendments correct how some existing functions of the Lord Chancellor are modified, and delete incorrect provisions. Amendment No. 447 provides that the Home Secretary will be involved in a new power relating to the making of criminal procedure rules. Other amendments ensure that the Lord Chancellor's functions relating to the making of those rules are correctly reflected in the relevant statutory provisions.

The fifth set of amendments in this group alters the Local Land Charges Act 1975 to give local authorities in England the power to set local land charge fees, but not personal search fees. At present, there is considerable variation between local authorities when it comes to keeping local land charge records. Local land charge fees are set nationally, by the Lord Chancellor. Local fees that reflect a local authority's circumstances will encourage better local accountability, efficiency and transparency, and will be fairer to local authorities and their customers.

Government amendment No. 390 implements one element of the action plan set out in the September 2002 local government White Paper and announced by my noble Friend Lord Rooker during the Committee stage of the Housing Bill. It will allow local authorities to set fees at a level which, taking one year with another, will enable them to recover an amount up to, but not in excess of, the costs incurred by providing local land charge services.

The amendment does not change the position in respect of fees for personal searches, of which a full review will be undertaken before any decision is made. It does not change the position in Wales either, as local land charge fees have been set by the National Assembly for Wales since 31 December 2004.

Simon Hughes: I imagine that the question of local land charges will be of interest to many hon. Members, but the Minister just said that local authorities will not be allowed to make a profit from the provision of that information. I support delegating powers to local government, but will he say why a flat rate cannot be introduced? Will not it be slightly confusing for consumers if the amount varies between local authorities? People often do not know which is the relevant local authority, so is there not a possible complication that could be avoided?

Mr. Leslie: It would defeat the purpose of the reforms set out in the 2002 White Paper if local authorities were not to be given extra freedom and flexibility, even in this small way. Most hon. Members recognise that reinvigorating local democracy means that some functions must be shifted to local authorities, so that they can be accountable for their decisions. The hon. Gentleman suggests a flat rate, but I suspect that that would require subsidy from somewhere else. That would defeat the purpose of the provision, and the burden would fall on taxpayers in other areas. Our proposal will encourage greater efficiency in this part of a local authority's work. Delegating the power to determine fees to local authorities may well mean that those fees will be lower than is currently the case nationally. However, the requirements that local authorities can charge only as much as the costs incurred will provide a measure of protection for the public.

With those comments, I hope that the amendments in this very large group can stand part of the Bill.

Mr. Djanogly: The amendments mainly deal with concordat issues and for the most part are fairly innocuous. However, I was fascinated to learn a little more about the Royal Peculiars.

Hidden away in this huge list is Government amendment No. 390, which the Minister has just explained. That would allow local authorities to set the fees for searches of the local land charges register. Opposition Members are not satisfied about the addition of this late amendment to the Bill. The Government have set aside little enough time for debate on this important and substantial measure, even without the introduction of this substantive provision on the final day of Committee. The amendment is not connected with the rest of the Bill, even though the Minister did his best to tie it all in.

The Government's control of timetabling has collapsed over recent weeks, so perhaps I should not be surprised that they have lumped together land charge fees with the creation of the new supreme court. That approach, however, seems to be a little bit on the tacky side.

The small amount of time made available for debate of this matter is especially inappropriate, as the provision is not without controversy. The Council of Property Search Organisations is the trade association for the property search industry. It, and other providers of property search information, have contacted various hon. Members to explain the difficulties associated with the proposed change.

The Bill will require each local authority in England and Wales to specify the fees for services relating to local land charges. Such charges are matters of a public nature; they relate to property, and people interested in a property ought to be aware of the associated charges. Matters covered include tree preservation orders, planning obligations, enforcement notices and designation as a conservation area. Details of local land charges can be obtained either through an official search carried out by local authorities in accordance with section 9 of the 1975 Act, or by means of a personal search by an applicant under section 8 of that Act.

The amendment does not apply to personal searches of the register, which the Department for Constitutional Affairs has said will be the subject of a further review. At present, the Lord Chancellor sets the fees for the different types of local land charge searches.

[Mr. Djanogly]

The standard fees are £6 for an official search, and £11 for a personal search. The Government have made available draft guidance for proposed new charges.

When setting their own fees, local authorities will have to ensure that, taking one financial year with another, those fees do not exceed the cost of providing the services in question. They will also have to take into account guidance from the Lord Chancellor. The draft guidance made available by the Government covers the calculation of costs, and related matters.

The proposals have developed out of the 1997 review "Report of an Efficiency Scrutiny of Central Consent Regimes for Local Authorities" and the 2001 White Paper entitled "Strong Local Leadership, Quality Public Services". That sounds like a good new Labour tag if ever I heard one.

The hon. Member for South Ribble (Mr. Borrow) introduced a private Member's Bill on this topic last year, but that was withdrawn when the Government announced their intention to bring forward an amendment such as the one under discussion today. The proposals reflect the fact that the cost of providing local land charge services varies considerably between authorities. That variation arises out of the different ways that local land charges registers are maintained. For example, that information may be held electronically or on paper.

A key argument in favour of such a change would be the desirability of devolution from central Government, removing the need for local government to make applications for fee increases and for new central Government orders to be issued. The hope would be, equally, that requiring local authorities to set fees that reflect their own costs would encourage transparency and efficiency. The result ought to be lower charges for consumers.

2.30 pm

The Opposition are not opposed in principle to the idea of allowing local authorities to set their own fees in this context. Indeed, my hon. Friend the Member for South Holland and The Deepings (Mr. Hayes) introduced an amendment to that end to the Housing Act 2004. Although that amendment was withdrawn, we still have reservations about the detail and timing of Government amendment No. 390.

If the Government are intent on allowing local authorities to set their own fees, they should go further in requiring local authorities to improve the services that they provide in relation to local land charges. According to CoPSO, some local authorities still take up to eight weeks to produce local land charges searches. If vendors have to provide local search results as part of home information packs from 2007 onwards—we could debate whether they should do so in the first place—that will only add to the importance of ensuring that local authorities can provide an efficient service. Simply allowing local authorities to set fees to cover their costs does not provide an incentive for them to improve services and move swiftly towards the full electronic delivery of property information.

In accordance with the Government's draft guidance, local authorities cannot operate cross-subsidies to keep council tax down generally, to cover the cost of providing personal searches information—of course, that is specifically excluded from Government amendment No. 390—or to cover the costs of holding property information and generally running their local land charges departments. However, that must be seen in the context of some local authorities' very poor track records in providing at-cost services and transparent accounting.

Will local authorities be able to set their fees to subsidise the cost of collecting and storing property information, providing personal search requests or carrying out other council services? Again, how will the Minister encourage poor-service councils to pull up their socks and start delivering value for money?

It is essential that the Government make it clear that the intention behind devolving this power is to reduce costs and increase transparency for the benefit of local land charges customers, not to create a new source of local government revenue on the back of the service that local councils are required to provide by law. Will the Minister please guarantee that there will be a significant reduction in the costs of gaining access to local land charges information as a result of Government amendment No. 390?

I make none those points in relation to local authorities out of a desire to attack local government. On the contrary, I have a great deal of sympathy for the difficulties faced by local authorities under the Government. Let us take local planning departments. Only before Christmas, the Government slipped out their latest stealth tax plans: a huge increase in planning fees charged to the public—up by an average of 39 per cent. from April—while cutting planning delivery grants to local planning departments, so that they see no real increase in their resources.

Perhaps our biggest criticism relates to the timing of Government amendment No. 390. The Office of Fair Trading is presently conducting a market study of the property search industry that is due to report this summer. It is considering how consumers' needs are met and the structure of the property search market, as well as investigating complaints from property search companies about difficulties in gaining access to property information held by local authorities.

The Government have already accepted the need to wait for the study's findings in relation to personal searches. Yet they are still forcing through Government amendment No. 390 today in relation to official searches, tacked on to a barely related Bill. Bearing it in mind that those proposals have been in circulation for a number of years, my hon. Friends and I suggest that it would be much more sensible to wait the relatively short time until the OFT report is published. That would allow for a single comprehensive review of local property search markets and the role of local authorities.

Mr. Bercow: Could my hon. Friend help the Committee by giving some sort of broad-brush illustration of the extent of the disparity between the highest charges that are imposed and the lowest? While he is about it, given that he has rightly focused on service

delivery, will he offer us an insight into which are the best performing local authorities in terms of cost-effectiveness and speed of response?

The Temporary Chairman: Order. Before the hon. Gentleman goes too far down that road, it would be a very good idea if the Committee were to stay in order and relevant to the amendments under discussion.

Mr. Djanogly: Thank you, Mr. Gale. Let me just respond to my hon. Friend by saying that he makes an important point. At the moment, of course, the charges are the same everywhere, but he refers to what we will have to consider in years to come if we do not get it right now.

To sum up, I have pointed out that many outstanding issues remain, and I look forward to hearing the Government's response to those that I have raised.

Simon Hughes: I shall be brief. I raised this issue in my last intervention on the Minister. First, I start from the presumption that it is reasonable to include such proposals in the Bill because it relates to the devolution of powers that were the Lord Chancellor's, although perhaps it could be argued that they could be included elsewhere. Legislation is often a vehicle to which appropriate things can be attached, as the vehicle goes past, but I understand that the Bill is not entirely inappropriate for such proposals.

Secondly, I start with the presumption that local government should have much more power to raise its income, to spend it and to be much more free from Government interference, direction and control. People would be encouraged to vote if they thought that voting for local councils could make a big difference—and the bigger the difference, the better.

The questions asked by the hon. Member for Huntingdon (Mr. Djanogly) have been raised with us generally, and I am sure that they have been raised with the Government. The Minister needs to assure us that the best value for money and the most efficient service to the consumer can be achieved. I appreciate that we will never get different local councils to carry out searches in the same number of days. There should be a maximum number of days, but the council's efficiency will determine how quickly it is done.

If a council is not allowed to charge more than its costs, however, the only variable is the efficiency of that local authority in delivering that service at the cost that is worked out for the service as a whole. The variation cannot be great. We are talking about small sums. The land search charges cost pounds, not tens, twenties, fifties or hundreds of pounds, so we are talking about one of the smaller costs in the search for houses that for so many people goes on for so long. There are none the less real concerns. The more helpful the Minister can be, the better. If he could also refer the debate on this matter to his colleagues in the Office of the Deputy Prime Minister who deal with local government so that we can be sure that, from the date of handover, there is some immediate scrutiny to ensure that an overview is taken of how local councils perform in the first few years of their new power, that would be encouraging.

Mr. Redwood: It would be useful, if the Minister catches your eye again, Mr. Gale—if he could give us some idea of what range of charges we might be in for if the proposal is adopted. Like my hon. Friend the Member for Huntingdon (Mr. Djanogly), I have some doubts about the Government doing this now. The Conservative party favours more local autonomy, but it would be useful to know why now. It would certainly be useful to know what the consequences might be.

I presume that the Minister has looked at the figures for the costs around the country, and it would be helpful to the Committee to know what the range is and what the biggest increase might be. We consider this important matter in the context of mortgages just having been regulated very expensively and clumsily; the threat or promise of sellers packs coming in, which may also be expensive and cumbersome for people who are selling their houses; and a big escalation in stamp duty.

The costs of buying a house and moving have got a lot dearer. We a considering a very small element of the cost, but we should worry about any element of it, given the history under the Government of big increases in the costs of buying a home, particularly for those who are trying to buy their first home, against the background of a rising market and increasing tax and regulatory costs. It would be helpful to the Committee if the Minister gave us some guidance on average costs and the range of costs around the country, so that we know what we might be in for.

Mr. Bercow: I share my right hon. Friend's scepticism and uncertainty about the proposal. Does he agree that alarms bell ring when Ministers talk about the importance of allowing charges that would reflect local authorities' costs, given that they include labour costs? That is partly because some local authorities are manifestly more inefficient than others and devote a much larger slice of labour time to the fulfilment of prosaic tasks.

Mr. Redwood: My hon. Friend has made an important and original point about labour costs. Some councils are not efficient at delivering such services, which is why the Committee needs some guidance on current experience, the range of costs and what they may mean in the worst and best locations. It would be helpful to know that before coming to a decision on this proposal and the others in the rag-bag of amendments, changes and clarifications before us.

Mr. Leslie: I am slightly surprised that the hon. Member for Huntingdon (Mr. Djanogly) queried why we are discussing this matter on the schedule. As the hon. Member for Southwark, North and Bermondsey (Simon Hughes) said, we are talking in broad terms about the Lord Chancellor's functions, the shift from his old guise to the new guise, and where the different functions should be vested and transferred to. Local land charge fees may be a small area, but for some time now we have had a desire to move decisions to local level rather than having a central diktat. I thought that the Opposition also wanted to move away from that, but perhaps I am wrong.

Mr. Bercow: I am surprised that the Minister is surprised at the way in which my hon. Friend the

[Mr. Bercow]

Member for Huntingdon (Mr. Djanogly) properly performed his Front-Bench duty. The Minister should not take offence. The policy may be right or it may be wrong, but it is, at least, a source of surprise to some of us that such matters have been included in the Constitutional Reform Bill. We had thought that the Bill covered a variety of matters of slightly greater long-term constitutional significance to the fabric of the United Kingdom than is epitomised by a debate on land charges.

Mr. Leslie: The hon. Gentleman may be right, and perhaps I should not have used the word "surprised", because I am not shocked and aghast that the Opposition should have raised the matter. Given that we are discussing the functions of the Lord Chancellor and that one of them is to set local land charge fees, I am not astonished that we are discussing the matter today.

The fact that the fees are crudely set centrally means that the Department for Constitutional Affairs can do nothing but approximate what those fees should be. Widely varying methods are used to produce the information requested in exchange for those fees. Localised setting of fees will help, even in a small way, to improve transparency for local government, and it could be a spur to greater efficiency. The hon. Gentleman referred to the labour costs that go into the process of searches and so on and if there is better local accountability, in theory some local residents may query why charges are set at a higher level than in other areas that are more efficient and have lower charges.

2.45 pm

There is also scope for local authorities to be innovative in the way in which they deliver information about land. The right hon. Member for Wokingham (Mr. Redwood) asked what is involved. We are talking about searches relating to restrictions and obligations on particular pieces of land or, more generally, inquiries about the status of land and whether it is a conservation area, is subject to enforcement notices, and so on.

Local authorities may want to consider providing information through the internet and other electronic means instead of having a paper-based system. That might be a preferable route, and we should consider transferring the centralised fee-setting arrangements to local authorities without allowing them to make a profit from the arrangements. The Lord Chancellor will be able to issue guidance to local authorities to ensure that they are aware of their obligations under other legislation. The idea is not new. Its genesis dates from as long ago as 1997 and might not have been under the present Administration. I caution hon. Members about that in case they favoured the suggestion at that time.

I hope that I have been able to answer some of the points raised by the hon. Member for Huntingdon. There will be no opportunity for cross-subsidisation because there will not be a profit element. The time has come to give that small amount of extra freedom and flexibility to local government. We are discussing the functions of the Lord Chancellor, and now is the time to make the amendment.

Amendment agreed to.

Government amendment made: No. 492.

Clause 13, as amended, ordered to stand part of the Bill.

Schedule 4

OTHER FUNCTIONS OF THE LORD CHANCELLOR AND ORGANISATION OF THE COURTS

Government Amendments made: Nos. 376, 377, 493 to 498, 378, 499 to 501, 379, 502 to 507, 380 to 385, 508, 509, 386 to 395, 510 to 512, 396 to 400, 513, 401, 514, 402, 404, 405, 515, 406 to 408, 516, 409 to 411, 517, 412, 413, 518 to 527, 415 to 420, 528, 421 to 425, 529, 530, 427 to 429, 531 to 534, 430 to 433, 535 to 538, 434, 435, 539 to 544, 436 to 453, 545 to 556, 454, 557, 456 to 459, 558 and 460 to 462.

Question proposed, That the schedule, as amended, be the Fourth schedule to the Bill.

Simon Hughes: The schedule is important in at least one respect; I want to raise a matter relating to habeas corpus. The first amendment in part 1 of the schedule refers to the Habeas Corpus Act 1679 and, understandably, removes the reference to

"the lord chauncellour or lord keeper"

During my 22 years in this place—it is 22 years today—I had never had occasion to go into the No Lobby and pull out the volume of statutes that includes habeas corpus. It is exciting to do so. I remember looking at it when I was at school, at university and at other times. It is a wonderful volume, containing the earliest statutes that we have. It goes back to the very first statutes in 1235–36 during the reign of Henry III. The page is well thumbed and almost falling out, so I shall talk to the Library staff to ask if it can be put into good order.

Mr. Bercow: I congratulate the hon. Member for Southwark, North and Bermondsey (Simon Hughes) on his 22nd anniversary in this place. I hope that I will be in order, Mr. Gale, if I gently suggest to the hon. Gentleman that it would be entirely fitting for him to have a photographic representation of the way he is so painstakingly perusing the book in front of him. It is emblematic of the way in which he goes about his business in this place.

Simon Hughes: The hon. Gentleman is very kind. There are little excitements in life. A commendation the other day said how much better people do if they are brought up to read and explore books and to understand them. This is one example, which I share, of the excitement of finding an item of constitutional importance in a book. I commend it to the Committee.

The schedule would amend clauses 1 and 2 of the Habeas Corpus Act 1679 by removing the references to the "lord chauncellour". Those clauses are very long. I hope that the Minister will be able to tell me what is left to us by way of protection. That was a huge issue yesterday, and it will properly be a huge issue for the Lord Chancellor and the judges of the supreme court and others in the future. It is very important to ensure that at any stage a judge can order that someone who has been detained is brought to court to give them a chance to have their say. I ask out of ignorance, because I have not investigated what amendments have been

made to the Habeas Corpus Act 1679 before. I guess that we do not amend it often and that this is a rare moment in history, hidden away in schedule 4.

The 1679 Act is

"for the better securing the liberty of the subject and for prevention of imprisonments beyond the seas."

In essence, clauses 1 and 2 provide for the body—the person—to be brought before a judge to ensure that they are detained lawfully. After the amendment of the Act by schedule 4, which will remove the most senior judge, the Lord Chancellor, what will we be left with in terms of the judges in front of whom a person detained can be brought? Which judges will have power to call for someone to be brought before them?

The phrase that will be left in the Act appears to include judges generally. Does that mean, in the phraseology that the Minister used earlier, junior judges, such as a magistrate, a district judge or a local county court or Crown court judge? Would it include High Court judges? I hope so. Would it include Appeal Court judges? I suppose that it might. Would it include the Lord Chief Justice? I hope that it would, because we need to know that the most senior judge in the land has the power, if necessary, to use habeas corpus to ensure that citizens of this country retain their liberty.

Mr. Cash: I am impressed by the hon. Gentleman's erudition. The issue he raises has significance for the Bill that we discussed yesterday, in confused and farcical circumstances. I was glad that the Home Secretary, in answer to my intervention, confirmed that habeas corpus would be retained under that Bill.

I draw the hon. Gentleman's attention to the fact that habeas corpus has often been described as

"the most important writ known to the constitutional law of England"

In the case of Cheblak, in 1991—fairly recently—it was said:

"Authorising its issue in appropriate cases is regarded by all judges as their first duty, because we have all been brought up to believe, and do believe, that the liberty of the citizen under the law is the most fundamental of all freedoms."

Simon Hughes: I am sure that we are united in wishing to ensure that we do nothing to reduce the protection of the citizen's liberty by the courts.

I have three further questions. First, I seek the Minister's confirmation, possibly on advice, that the provision remains a United Kingdom provision. I ask that conscious of the presence of Scottish Members. Whatever the mechanisms involved, the same right should apply in each of the four countries of the UK. Secondly, is it still the case that the law provides that people may also be brought before "barons of the said court", as well as before a judge? If so, who are those barons? Some judges are barons, in that High Court judges are knighted, but there are also barons by inheritance. I may be getting beyond my depth in matters of the honours system, but I ask out of ignorance.

Thirdly and very importantly, there are provisions in the Act that relate to the nearness of the judge to the person detained. One of the big issues in criminal justice recently has been the concern to ensure that magistrates courts are near the communities that they serve. That applies as much in the Minister's home area as it does in mine. Do the habeas corpus rules apply in the same way as was originally drafted back in 1679? In the proposals to change the distribution of courts, have the Government taken into account the consideration of distance, as provided in the 1679 Act? The Act states that

"upon security given by his owne bond to pay the charges of carrying backe the prisoner if he shall bee remanded by the court or judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way make returne of such writt or bring or cause to be brought the body of the partie soe committed or restrained unto or before currently the lord chauncellor or lord keeper of the great seale"—

those are the words that will be deleted—

"of England for the time being or the judges or barons of the said court from whence the said writt shall issue or unto and before such other person and persons before whome the said writt is made returnable according to the command thereof"

Then comes the distance provision:

"and shall likewise then certifie the true causes of his detainer or imprisonment unlesse the committment of the said partie be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be resideing and if beyond the distance of twenty miles and not above one hundred miles then within the space of ten dayes. and if beyond the distance of one hundred miles then within the space of twenty days after such delivery aforesaid and not longer."

It would be no consolation to me if I were being held unlawfully in 2005 to be told that the reason I did not have to be brought before a court for 10 or 21 days was that the court was more than a certain distance from where I was being detained. That provision may have been practical 500, 600 or 700 years ago, but it should no longer apply. I would be interested to know whether the provisions have been changed to allow people the speediest possible justice. Will there always be a court near enough so that someone can be brought before a judge at the first available opportunity?

Mr. Leslie: Schedule 4, though dense, is vital to the Bill. It establishes the appropriate responsibilities of the Executive and the judiciary. It ends the judicial role of the Lord Chancellor and gives effect to the principles set out in the concordat. It sets out the bulk of the amendments to existing legislation, including the example cited by the hon. Member for Southwark, North and Bermondsey (Simon Hughes), dealing with the current functions of the Lord Chancellor that relate to the judiciary, his role as judge and the organisation of the courts. It also transfers functions to the Lord Chief Justice, requiring the concurrence of, or consultation with, the Lord Chancellor as appropriate. Some functions remain with the Lord Chancellor, requiring the concurrence of, or consultation with, the Lord Chief Justice as appropriate.

The schedule also enables the Lord Chief Justice to delegate functions conferred on him by the Bill to other judicial office holders, and that is essential to ensure sufficient flexibility and to ensure that the Lord Chief Justice can continue to fulfil his primary role as a judge. It is important to mention that by virtue of schedule 6, the functions conferred on the Lord Chancellor cannot be transferred to another Minister by an order of the Ministers of the Crown Act 1975. That is essential, given clause 4 and the Lord Chancellor's particular duties in relation to judicial independence.

[Mr. Leslie]

I am not a lawyer, nor do I have the well thumbed textbook of statutes before me that the hon. Gentleman has.

Simon Hughes: The Minister can have it.

3 pm

Mr. Leslie: I would rather the hon. Gentleman did not pass it across to me. I will try my best to answer some of his questions about the Habeas Corpus Act 1679. We do not propose to make any substantive changes to that Act. However, it will no longer need to refer to the Lord Chancellor because he will no longer be a judge or have a judicial role. That is the only change that we are making, so all the other references to judges in the Act will remain. The hon. Gentleman asked about different kinds of judges, and my understanding—with the caveat of my lack of legal qualifications—is that the provisions apply to High Court judges and above. No jurisdictional changes are proposed to the Act as it applies throughout the country. I think that the reference to barons of the High Court is another way of describing judges of the High Court.

The hon. Gentleman asked about access to justice and the 20 and 100 miles provisions. We do not propose to change those provisions in this Bill. However, other Acts might well have repealed or amended them, although I cannot say that for certain.

I hope that I have answered the hon. Gentleman's questions. Nothing in the schedule will undermine the principles of habeas corpus, which will remain strong. However, as the Lord Chancellor will no longer be a judge, we need to change references to him in myriad Acts of Parliament, just one of which is the Habeas Corpus Act 1679. I hope that my explanation has been helpful and has elucidated a little more why schedule 4 should stand part of the Bill.

Simon Hughes: I thank the Minister for his reply. If he comes across other useful information, I am sure that he will be able to share it with Opposition Front Benchers and other hon. Members. I am reassured that the Government stand by habeas corpus. If the access to justice provisions regarding distance have not already been amended, I suspect that a habeas corpus amendment Bill will come down the tracks from somewhere in the House before too long.

Question put and agreed to.

Schedule 4, as amended, agreed to.

Clause 14

LORD CHANCELLOR'S OATH

Mr. Djanogly: I beg to move amendment No. 355, in page 6, line 9, leave out from 'that' to end of line 14 and insert

'I will well and truly serve our Sovereign . . . . . in the office of Lord High Chancellor of Great Britain and that I will faithfully and at all times uphold the continued independence of the judiciary and the rule of law, in accordance with the laws and usages of this Realm."'

Clause 14 sets out a new oath to be sworn by incoming Lord Chancellors. Perhaps I should apologise at this point to you, Mr. Gale, because I am about to start a lot of swearing. The proposed oath reads:

"I . . . do swear that in the office of Lord High Chancellor of Great Britain I will respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible . . . So help me God."

The new oath will be brought into force by inserting proposed new section 6A into the Promissory Oaths Act 1868.

The current oath taken by the Lord Chancellor is governed by the existing provisions of the 1868 Act. Section 5 of the Act, in conjunction with the first part of its schedule, requires the Lord Chancellor to take both the oath of allegiance and the official oath. The oath of allegiance reads:

"I . . . do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law",

and the official oath reads:

"I . . . do swear that I will well and truly serve Her Majesty Queen Elizabeth II in the office of"—

Lord Chancellor, for example—"So help me God."

Those oaths are the same as those taken by other Ministers of State.

Clause 14(1) makes it clear that that position will not change under the Bill, because it says that the new Lord Chancellor's oath will be taken

"in the same manner as the official oath".

However, up to now, section 6 and the second part of the schedule to the Promissory Oaths Act provided that the Lord Chancellor had to swear the same judicial oath as judges in England and Wales, namely:

"I . . . do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth II in the office of"—

Lord Chancellor, for example—

"and I will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill will. So help me God."

The swearing of that judicial oath is one of the key things that marks the Lord Chancellor as different from other Ministers. It reflects his occasional judicial function in the Appellate Committee of the House of Lords.

In line with general consensus, the Lord Chancellor's judicial function will not exist in the future. As a consequence, the view seems to be, as Lord Woolf said in Committee in another place, that it would be inappropriate for the Lord Chancellor to take the judicial oath. Paragraph 2 of schedule 14 will thus amend the schedule to the Promissory Oaths Act 1868 so that future Lord Chancellors will not have to swear the judicial oath.

The Lord Chancellor's judicial function was not the only reason why it was right for him to swear the judicial oath. By swearing that oath, he became inextricably linked to the judiciary, the independence of which he was charged with upholding in Cabinet. His requirement to

"do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill will"

reflects the unique constitutional position of the Lord Chancellor in upholding the rule of law in our country.

Mr. Cash: My hon. Friend understandably referred to the rule of law in our country. However, we discussed clause 4 of the Bill some weeks ago, and he might recall that I drew attention to subsections (7) and (8) of it. Those provisions make it clear that the definition of "the judiciary" will extend far beyond this country into a realm of other judiciaries, such as those of the International Court of Justice, the European Court of Justice—by implication and necessity—the European Court of Human Rights, the International Criminal Court and even the General Assembly of the United Nations. Thus the oath will apparently relate to an extraordinary range of matters. The situation is bizarre and we need to get to the bottom of it. The definition of "judiciary" needs to be clarified.

Mr. Djanogly: My hon. Friend makes a good point. I could add the Privy Council to his list because other Commonwealth countries could be included.

As Lady Justice Arden told the House of Lords Select Committee that considered the Bill, a possibility has arisen of replacing the judicial oath with a new oath, although the Committee was divided on the merits of that proposal. In any case, the Government have pursued that option by drafting clause 14. With amendment No. 355, my hon. Friends and I are attempting to suggest a more appropriate replacement for the judicial oath than that proposed by the Government. We suggest that the oath should read:

"I . . . do swear that I will well and truly serve our Sovereign . . . in the office of Lord High Chancellor of Great Britain and that I will faithfully and at all times uphold the continued independence of the judiciary and the rule of law, in accordance with the laws and usages of this Realm."

The first purpose of our amendment would be to bring strength and focus to the new oath. Both versions of the oath rightly refer to the Lord Chancellor's duty to uphold the independence of the judiciary and the rule of law. However, our version would remove an unusual requirement for which the Government have provided. Their version means that the person taking the oath would effectively, and somewhat bizarrely, swear to uphold administrative efficiency. However, pursuing such an aim could prove to be at odds with protecting the overriding principles of judicial independence and the maintenance of the rule of law.

Our version of the oath focuses on the key constitutional issues that should, above all else, remain the driving force behind the Lord Chancellor's actions. Our oath sets out clearly that whatever the pressures faced by a Lord Chancellor—be they political or otherwise—it is at all times his or her duty to uphold such vital constitutional principles. Underlining that duty becomes even more important in the wake of the Government's decision to override the clear view of the other place that the Lord Chancellor should remain a Member of that House and a person who has held judicial office or has senior legal experience.

We have added the words

"in accordance with the laws and usages of this Realm"

to the oath. They mirror the wording of the judicial oath and highlight the need for the Lord Chancellor to respect both the laws of the country and, perhaps even more significantly in practice, all the traditional conventions that have been so important in shaping our constitution.

The Committee is well aware of the cavalier manner with which the Government treat those important protections offered by custom and convention. It was very nearly the case that we were not able to have this debate on the Floor of the Chamber, as a result of the Government's disregard for convention.

Keith Vaz: Why does the hon. Gentleman persist in saying that nonsense? Does he not realise that the Government have given many days on the Floor of the Chamber? Judging from the number of Opposition right hon. and hon. Members present, it seems that they do not want to participate. The only thing on which we have voted so far is the name of a court.

Mr. Djanogly: The hon. Gentleman was here when we debated these matters before. He knows full well the official Opposition's position and that we stated that not enough time was given to discuss this important constitutional Bill. I maintain that that is our position.

Mr. Bercow: I know that my hon. Friend does not need my protection, but he must not be deflected from his legitimate purpose by the synthetic indignation of the hon. Member for Leicester, East (Keith Vaz). I encourage my hon. Friend to focus on the weaker part of the Government's proposed oath. Personally, I do not object to the removal of the reference to the sovereign and the way in which they have phrased the first part of the oath, although it is a legitimate point to debate. Does he accept that it is ridiculous for the Government to include the reference to

"efficient and effective support of the courts",

resources for which will be provided, unless they choose to include the word "adequate"? The oath says nothing about the adequacy of resources, over which the Lord High Chancellor will have no influence in any case, so this is just pompous windbaggery. It adds nothing.

Mr. Djanogly: I thank my hon. Friend for his input and agree with him. It is highly debatable as to whether administrative efficiency should be included in the oath. I do not think that it should be.

In this context, it should be clear why it is necessary to point out specifically the importance of abiding by the law and usages of this realm. As the noble and learned Lord Howe of Aberavon put it in the other place, our suggested wording would also provide a "desirable sense of continuity". We do not believe that a difficulty arises if the Lord Chancellor's oath in some way mirrors the judicial oath.

The noble Baroness Ashton of Upholland raised that point for the Government on Report when faced with similar amendments tabled by Lord Howe. We do not accept that the wording of our amendment would result in ambiguity in relation to the reformed status of the office of Lord Chancellor, simply because the Lord Chancellor's oath bears some similarity to the existing judicial oath. On the contrary, we would welcome it if the Lord Chancellor were still to be reminded of his continuing duty with respect to the rule of law.

[Mr. Djanogly]

Our amendment contains a specific reference to well and truly serving our sovereign. That again reflects words previously sworn by Lord Chancellors as part of the judicial oath. It would serve as an important reminder of the principle that justice in the United Kingdom flows directly from the Crown. I dare say that it would provide a much more fitting and British tone to the oath, by contrast with the Euro-friendly Government version. Perhaps the Government are ensuring that the oath is European constitution-compliant, although I am sure that they need not worry themselves about that becoming necessary.

Ross Cranston: I am not persuaded by the hon. Gentleman. Let me make three brief points. The rule of law subsumes the notion of the laws and usages of the realm. The elimination of those words does not subtract from the importance of the principle of the rule of law. In retrospect, I realise that I went on at inordinate length on Second Reading about what the rule of law entails. I went back to Dicey—

Keith Vaz: Save us.

Ross Cranston: I will on this occasion.

I also talked about modern definitions, but there is no suggestion that we are excluding the notion of the laws and usages of the realm. Both oaths take into account defending the independence of the judiciary, which is fundamental. The objection seems to be to the words in relation to ensuring the provision of adequate resources. If there is one thing that we have learned from history, and by examining the judicial systems of other countries, it is that courts cannot function effectively without adequate resources.

3.15 pm

Mr. Bercow: I am appreciative of the fact that the hon. and learned Gentleman has purloined—I emphasise "purloined"—my word "adequate" without permission. I do not begrudge him the use of that word, but the trouble is that the Government, in their proposed formulation for the oath, say nothing about the adequacy of resources. That adjective is not used at all. The oath simply says:

"provision of resources for the efficient and effective support of the courts".

Unless they are adequate, what is the point of including that subordinate clause? If the Government want to include the word "adequate", we should hear that from the Minister pretty quickly.

Ross Cranston: I did borrow the word, but I did not purloin it. The words

"the duty to ensure the provision of resources for the efficient and effective support of the courts"

require the provision of adequate resources. There is no difference between us on the need for there to be adequate resources.

Mr. Cash: The hon. and learned Gentleman might reflect on the earlier part of the Bill, which prescribes the functions of the Lord Chancellor. It says that he

"must have regard to the need for the judiciary to have the support necessary to enable them to exercise their functions",

which imposes a statutory duty. It is extraordinary that that phrase should be used, because it requires him to swear an oath to provide for something that is within not his competence, but the competence of Parliament to provide, which itself is constrained by the golden rule and various other things. Without making too much of this, the Lord Chancellor might even get into a situation in which he seriously perjures himself.

Ross Cranston: I do not accept that analysis. Obviously, resources ultimately have to be voted for by Parliament, but the function of the Lord Chancellor, or the Secretary of State for Constitutional Affairs, will be to press the Government for adequate resources. The Department has a range of responsibilities. There are many functions for it to perform. In terms of the allocation of resources within those functions, the Lord Chancellor is simply acknowledging—this reflects the earlier stipulation, as the hon. Gentleman rightly said—the obligation to ensure that the courts are adequately funded. I have no difficulty with the oath as it stands. In fact, it is a helpful reminder that we cannot simply wish that the courts are working properly. We have instead to provide sufficient resources so that they work effectively in practice.

Simon Hughes: This is an important matter, on which other hon. Members have done more research than I have. However, I want to deal with two issues, one of which has not been touched on.

First, when we take our seats in this place, we are given the option of swearing or affirming, as people are in courts up and down the land. In this modern age, in which people may not wish to swear, either from reasons of belief or faith or from conviction, they should have the option of affirming, no matter whether it is the Lord Chancellor or someone becoming a Member of the House of Commons. Personally, although I have a faith, I have never taken an oath by swearing, because I think that it is wrong. I have always affirmed here and in other places such as courts where I have given evidence, and I do not see why the Lord Chancellor of the future should not have the same option.

Mr. Grieve: I think that I can assure the hon. Gentleman that there is nothing to prevent the Lord Chancellor from doing just that. As I understand it, any oath can be turned into an affirmation.

Mr. Leslie *rose—*

Simon Hughes: If the Minister can assure me of that, I shall be encouraged.

Mr. Leslie: When we discussed this in another era, we mentioned that the Promissory Oaths Act 1868 allows for affirmation to apply to such oaths.

Simon Hughes: I am reassured and need not pursue that. I am satisfied with the consensual view that there is an option available.

Mr. Bercow: I do not want to break the consensus, but I want it to be worthy of support, and I am not

absolutely sure that it is. It is all very well to be told that that is what the 1868 Act says, but it seems to me—the hon. Member for Southwark, North and Bermondsey (Simon Hughes) may think that I am being pedantic, but so be it—that if the alternative of an affirmation is to exist, it would be sensible to say so in the Bill.

Simon Hughes: That would certainly be my preference. As I read it, other parts of the Bill expressly give the option of oath or affirmation, but not this one. That led me to believe that affirmation might not be possible, despite the Minister's assurance, which I accept. I am conscious that we are at a late-ish stage of the Bill, but it would be better if it were included for the avoidance of doubt.

Secondly, of the two options before us, I prefer the amendment tabled by the hon. Member for Huntingdon (Mr. Djanogly) and his hon. Friends to what the Government set out in the Bill, not least because it keeps the two fundamental jobs in question—upholding the independence of the judiciary and the rule of law, and the historical rights and duties that go with that—and does not add the novel obligation to do with being a good housekeeper. I can see potential merit in Ministers swearing, by oath or affirmation, to be good housekeepers. I assume that if we pass the Bill unamended, all future Lord Chancellors will have to swear to

"discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible."

I agree that it would be better still if it said, "adequate resources", because that would add an extra protection that "efficient and effective support" does not have.

It strikes me that this will be a unique, governmental, ministerial obligation. Is it the start of a trend? Will the Minister and all his colleagues, when they take office, have to make some affirmation or public declaration that they will be responsible for the efficient and effective support for, in the case of the Home Secretary, the prisons or the police service, or, in the case of the Deputy Prime Minister, local government? In that sense, I would much enjoy going back to my old job of administrative lawyer, because many challenges could be made in court that Ministers were not doing their jobs properly. This will be the first time that we have this modernist oath saying, in effect, "I am going to look after the buildings as well". If that is really what it means, it makes one's great moment a bit banal. One arrives at the end of one's career, with the Lord Chancellor of Great Britain—*[Interruption.]* Well, under this new system someone might then be transferred to be something like the Under-Secretary of State for Northern Ireland as the next job. I would hope that we could have a slightly less banal oath than "Here I am, I will look after the rule of law, defend the independence of the judiciary, and make sure all the courts have enough curtains, cleaners and cleaning materials to do the job." If it really means that, there is a huge amount more work to do.

Ross Cranston: Does the hon. Gentleman concede that if the Government do not appoint enough judges, build courts and provide staff for judges, the rule of law and the independence of the judiciary will not be protected?

Simon Hughes: The hon. and learned Gentleman, in his previous role as Solicitor-General, would have dealt with such matters much more regularly than most of us. If this is just words—dressing—it should not be in the Bill. If it gives me—the citizen—or my constituents in Southwark and Bermondsey a remedy allowing them to say, "Look, I do not want to wait six months for my court hearing, or to go across the country to a court because the court that used to be here has been closed", it will be worth something. If it is all about saying, "I'm going to do my best to make sure there are enough resources", that is great, but we could have a lot of argument about the amount of resources and why all Ministers should not be subject to the same oath of affirmation.

Mr. Cash: Would the hon. Gentleman like to extend that thought to the question of why the Prime Minister, for example, should not swear such an oath to provide all the public resources that people want and apparently need? Why not the Chancellor of the Exchequer? Why does the poor Lord Chancellor have to be required to carry out these duties, when the real responsibility lies even further up the chain than him?

Simon Hughes: That is a proper question, and I would be grateful for an answer from the Minister as to whether it is intended to oblige the officeholder to carry something out, and whether there is a remedy if they do not.

All I would say to the hon. Member for Stone (Mr. Cash) is that if this does get written into the Bill, and if the Tories were ever to return to government, although some of us hope that that will not happen, it may act as a Tory Government's brake on starting a tax-cutting, public-expenditure-reducing agenda that some of his hon. Friends might be keen on. For my part, I am keen to ensure that we hold Ministers to account, but if it is just to be the poor Lord Chancellor who is to be in the firing line, I did not know that he had access to resources other than by going to ask the Chancellor of the Exchequer, who is not governed by the same proposals.

Mr. Peter Atkinson: I am delighted to support amendment No. 355, which gives a few traditionalists on this side of the Committee the opportunity to form a square against the horde of modernisers led by the Minister and ably supported by the hon. and learned Member for Dudley, North (Ross Cranston) and the hon. Member for Leicester, East (Keith Vaz), who want to destroy the last vestiges of tradition that surround the law. I am not a lawyer—*[Interruption.]* I apologise to my north-east neighbour, the hon. and learned Member for Redcar (Vera Baird). She has not spoken, so I was not about to blame her for this.

It is important for people of this country who believe in the importance of the law that there should be some dignity and respect attached to it, because that gives it something additional to the normal run of life. It makes judges stand out; people talk about the majesty of the law. That is very important if one is to engender the respect of the population for the legal system and the judiciary. They need some traditions, and over the years we have been wiping those out. We wiped out the assizes, quarter sessions and all sorts of aspects of the tradition of the law and replaced it with things such as this rather dull and banal version of the oath that we see today.

[Mr. Peter Atkinson]

I remember the introduction of new rules and regulations about juvenile courts. The idea was to make them far more user-friendly for those who were brought before them. Judges and magistrates were made to sit informally in small rooms, and that was meant to help young offenders. Of course, it did not. The respect of young offenders for the system of the courts and justice declined, as we have seen. It is ironic that the Government are now so fond of reversing that process by introducing naming-and-shaming antisocial behaviour orders.

I agree with the hon. Member for Southwark, North and Bermondsey (Simon Hughes) that the oath is banal and nonsensical. It is interesting to look at a copy of the Promissory Oaths Act 1868—one can get it online, believe it or not—and the original words. It says that the Lord Chancellor will swear that he or she

"will do right to all Manner of People after the Laws and Usages of this Realm without Fear or Favour, Affection or ill will. So help me GOD."

Those are ringing words—words of tradition—to be replaced by this banal oath whereby he promises to ensure the adequacy of curtains, drains or other things, as the hon. Member for Southwark, North and Bermondsey said. I believe that we should resist this change, and I hope that my hon. Friends will push the amendment to a Division.

3.30 pm

Mr. Cash: Buried in this debate are some pretty important questions, as my hon. Friend the Member for Hexham (Mr. Atkinson) has just pointed out. It is about the abolition of the traditional quality of the office of Lord Chancellor. In deliberations in Cabinet, certainly until the present Cabinet, the Lord Chancellor by any standards carried weight and authority second only to and possibly exceeding that of the Prime Minister when it came to matters of constitution including constitutional reform, which is the subject of this Bill. After all, the role of the Lord Chancellor, excluding his judicial functions, is to maintain the security of the constitution of this country, which is what this Bill is meant to be all about.

So, having regard to the exchanges that we have just had on the Lord Chancellor's oath, it is something of a surprise that the proposed oath does not emphasise the responsibility to maintain the constitution of this land, including the supremacy of Parliament, and to protect it against invasions from international treaties—European treaties and the like. Article 1.6 of the European constitutional treaty—I do not know whether the Lord Chancellor had anything to say on the subject—makes it clear that the constitution has primacy over the laws of the member states in relation to the competences conferred upon it. That brings us straight to the function of the Lord Chancellor in relation to the European Court of Justice. The Court has increased competences. Article 1.20 makes that clear. The role of the Lord Chancellor in Cabinet ought to be to give advice to the Prime Minister on the impact of the European constitutional treaty on the constitution of this country, including the impact on the making of laws in this country. I do not know whether the present Lord Chancellor has done so; I know that Lord Kilmuir did.

If there is inconsistency between the laws prescribed by this Parliament and the laws that emanate from the European Union, the rule of primacy under section 2 of the European Communities Act means that our laws would be overridden. In the context of the constitution, which ought to be a central question for this Constitutional Reform Bill, I would have expected the Lord Chancellor to point out that the European constitution in relation to the declaration made in respect of article 1.6 on the role of the European Court of Justice says that the case law relating to primacy shall be in accordance with the decisions of the Court of Justice. The European Court asserted in the Costa *v.* Enel case and the Simmenthal case and others that the constitution and the laws of the European Union override our constitution and all treaties and obligations.

So we have a serious problem on our hands. I do not know why the oath does not include a reference to maintenance of the constitution as a prime function of the Lord Chancellor. It could be said that all this is wrapped up in the expression "the rule of law". We debated that earlier. I am glad to say that the Opposition and the Conservative party as a whole supported my Back-Bench amendment on what the rule of law meant. The amendment to clause 1 sought to include our Parliament and asserted that the rule of law included ensuring that the supremacy of Parliament was maintained. I wonder whether that is understood by the Minister, and whether he is prepared to concede that point in respect of the words "the rule of law".

The Minister wrote to me the other day on the subject and said that he did not think that in the context of the Bill it was necessary to go into all these questions. Well, I am going into them now, and I would like an answer from the Minister. He does not think that it matters. Other people in the Committee and in the country at large are extremely concerned to know whether the rule of law includes maintaining the supremacy of Parliament.

If the Minister considers the body of law that relates to the legislative supremacy of Parliament, which I do not need to go into in detail, thank heavens, today, it is abundantly clear that this Parliament has to be maintained as the legislative body for the nation, over and above prerogative and international treaties. That is what the rule of law means. That is what the Lord Chancellor is being required to swear he will maintain. I want to hear the Minister, in the light of his letter to me, assert that and confirm that when the Lord Chancellor swears that oath regarding the rule of law, he is also swearing to maintain the supremacy of Parliament. It is an extremely simple point and I want to hear it from the Minister's lips. If he is not prepared to put it in writing, perhaps he will be a little more forthcoming on the Floor of the Committee. It is a central issue. It came up today in Foreign Office questions. It is a new primacy, a new treaty and a new doctrine that is being applied under the aegis of the European Communities Act 1972. I want a simple answer. Will the Lord Chancellor, when swearing the oath, be swearing as a matter of duty and perjury that he will uphold the supremacy of Parliament?

Some people may say that this is just meandering round words, words, words. In the exchange with Alice in "Through the Looking Glass", we read that a word

"means just what I choose it to mean . . . The question is . . . which is to be master—that's all."

This is not just a jokey matter to be discussed flippantly in Committee. Over and over again we have tried to get a clear statement from the Government with respect to where we are going under the European Union Bill. We know that they are not disposed to tell us when the next stage will take place, but it is incumbent—

The Chairman of Ways and Means (Sir Alan Haselhurst): Order. I am beginning to think that I have heard this before in another context. I am therefore bound, after 10 minutes, to remind the hon. Gentleman that we are choosing between the words proposed in the amendment and those that are in the Bill. His remarks should be confined to that, and not cover the wider issue, about which I know he feels the most enormous concern. We must concentrate on the words before us.

Mr. Cash: Indeed, I entirely agree, Sir Alan, that we should concentrate on the words contained in the oath. With respect to the rule of law, I have made my point on that and I do not need to repeat it. But I want an answer. That is why I insist relentlessly on pressing the matter on the Minister.

I move on to the next question—the wording that the Government have chosen to defend the independence of the judiciary. Before you came into the Chamber, Sir Alan, you may have observed that I raised the question in the context of clause 4, because the oath cannot be separated from the functions that are being conferred on the Lord Chancellor in part 1. The expression "the judiciary" is defined. We all thought we knew what the judiciary was, but now we find that it relates to a range of jurisdictional functions set out in clause 4(7). That cannot be separated from the oath because the Bill defines what the judiciary is.

Subsection (7) states that

"'the judiciary' includes the judiciary of any of the following—

(a) the Supreme Court;"

Of course it should—

"(b) any other court established under the law of any part of the United Kingdom,"

I agree entirely—

"(c) any international court."

That includes the International Criminal Court and the International Court of Justice, which is specifically mentioned in subsection (8), which states that

"'international court' means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of—

(a) an agreement"—

The Chairman: Order. The hon. Gentleman does not need to read out the whole clause. The Committee has already considered clause 4. It now stands part of the Bill, so a mere reference would be adequate.

Mr. Cash: I understand, Sir Alan, although we have a fair amount of time to consider these matters, which we were denied yesterday. The definition of "international court" also includes functions in pursuance of

"a resolution of the Security Council or General Assembly of the United Nations",

which anyone would regard as rather curious in the context of a judiciary whose independence, as a matter of duty and of oath, must be sustained by the Lord Chancellor.

Let us put that in the context of what judicial independence means. I have set the framework and I am now leading up to that crucial question. In 1950 Lord Denning, no less, stated in a seminal lecture:

"No member of the Government, no member of Parliament, and no official of any Government department has any right whatever to direct or influence or to interfere with the decisions of any of the judges."

That is what is meant by the definition in the Bill. The oath refers to the upholding of the independence of the judiciary.

3.45 pm

This is not a light matter. Apparently, in 1994, a serious problem is supposed to have arisen when the president of the Employment Appeal Tribunal and the then Lord Chancellor fell out over the question of judicial independence.

The Chairman: Order. The hon. Gentleman forces me to say again that the definition of the independence of the judiciary was dealt with in clause 4. That now stands part of the Bill. The matter before us now is entirely to do with the content of the oath. It is not a redefinition of what we have already dealt with in clause 4.

Mr. Cash: I just say that the issue that arose in that instance involved a dispute between Lord Mackay of Clashfern and others. A debate took place on the relationship between the Executive and judges in the House of Lords. As Lord Lester of Herne Hill pointed out, the Lord Chancellor will command the confidence of his judicial colleagues only if he "will protect the judges" and that included independence from any improper interference. I do not need to go into the details of that case but its significance is that, in relation to the swearing of an oath to maintain judicial independence—as you have indicated, Sir Alan, we do not need to go into what that would involve because we have already discussed it on clause 4—the question of what the consequences would be if the Lord Chancellor were to behave in a manner that involved improper interference with the judiciary remains important. That would also apply to the category of activity in relation to the judiciary within the general remit of the definition of international court, which again I do not need to go into because we have covered that already.

The Chairman: Order. What I want the hon. Gentleman to go into is the wording of the oath and little else besides. To employ again words that Lewis

[Mr. Cash]

Carroll may have used, the significance of this matter is what I think it is, not what the hon. Gentleman thinks it is.

Mr. Cash: That is very interesting. I can only say that I am now at liberty, therefore, to move on to the next question, which relates to the provision of resources.

Mr. Greg Knight (East Yorkshire) (Con): Before my hon. Friend moves on, can he assist me with regard to the wording in the oath? Reference is made to the independence of the judiciary. Does he take that to mean the judiciary in Britain, or would it mean the judiciary worldwide? Would it encompass judges of the European Court, whom some of us do not think are judges in the proper sense at all?

Mr. Cash: I thought that the cavalry would come to my aid in an intervention at some point. Sir Alan has made it abundantly clear that he does not care for me to go down the route of discussing those international courts. We have had over the past 15 years or so a considerable amount of discussion on the subject and there are differences of opinion, but, in a nutshell, the fact is that the provision goes far too far. That is where the problems lies. I have no idea how it would be possible to discharge an oath to defend the independence of the judiciary which is not confined to the United Kingdom. That is relevant to the definition that we have here. How on earth could the Lord Chancellor be put in a position in which he is under an obligation to give effect to an oath relating to the activities of judiciaries elsewhere in the world? That is impossible and absurd.

I move to the next question, which concerns the discharge of

"my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible."

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): My hon. Friend has not covered the important point of how the wording of the oath relates to the duties of the Privy Council in relation to our colonies. Could he say something about that?

The Chairman: Order. Certainly not.

Mr. Cash: I sense that you are not concerned to hear more on that subject, Sir Alan—you have made it clear that you do not particularly like my hon. Friends' line of inquiry. I happen to find it interesting and others may do so as well. At the risk of continuing to move down that path, I shall eschew the opportunity of considering the Commonwealth, about which I could expound at length.

Mr. Greg Knight: Reading the wording of the oath, I am at a loss to understand what the position would be if the Lord Chancellor was an atheist. Does the Lord Chancellor have the option of affirming rather than swearing an oath if he happens not to believe in God?

Mr. Cash: That important point is not covered as far I can judge, other than to say that that requirement—indeed, duty—is in place and that, irrespective of our interesting discussion on the Promissory Oaths Act 1868, the option would be available to the Lord Chancellor to affirm. I suppose that if he had a problem of conscience with regard to the swearing of the oath, he could experience the same problem as Bradlaugh, in 1868 I think, when he was required to swear an oath, but, being a Quaker—I look to the hon. Member for Southwark, North and Bermondsey (Simon Hughes) for guidance on this—and a contemporary of John Bright, was allowed to affirm. Hence, I think, the hon. Gentleman's remarks. If the Lord Chancellor was an atheist, he could be in difficulties if he was required to swear the oath in question.

Leaving aside that important point—for which I am grateful to my right hon. Friend the Member for East Yorkshire (Mr. Knight) and which goes to show how many unpleasant man traps there are in the oath—I turn to the

"duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible."

I may add that the following sentence is:

"So help me God."

The Lord Chancellor will certainly need divine assistance if he is to fulfil that obligation. I made the point in an intervention that it would be extraordinary to single out the Lord Chancellor to swear an oath to maintain public expenditure, whereas the Chancellor of the Exchequer and the Prime Minister, who ultimately decide whether the Lord Chancellor gets his money, are not placed under the same requirement.

That seems a little odd, but I could also mention the issue of court closures, for example. It is not impossible that somebody might not only pursue the Lord Chancellor for failure to carry out the administrative functions regarding the provision of resources that are laid down in clause 4, but tackle him on whether he is in breach of his oath. That would be an extraordinary state of affairs.

The Chairman: Order. The hon. Gentleman—I will say it one more time—should be talking about the content of the oath and not diverting into areas that are not relevant to the amendment. If he cannot accept my rulings, I have other powers.

Mr. Cash: I have to say, Sir Alan, that if the words are to be

"discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible",

I cannot see why it should be out of order for me to talk about what those words mean.

In that context, I conclude with the words "So help me God".

Mr. Leslie: That applies to us all following the hon. Gentleman's speech, thorough and comprehensive though it was.

Amendment No. 355 suggests an alternative to the oath proposed in the Bill. While I understand some of the sentiments expressed by Members, I hope to explain briefly why I do not think it is the right alternative and why I think it would be best to retain the version in the Bill.

The oath set out in clause 14 covers the three principal areas of the Lord Chancellor's role. It covers the rule of law and judicial independence, but it also covers the running of the courts. There has been some pooh-poohing of the notion of the efficacy and efficiency of resourcing of the courts—I shall explain why it is important in a moment—but those duties are key to the Lord Chancellor's Office in its reformed state, and also distinct from those of any other Minister.

The Lord Chancellor's oath as contained in the Bill outlines the fundamental responsibilities of the office holder in a form that avoids the problem of overlap with the judicial oath. That, too, is key. My hon. and learned Friend the Member for Dudley, North (Ross Cranston) had his own rationale for why the phrase

"in accordance with the laws and usages of this Realm"

in the existing oath need not remain—he felt that it was already encompassed in the concept of the rule of law—but it is also crucial to note that that is currently integral to the judicial oath.

An oath whose purpose is to declare the Lord Chancellor's essential functions should clearly now reflect the fact that that Lord Chancellor will no longer sit as a judge. We will no longer have a judicial Lord Chancellor, which is why we need a new oath distinct from the judicial oath. By rejecting that phrase we are not, of course, implying that the Lord Chancellor should not be bound by the law when exercising his functions—he or she will be bound by it—but there is no need to specify that in the oath, especially if terms are borrowed from the judicial oath.

Let me now deal with the crux of the matter. I think that most of the objections are a result of a feeling that the new oath is not phrased in as romantic and flowing a way as the existing one. It is important for us to mention the Lord Chancellor's responsibilities in relation to the provision of effective support for the court system. Some Members may consider that very concrete and pedestrian, but it is important none the less.

I do not know whether those who are present were involved in scrutiny of the Courts Act 2003, but part 1 imposes a new statutory duty on the Lord Chancellor to ensure the provision of resources for the "efficient and effective" support of the courts. The Act was debated and approved in a specific context of concern from Members in all parts of the House who felt that we needed to be more certain that resources would be provided for the efficient and effective administration of the courts. It is because that duty was imposed then that we need it to be mentioned in the new oath. If the purpose of the Lord Chancellor's oath is to set out the essential responsibilities of the office, this vital area of duty ought not to be overlooked.

Simon Hughes: First, will the Minister tell us what power the Lord Chancellor has, other than influence, to ensure that he or she has the money with which to do the job? I presume that it will have to be obtained from the Chancellor of the Exchequer: there are no own revenues, or very few. Secondly, what does this mean in practice? What can anyone do if the Lord Chancellor of the day does not fulfil his or her obligation? What right have I to take the Lord Chancellor to court in those circumstances?

4 pm

Mr. Leslie: As I was implying, we debated this during the passage of the Courts Act 2003. The reason that we explicitly put this duty into that Act was to provide a justiciable provision on the duty to provide resources for the efficient and effective running of the courts that was more firmly enshrined in our constitutional framework. Not many people, including those in the media, commented on that at the time, but the measure represented an important step forward.

Angus Robertson (Moray) (SNP): If the measure is already enshrined in law, why is it necessary for it to form part of the oath?

Mr. Leslie: The oath does not stand on its own as a piece of legislation. It is a formal expression by which the prospective post holder reaffirms their commitment to the important principles set out in our constitution and in statute. It supplements what is already in statute. Some might say that it is not a necessity, but we feel that the oath adds the extra virtue of underlining to every new post holder the responsibilities and duties that they will have. That is why we want to continue to have an oath, albeit in a different form.

Mr. Greg Knight: Will the Minister answer the question that I asked earlier? Will it be possible for a Lord Chancellor to affirm instead of taking the oath, if that is what he or she wishes to do?

Mr. Leslie: Yes. I addressed that point before the right hon. Gentleman came into the Chamber, in response to a question from the hon. Member for Southwark, North and Bermondsey (Simon Hughes). The hon. Member for Stone (Mr. Cash) asked about the rule of law and whether the measure encompassed the supremacy of Parliament in the oath. We have already debated that matter in other parts of the Bill and I do not want to go into it again. We have now agreed a definition of the rule of law. Some people certainly feel that the supremacy of Parliament should be included in it, but we have deliberately not included a formal definition of the rule of law in the Bill. We feel that the oath is better and more comprehensive in the proposed new form and I hope that the House will reject amendment No. 355.

Mr. Djanogly: We have had a full and interesting debate on the Lord Chancellor's oath. We heard persuasive arguments from my hon. Friend the Member for Stone (Mr. Cash) on the implications of oaths in the context of the rule of law, the supremacy of Parliament and the independence of the judiciary. The Minister said that there could possibly be an overlap with the judicial oath. Indeed, he stated that that was the key problem. We disagree with him, not least because of the Lord Chancellor's interest in protecting the interests of the judiciary. There is therefore no need to break the historic link with the judicial oath.

We find the Minister's remarks unpersuasive and wish to stand by amendment No. 355 to show that justice in the UK flows from the Crown, to remind the Lord Chancellor of his continuing duty with respect to the rule of law, to oppose the idea that an oath should be tied into adequate resources and to some kind of judicial efficiency, to remind the Lord Chancellor of his unique

[Mr. Djanogly]

role as a Minister in protecting judicial independence, and to preserve the sense of continuity that exists with this historic role.

Question put, That the amendment be made:—

The Committee divided: Ayes 167, Noes 272.

Division No. 106] **[4.3 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Thurso, John
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. Geoffrey Clifton-Brown and
Mr. David Ruffley

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Buck, Ms Karen
Burden, Richard
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Ronnie *(Blyth V)*
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Coston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
David, Wayne
Davies, Geraint *(Croydon C)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry

George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Lammy, David
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
Mactaggart, Fiona
McWilliam, John
Mahon, Mrs Alice
Mallober, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes: James Purnell and Mr. John Heppell

Question accordingly negatived.

Clause 14 ordered to stand part of the Bill.

Clause 15

SPEAKERSHIP OF THE HOUSE OF LORDS

Question proposed, That the clause stand part of the Bill.

Mr. Leslie: Clause 15 introduces schedule 5, which vests the functions currently vested in the Lord Chancellor as Speaker of the other place in the generic office of Speaker of the House of Lords. The provisions remove the automatic link in primary legislation between the Lord Chancellorship and the speakership of the other place, ensuring that the other place can, under its own Standing Orders, appoint any person to be its own Speaker rather than, as is currently the case, having the Speaker selected by the Executive. The person then appointed will be empowered to carry out all the functions currently attached to the speakership of the House of Lords. It is for the other place to settle its own arrangements for presiding over its own proceedings.

The Government acknowledge that discussions in the other place, following the report of its Select Committee established to examine the speakership, have taken place and we have encouraged the other place to consider appointing as its Speaker a Member other than the Lord Chancellor. The report of the House of Commons Constitutional Affairs Committee notes that it is reasonable to assume that the Lord Chancellor who, after all, has the responsibility for running a large Government Department should not also be Speaker of the House of Lords. That is also the Government's view, so I support clause 15 and schedule 5.

Mr. Peter Luff (Mid-Worcestershire) (Con): Until recently, I had not appreciated that the proposals in clause 15 and schedule 5 were part of the provisions of the Bill. A Member of this House gets into a debate about the conduct of affairs in the other place only with some trepidation, but I have a sort of interest that I should declare, in that I was the first Parliamentary Private Secretary to a Lord Chancellor.

[Mr. Peter Luff]

In the previous Conservative Government, I had the privilege to serve Lord Mackay of Clashfern—for my money, one of the finest Lord Chancellors that this country has produced. As his PPS, I saw for myself something of the Lord Chancellor's different roles and the value of having the person in that post as Speaker of the House of Lords.

There is a difficulty that this House needs to consider and it relates to the use of the word "Speaker" in both Houses. I do not feel entirely comfortable with that, as the word has a particular resonance in the British Parliament. I feel strongly that that resonance is best protected if the word "Speaker" is used solely in connection with the House of Commons. I regret that the House of Lords is considering using the word for the person who chairs its proceedings, and I also regret that the Lord Chancellor will no longer be the automatic choice as Speaker in the other place.

On a point of procedure, I am slightly surprised—as an amateur in these matters—that clause 15 should have such lax wording. It states:

"Schedule 5 contains amendments relating to the Speakership of the House of Lords."

I hope that the Minister, when he winds up this short debate, will confirm that the wording is sufficient to give effect to the amendments contained in schedule 5.

Those amendments are surprisingly wide ranging. One might have imagined that the simple change proposed in the clause would have required relatively few consequential changes, but no fewer than eight Acts of Parliament will have to be altered as a result. I suppose that the changes to the Ministerial and Other Salaries Act 1975 could have been predicted, but I hope that the Minister will confirm that the clause does not have wider implications. For example, the Lord Chancellor at present has power in relation to ecclesiastical patronage. Schedule 5 deals with the Church of England Assembly (Powers) Act 1919, and I should be interested to know where in the Bill that ecclesiastical patronage power is covered.

The problem is that the significant constitutional changes proposed in the Bill were rushed in the first place. The consequences for the organisation of business in the House of Lords were not properly considered when the Department for Constitutional Affairs was created. The matter at issue in clause 15 and schedule 5 is not of a piece with the rest of the Bill. Essentially, the Bill describes how this country's legal processes will work in the future. It sets out important questions of a strategic nature that have to do with our systems of criminal and civil justice, but we must also consider the importance of symbols of power and authority.

That is why I was so disappointed by the earlier debate about the proposed titles for the courts. I do not think that the word "senior" is appropriate, given that the word "supreme" has served us so well for so long. That usage is infinitely preferable, as such symbols matter. For that reason, we should also be concerned about the changes proposed in clause 15 and schedule 5.

The authority of the other place derives in part from the mystique attached to the title of Lord Chancellor, who chairs its proceedings. That is another reason for concern. The British constitution is not unwritten as it has been set out in scores of Acts of Parliament, conventions and documents, but it is precious and delicately balanced. Often, apparently insignificant changes can have quite big consequences, and it is a matter of great regret that one consequence of the over-hasty creation of the Department for Constitutional Affairs in 2003 is that we are now having a rushed debate about how the other place should organise its proceedings, and about the role of the Lord Chancellor in those proceedings.

I do not suggest for a minute that the status quo is necessarily the right position to occupy, but the post of Lord Chancellor has evolved over the centuries to meet the needs of changing judicial and political structures. I think that I am correct in saying that it is the oldest post left in the British constitution—except, of course, for the monarch. The Lord Chancellor's Department—to which I feel such personal attachment, having served as a Parliamentary Private Secretary there—was created in 1885. The Lord Chancellor only gained power over the courts under the Courts Act 1971. Of course, the Government created the Department for Constitutional Affairs only about two years ago, so I accept that there should be change.

I am not saying that the Lord Chancellor should necessarily always be the Speaker of the House of Lords, but I am attracted to that solution. I am concerned that the Minister, in his opening remarks, did not give a sufficient explanation of why we need to rush this change. The argument about separation of powers of the Government or Executive, Parliament and the judiciary—the different elements of the constitution—lies at the heart of much of our debate, but I have always seen the attraction of the Lord Chancellor occupying different roles. Certainly, the last Labour Lord Chancellor found no difficulty with those roles, and Conservative holders of the office have had no problem with that either.

Keith Vaz: The hon. Gentleman said that he did not mind the Lord Chancellor occupying different roles. Is he saying that he supports the view that the Lord Chancellor should continue to sit as a judge?

Mr. Luff: That probably takes us rather wide of the clause. I would not have changed the status quo at all; I was entirely content with the status quo. I belong to the school of thought that says, "If it ain't broke, don't fix it." The speakership of the House of Lords was not broken and it did not need fixing. The Government have not really adduced an argument about why that should be changed.

If we are to separate out the judicial role, I might understand that—I might regret it, but it is happening—but it does not necessary follow that that great historic symbol, the Lord Chancellorship and his role as the Chairman of proceedings in the House of Lords also needs to change. Frankly, as someone who saw Lord Mackay of Clashfern perform that role with great distinction, I am totally unpersuaded by the case for change, so perhaps the Government are throwing the baby out with the bathwater.

The clause and schedule 5, to which it gives effect—at least, I think that it gives effect, depending on the reassurance that I get from the Minister—are a bridge

too far. We need much more justification for a change that may appear trivial, but could lead to confusion between the two Houses and removes an ornament to the British constitution that does no harm and brings great pleasure, distinction and a sense of historic continuity.

My final thought is that Parliament should treasure historic continuity whenever it possibly can; it should throw away traditions and customs only when it is forced to do so by changing circumstances. When it is not necessary to change, it is necessary not to change. That is an important principle with small and big things, and it should be applied now. I am not persuaded by the case for the clause or schedule 5.

Keith Vaz: It is a pleasure to follow the hon. Member for Mid-Worcestershire (Mr. Luff), but he is wrong on this issue. The Minister was spot on in the way in which he introduced this new proposal. It cannot be right, surely, that a senior member of the Government should, in conducting his or her duties as a Cabinet Minister, come before the House of Lords and act as a Speaker for that House. That is what the hon. Gentleman proposes.

It should be a matter for the House of Lords to decide how it elects the person who will chair its proceedings. It is right that we should modernise the role of Lord Chancellor. Of course we are keeping the title, so the hon. Gentleman need not worry about that. We have still got that title—the campaign has been won—but the role has been modernised. As a part of that process, it is essential that the other place should be able to find and elect its own Chairperson, so that it is not chaired by a member of the Government who sits in the Cabinet and therefore cannot possibly be seen to be impartial in his or her work.

Mr. Luff: Irrespective whether or not I accept that argument, is the hon. Gentleman entirely happy with the use of the word "Speaker" to describe the role in the other place as the alternative to the title "Lord Chancellor"? I would certainly prefer it to "Chairperson"—the phrase that he just used.

4.30 pm

Keith Vaz: The hon. Gentleman was not in his place earlier when we had a debate about names, and whether we should have an attachment to a name or to the functions of the office. It must be left to the other place to decide. I believe that the words "Mr. Speaker" mean the Speaker of the House of Commons, and I am sure that many other titles could be found, in ancient Acts of Parliament or elsewhere, to describe somebody who chairs the proceedings in the other place.

In any case, the Chair in the other place should not be the Lord Chancellor. We have won the battle to retain the title of Lord Chancellor and we should let him get on with being the Secretary of State of a major Department. The other place should choose whom it wants to chair it. I hope that it does not use the same title as we have because it is special to the House of Commons, but it can use any other title it wants.

Mr. Beith: I agree with the hon. Member for Leicester, East (Keith Vaz), as I so often agree with him on the Constitutional Affairs Committee. The hon. Member for Mid-Worcestershire (Mr. Luff) is, uncharacteristically, behind the flow of events, not least in that we had a brief but enlightening debate on ecclesiastical patronage at the relevant point earlier this afternoon. I am entirely satisfied with the way in which the matter has been handled, as it was much in line with the evidence heard by the Committee.

I should declare an interest on the matter of a Speaker for the House of Lords, as my wife is a member of the other place. The clause is necessary to allow the House of Lords to make its own choice of Speaker. If we do not accept the clause, certain functions will have to be exercised by the Lord Chancellor that the House of Lords might consider should be exercised by the person who is its Speaker—or whatever title is used. That is the main reason for this provision: it is not that the House of Commons is deciding who should chair proceedings at the other end of the building. However, I agree with the hon. Member for Mid-Worcestershire that significant disadvantages would arise should the Lords decide to call that person the Speaker. There are also some reasons in the history of that Chamber that make that title inappropriate. The role played by the Lord Chancellor in the House of Lords is very different from that played by any occupant of the Chair in this House. The role in the Lords is much more restricted. The other place may yet choose a different title and we have our own reasons for hoping that it does so.

Mr. Luff: In that context, does the right hon. Gentleman share my regret that the clause we are debating is entitled "Speakership of the House of Lords"? That appears to carry the presumption that the other place should choose to use the word "Speaker" and I hope for some reassurance on that point from the Minister.

Mr. Beith: I am sure that we will, because it is a generic title. The clause had to be called something in order to detach the positions referred to in statute from the Lord Chancellor. We are cutting the cord between those functions and the Lord Chancellor so that they can be available to the person who presides over and acts as the formal representative of the House of Lords in the future. I am sure that the Minister will reassure us that we are not seeking to determine what title the House of Lords uses or, indeed, whether the role of the person who chairs remains much as it is now. My judgment, from talking to my friends in the other place, is that on the whole the Lords like the slightly Quaker meeting style of proceeding that they have. It suits them, and what we are doing today in no way interferes with their right to decide, other than sending a signal that we do not think it appropriate that the Executive should make available one of their senior Ministers for that purpose.

Mr. Djanogly: Clause 15 deals with the future of the speakership of the House of Lords. It introduces schedule 5, which provides for the replacement of references in primary legislation to the Lord Chancellor in his capacity as Speaker, with references to the title of "Speaker of the House of Lords". On Third Reading in the other place, Lord Falconer conceded that the choice of Speaker of the House of Lords was a matter for the other place alone. The Government's intention of course is that the provisions in the Bill—now clause 15 and schedule 5—would allow the House of Lords to choose whomsoever it wished to fill that role without a future need to amend primary legislation.

[Mr. Djanogly]

It is worth briefly setting out the background to these provisions. The other place established a Select Committee in July 2003 for the purpose of considering future arrangements regarding the speakership. That followed in the wake of the Government's announcement of their intention to abolish the office of Lord Chancellor. The Committee's report in November 2003 made a series of recommendations, including that a single secret ballot should be used to elect the Speaker, the Speaker's term should last for five years with the possibility of renewal and the Speaker's title should be "Lord Speaker".

The report also recommended that the Speaker's ceremonial role should be retained as that which currently exists for the Lord Chancellor, and that the Speaker should welcome new Members and help them to learn the customs and traditions of the House. It said that the Speaker would play an important role in receiving and entertaining overseas Speakers and other parliamentarians visiting Westminster.

A debate on the speakership was held in the other place during the Bill's Report stage. During that debate, Lord Campbell of Alloway moved an amendment on behalf of the Opposition to retain the Lord Chancellor as Speaker. Lord Kingsland eloquently set out the case for retaining the present position. He said:

"I cannot allow the moment to pass without expressing a view about the Speakership of your Lordships' House. This is a very important issue which requires careful thought and upon which taking the wrong decision could change the whole character of the House. That is why I submit that the clause on the Speakership and the accompanying schedule should not remain part of the Bill."

The Bill and the review of the speakership of the House conducted by Lord Lloyd of Berwick and his Committee were predicated on the assumption that the office of Lord Chancellor would no longer exist. However, their lordships' House has now determined not only that the office should continue to exist, but that the Lord Chancellor should remain in their lordships' House. Of course, owing to Government amendments that were agreed to in Committee in the Commons, we are now in the rather unhappy position that the Lord Chancellor will not necessarily have to be a Member of the other place. However, we are yet to hear their lordships' views on that.

Mr. Cash: Did my hon. Friend notice whether any reference was made to the fact that the Attorney-General was a Member of the House of Lords, although he should be in the House of Commons?

Mr. Djanogly: I do not think that exact historical comparisons between the two offices can be made, but I hear what my hon. Friend says.

Mr. Luff: My hon. Friend quoted our noble friend Lord Kingsland, who indicated that the change could have a significant impact on the character of debates in the House of Lords and the nature of that House. If that were the case, surely the change would also have important consequences for this House. Do we have any idea of the nature of the changes that Lord Kingsland envisaged?

Mr. Djanogly: I think that Lord Kingsland was talking from a historical perspective. He was thinking about the sort of House that people had known and enjoyed and the unnecessary nature of the changes.

The role of the Lord Chancellor remains and the official Opposition believe that it should include the speakership of the other place. Lord Kingsland said:

"For my part, I wish to see the Lord Chancellor continuing in his historic role as Speaker of the House. The ancient office and high degree of that office reflect and embody the authority and precedence of this House."

Removing the Lord Chancellor from his role as Speaker goes far beyond the sensible, incremental changes that have occurred in the other place, such as no longer requiring the Lord Chancellor to robe or preside at Divisions. As Lord Kingsland put it, the measure would be

"a wholesale change that would dispense with the traditions of your Lordships' House and could see us moving towards a full-time Speaker with authority over the House." —[*Official Report*, House of Lords, 7 December 2004; Vol. 667, c. 885–6.]

The Conservative party, like the Government, agrees that the decision about the speakership is ultimately one for the other place itself. The view that my hon. Friends and I are presenting in this debate reflects the views of Opposition peers during the Bill's passage through the other place, namely that the Lord Chancellor should remain Speaker in that House. Although the Government insist that the Bill does not compel the other place to remove the Lord Chancellor from the speakership, that important decision will effectively be taken before the other place can properly debate the proposals.

While the other place has had to consider the question of who should be its Speaker, it is unfortunate to see a structure that has been little used in the Lords being put into play. It would be unwise to give the holder of the speakership of the Lords the title of "Speaker", because constitutionally speaking, he would not speak for peers. All peers constitutionally have a right of access to the sovereign, so the role of Speaker in the Lords is entirely different from that of Speaker in the Commons. To have competing claims on the role of Speaker can only lead to confusion. The term is confusing not just constitutionally—hon. Members in the Committee understand full well what is going on in that regard—but for normal people as well. As my hon. Friend the Member for Mid-Worcestershire (Mr. Luff) said in his eloquent speech, symbols matter. The confusion cannot be good for understanding how Parliament is run, which is surely an important part of our democracy.

Keith Vaz: The hon. Gentleman is making heavy weather of this. Whatever the personal view of Members of the House of Commons, surely it is up to the other place to decide what it wants to call the person who will chair its proceedings.

Mr. Djanogly: That is the single point on which we agree, but it is a matter of context, history and how the change is made. We think that it is being done in the wrong way.

Mr. Leslie: I heard the points raised by the hon. Members for Mid-Worcestershire (Mr. Luff) and for Huntingdon (Mr. Djanogly), although I tend to agree more with the Chairman of the Select Committee on Constitutional Affairs, the right hon. Member for Berwick-upon-Tweed (Mr. Beith), and my hon. Friend the Member for Leicester, East (Keith Vaz) in their interpretation of clause 15 and schedule 5. I assure the hon. Member for Mid-Worcestershire that they are adequately drafted. I was interested to learn that he was the first Parliamentary Private Secretary to a Lord Chancellor. I do not know whether a plaque has been put up in any corner of the building, or even in Selborne house on Victoria street, as a commemoration of that.

Obviously, use of the word "Speaker" is of concern. Although the clause and schedule are entitled "Speakership of the House of Lords", it was, as the right hon. Member for Berwick-upon-Tweed set out, for the purpose of finding a generic way of describing the aspects under consideration that we used the reference, first made in legislation in the Clerk of the Parliaments Act 1824, to the Speaker of the House of Lords. That is not necessarily of our choosing, and nor should it be taken that it is our preference for what the actual title should be in the other place. Their lordships have yet to give their view on their future arrangements, both for the practice of chairing and presiding over their proceedings and for the title.

I am aware of legitimate concerns expressed by hon. Members on both sides of the Committee about duplicating a title from one House to another. However, they will understand that it is not for me, as a member of the Executive, to dictate to Members of the other House the Government's preference for what that title should be. I am quite sure that their noble lordships, in their usual manner, will listen carefully to the views expressed here.

Mr. Grieve: I agree with every word of that. Clearly, it is not for the Executive to dictate that decision. However, seeing as this is our one opportunity to express a viewpoint in Committee, it is sensible to do so.

Mr. Leslie: I cannot deny that, and all hon. Members have made their points loud and clear.

Although we hope that the amendments made in clause 15 and schedule 5 will allow the Lord Chancellor no longer to be the presiding officer of the other place, they do not prevent that particular peer from continuing in that post. It is a choice for the other place, but it allows that flexibility so that any other peer can take the presiding officer role. That is a fundamental aspect of what we propose. We hope for a greater separation between the legislative and Executive functions in the other place. One aspect of that is removing the presiding officer function of the Lord Chancellor, but ultimately that has to be a decision for the other place.

It is a little perverse that a Prime Minister should be able to dictate to a House of Parliament who its presiding officer will be. Hon. Members would not necessarily tolerate that in respect of the House of Commons, but for some reason we have that arrangement in the other place. This is a healthy change, and if hon. Members were to reflect on it outside the partisan realm, they would probably come to the same conclusion. I hope that helps to answer some of the points raised by hon. Members and that clause 15 and schedule 5 can be accepted.

Question put and agreed to.

Clause 15 ordered to stand part of the Bill.

Schedule 5 agreed to.

Government amendments Nos. 30 to 47 made.

Clause 16

TRANSFER, MODIFICATION OR ABOLITION OF FUNCTIONS BY ORDER

Question proposed, That the clause, as amended, stand part of the Bill.

4.45 pm

Mr. Leslie: Clauses 16, 17, 18 and 19 and schedule 6 operate together. They provide a framework within which the Lord Chancellor can give effect to the spirit of the Bill and the principles of the concordat. They provide the necessary powers to complete the application of the concordat to functions not included in the Bill and for their entrenchment in the office of Lord Chancellor, where they are to be exercised wholly or in part by that Minister. The purpose of this, as agreed with the senior judiciary, is to guarantee further the independence of the judiciary and the new partnership between the judiciary and the Executive that the concordat achieves.

Simon Hughes: Clause 16 has a cross-reference to schedule 6 in terms of the protected functions, three of them specifically and the fourth relating to a great long list that goes on for six pages in the schedule, not the body of the clause. Given that that is the sacrosanct stuff, why is it not in the substance of the clause? I always try to look at a Bill from the point of view of somebody reading it having never done so before and trying to find out what the law is, and it would be easier if all the functions were in the same place. Future generations who read the Bill after it becomes law would then know what are this great list of functions that cannot be transferred—the six pages of other Acts under which the Lord Chancellor has responsibilities, including all sorts of things such as patronage, vice-chancellorships and nominations. It would be helpful to provide a simple linked document listing all those things so that people are always able to lay their hands on the information and do not have to spend a week, a month or a year doing all the cross-referencing. It is nonsense that they should have to check 100-odd Acts of Parliament in order to know what the Bill is talking about, although I am sure that it is administratively possible. I would be grateful for the Minister's reassurance that he will look into it and try to ensure that this bit of our system is modernised.

Mr. Leslie: I understand the hon. Gentleman's desire in general for statute law clarification and codification to make for easy reading, and I apologise for the fact that that is not always the case. However, I am absolutely assured that the provisions set out in clauses 16, 17, 18 and 19 and schedule 6 achieve what we want them to achieve, and that they are clear to those who are versed in reading these matters.

[Mr. Leslie]

To elaborate somewhat, clause 16 provides for the transfer, modification or abolition of existing functions of the Lord Chancellor or for the exercise of those functions concurrently by another person—the concordat aspect. They are principally aimed at functions in primary legislation enacted since the introduction of this Bill or in secondary legislation or in prerogative instruments elsewhere.

Clause 16 introduces schedule 6, about which the hon. Member for Southwark, North and Bermondsey (Simon Hughes) is concerned, and which lists functions of the Lord Chancellor that cannot be transferred to anyone else. Those functions relate to the Great Seal, the judiciary, judicial appointments and the organisation of the courts. The clause allows the addition of functions to schedule 6 where those functions that have been transferred are modified by an order under clause 16, but the order-making power cannot be used to transfer, modify or abolish functions listed in that schedule. In other words, they give that protection to those particular aspects of the role of Lord Chancellor, and they are there to add that greater protection. That was the purpose of the amendments. They are a consequence of the concordat. I hope that that gives a little succinct clarity as to the nature of schedule 6.

Mr. Grieve: I am pleased that schedule 6 is present. As I understand the reasoning behind it, it is that the Government and the other place considered that there were functions discharged by the Lord Chancellor which were such that they should not be done by any other Minister. Some of those relate to administration, but have judicial aspects to them. The vast bulk of the list illustrates that.

The Minister may agree with me that the schedule highlights the extent to which the Lord Chancellor, despite the changes that have been brought into being, continues to have important semi-judicial or at least administratively judicial functions that will not go away. In those circumstances, does the Minister agree that that highlights the need to ensure—something we shall come on to in a moment—that his position is made separate and distinct from that of other Ministers?

Mr. Leslie: In many ways, schedule 6 comes at the apex between judiciary and Executive. It is there in quite a formal sense to provide assurances and protections about those particular functions that relate to the Great Seal, judicial appointments, the judiciary in general and the organisation of the courts, which many would prefer not to be undertaken by other Ministers. Schedule 6 is amendable only by primary legislation, although it can be added to, but not taken away from. That is a good principle on which clarity can be gained with regard to the respective functions of the Lord Chancellor versus the judiciary.

Simon Hughes: I apologise if I did not hear the Minister do so, but will he address the question about the six pages of specific functions? Is he able to find a way of putting what they mean in a somewhat more accessible place?

Mr. Leslie: I am reluctant to give an absolute commitment that my officials will spend too long redrafting, even if it is only in the simple form of a helpful ABC guide to the role of the Lord Chancellor. However, I suspect that we will need to have something of that ilk to aid officials' understanding of where the Lord Chancellor's functions do and do not start. I will certainly look into it, but I imagine that there is an expense in the drafting arrangements.

I hope that I have detailed sufficiently the nature of clause 16 and some of the clauses associated with it and that the Committee will agree to let it stand part of the Bill.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Schedule 6

PROTECTED FUNCTIONS OF THE MINISTER

Government amendments Nos. 48 to 51 made.

Mr. Leslie: I beg to move amendment No. 559, in page 150, line 6, at end insert 'and (c)'.

The Chairman: With this it will be convenient to discuss Government amendments Nos. 463, 560, 464, 465 and 561.

Mr. Leslie: As I have already said, schedule 6 protects certain judiciary, court and Great Seal-related functions of the Lord Chancellor. These functions cannot be transferred by order under clause 16 or by order under section 1 of the Ministers of the Crown Act 1975. That is essential, given clause 4 and the Lord Chancellor's particular duties in relation to judicial independence. Amendments Nos. 463 to 465 provide for the addition to and deletion from schedule 6 of certain functions that the Lord Chancellor exercises in England and Wales. Amendments Nos. 559 to 561 amend schedule 6 to provide for the protection of certain judiciary or court-related functions that the Lord Chancellor exercises in Northern Ireland so that they cannot be transferred by an order under clause 16 or to another Minister by an order under the Ministers of the Crown Acts. They ensure that protection is afforded to those functions that the Lord Chancellor exercises in respect of Northern Ireland.

Amendment agreed to.

Government amendments made: Nos. 463, 560, 464, 465 and 561.

Schedule 6, as amended, agreed to.

Clause 17 ordered to stand part of the Bill.

Government amendments made: Nos. 52 to 54.

Clause 18, as amended, ordered to stand part of the Bill.

Government amendments made: Nos. 55 and 56.

Clause 19, as amended, ordered to stand part of the Bill.

New Clause 10

FUNCTIONS OF THE LORD CHIEF JUSTICE DURING VACANCY OR INCAPACITY

'(1) This section applies during any period when—

(a) the office of Lord Chief Justice is vacant, or

(b) the Lord Chief Justice is incapacitated.

(2) During such a period—

(a) any function of the Lord Chief Justice may be exercised by the senior Head of Division;

(b) anything which falls to be done in relation to the Lord Chief Justice may be done in relation to the senior Head of Division.

(3) The senior Head of Division is—

(a) the Master of the Rolls, or

(b) the President of the Queen's Bench Division, if the office in paragraph (a) is vacant, or

(c) the President of the Family Division, if the offices in paragraphs (a) and (b) are vacant, or

(d) the Chancellor of the High Court, if the offices in paragraphs (a), (b) and (c) are vacant.

(4) For the purposes of this section—

(a) the Lord Chief Justice is to be regarded as incapacitated only if at least three of the Heads of Division declare in writing that they are satisfied that he is incapacitated;

(b) in such a case, the Lord Chief Justice is to be regarded as incapacitated until at least three of the Heads of Division declare in writing that they are satisfied that he is no longer incapacitated.

(5) In this section—

(a) "Lord Chief Justice" means the Lord Chief Justice of England and Wales;

(b) "incapacitated", in relation to the Lord Chief Justice, means unable to exercise the functions of that office;

(c) "Head of Division" means each of the office holders referred to in subsection (3).'.—*[Mr. Leslie.]*

Brought up, and read the First time.

Mr. Leslie: I beg to move, That the clause be read a Second time.

The purpose of the new clause is to ensure that there is continuity in the event that the office of Lord Chief Justice is vacant or if the office holder is unable to exercise his or her functions. We hope, of course, that the provisions will never be necessary, dealing as they do with such circumstances as unexpected resignation or death. They also deal with situations relating to ill health or other possible scenarios where the Lord Chief Justice is incapacitated. In such circumstances it is essential that procedures are in place to ensure that the functions that fall to the Lord Chief Justice can be exercised on his behalf so as to allow the smooth running of the judicial system. The new clause provides that the function would fall to the next most senior head of division. In such a case, the full powers of Lord Chief Justice would transfer temporarily to the next most senior member of the judiciary. That is an important safeguard.

Mr. Grieve: The Minister has not quite explained why, at a late stage of the Bill, it was felt necessary to introduce the new clause. It would be useful to understand the reasoning behind the Government's decision. The current position, as I understand it, is that if the Lord Chief Justice is incapacitated, there are all sorts of conventions in operation about other people discharging his responsibilities. I appreciate that as we move to a more statutorily based system, it is desirable to spell the procedure out in the Bill. Nevertheless, the Government did not originally choose to do that.

The Bill was scrutinised at length in the other place, where the new clause was not inserted. I hope the Minister does not feel that I am pressing him needlessly. I am trying to understand why, instead of the informal system that existed, the system is to be set out in statute. Perhaps he could also clarify why that was not done earlier in the passage of the Bill.

Mr. Leslie: The reason is quite simple. The Bill had a long gestation and long scrutiny. The new clause deals with a situation that came to our attention when we considered what would happen when the Lord Chief Justice, as opposed to the Lord Chancellor, is the head of the judiciary in England and Wales. Various issues arise, one of which is what happens in the event of a vacancy and how we could quickly fill it. That would not necessarily be a difficulty, should a Cabinet Minister—in other words, the Lord Chancellor—have a vacancy at that level. It was the realisation that we needed to make provision for those circumstances, which we all hope will never arise. They are well provided for, and new clause 10 deals with the matter adequately.

5 pm

Mr. Grieve: I am grateful to the Minister for that answer. I do not disagree with the reasoning. He may have to forgive me, but I was entertained to see that the Bill, which has received the closest possible scrutiny in the other place, should come to the Committee with what he has explained is a glaring lacuna. That is the benefit of having a system of scrutiny by both Houses of Parliament. What we had yesterday, for example, which was wholly inadequate scrutiny of legislation, is a classic example, leaving aside the principles behind legislation, of why we should be allowed to do our jobs properly.

Mr. Cash: This is an important issue relating to the functions of the Lord Chancellor. The issue of disqualification with respect to his having any future role raises questions that apply to the existing incumbent of that role and to those who may find themselves in a similar position on any future occasion.

Given the significance of the Lord Chancellor's role as described in the Bill, the early clauses, plus the other provisions that we have discussed today, make it clear that the Lord Chancellor has functions that, irrespective of the divorce of his role from the specifically judicial function, continue to have regard to the judicial question—

The Second Deputy Chairman of Ways and Means (Sir Michael Lord): Order. I think that the hon. Gentleman is probably referring to a new clause that we have not yet come to. Perhaps he would like to keep his powder dry for the time being.

Question put and agreed to.

Clause read a Second time, and added to the Bill.

New Clause 20

THE LORD CHANCELLOR AND NORTHERN IRELAND COURTS

'In the Judicature (Northern Ireland) Act 1978 (c.23) after section 68 insert—

"68A Lord Chancellor's duty

[Sir Michael Lord]

(1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—

(a) the Supreme Court,

(b) county courts,

(c) magistrates' courts, and

(d) coroners' courts,

and that appropriate services are provided for those courts.

(2) The Lord Chancellor must, within 18 months of the coming into force of this section, and afterwards annually, prepare and lay before both Houses of Parliament a report as to the way in which he has discharged his duty under subsection (1).'". —*[Mr. Leslie.]*

Brought up, and read the First time.

Mr. Leslie: I beg to move, That the clause be read a Second time.

The new clause provides for a new section to be inserted in the Judicature (Northern Ireland) Act 1978, corresponding to section 1 of the Courts Act 2003, which the hon. Member for Southwark, North and Bermondsey (Simon Hughes) will remember we referred to in earlier discussions about the oath. The new clause will place a statutory duty on the Lord Chancellor to ensure that there is an efficient and effective system to support the court of judicature, county courts, magistrates courts and coroners courts in Northern Ireland, and that appropriate services are provided for those courts. It also requires that the Lord Chancellor lay before Parliament a report as to the way in which he has discharged his duty.

Mr. Grieve: May we take this opportunity to understand more fully what it is intended should happen if devolution of powers arrives in Northern Ireland? In those circumstances, would this responsibility transfer to a Northern Ireland justice Minister, or would it remain with the Lord Chancellor? I assume that the new clause has been introduced because such devolution has not occurred, but I should be grateful if the Minister would clarify the Government's intentions on this particular responsibility.

Mr. Leslie: I understand that these responsibilities would be transferred, but if I am wrong I will write to the hon. Gentleman. We debated the matter during one of the earlier days of the Committee stage. We referred to different aspects and whether they were excepted, transferred or devolved within the Northern Ireland framework. I refer him to some of my comments at that stage. I hope that that at least helps him in this respect.

Mr. Grieve: I am grateful to the Minister. I welcome this provision. Perhaps we rather lost sight of the issue, but the original intention of devolution was to transfer powers to a justice Minister, although that does not mean that the Westminster Parliament abdicates all responsibility. What I am slightly less clear about, and the Minister may be able to clear up the matter in the letter, is whether, when that process is complete, as and when it happens—at the moment, it looks a very remote possibility unfortunately—the Lord Chancellor retains any residual responsibilities in respect of the good operation of the Northern Ireland judiciary such that he could intervene if for some reason or other there were a problem. That was the point on which I sought clarification from the Minister. I think that it is of some importance.

Mr. Leslie: There will be an ongoing role for the Lord Chancellor, but it would be useful if I wrote to the hon. Gentleman on his point about Northern Ireland.

Question put and agreed to.

Clause read a Second time, and added to the Bill.

New Clause 9

DISQUALIFICATION FROM HOLDING FURTHER MINISTERIAL OFFICE

'Once a person has held the post of Lord Chancellor he is disqualified from holding any other ministerial office.' —*[Mr. Grieve.]*

Brought up, and read the First time.

Mr. Grieve: I beg to move, That the clause be read a Second time.

It is necessary to return to some of the basic issues surrounding the Bill to understand why we tabled the new clause. The old structure of the Lord Chancellor provided, as we have debated peripherally this afternoon, that he was a judge first and foremost. He was a judge with a hybrid role, because as well as sitting as the head of the judiciary and a Law Lord, and being Speaker of the House of Lords, he was a Minister.

As a Minister, one of the Lord Chancellor's duties was to ensure that the administration of justice and the court system operated correctly, so he was a departmental Minister. In addition to that he was—I believe that this expression has been used—the judge at the heart of Government, providing a moderating influence on colleagues in respect of the operation of the judicial system, if necessary, and sometimes legal advice. However, he did so not in a formal sense, as the Attorney-General does, but informally, expressing an opinion if the rule of law was in danger of being undermined.

The Lord Chancellor also had a role in protecting the judiciary when Ministers such as Home Secretaries got irritated that their Executive purposes were being thwarted by judicial decisions. As we know from the recent past with the previous Home Secretary—I have a funny feeling that we are beginning to see this with the current Home Secretary—the phenomenon is not unusual. I might add on a bipartisan basis that there have no doubt been previous Conservative Home Secretaries and others who at times felt equally frustrated by the judiciary's taking views of their decisions that they found unfortunate.

Nevertheless, in a country where the rule of law prevails, it is of great importance that Ministers should accept judicial decisions, and more importantly, as the Minister will have no difficulty accepting, that they should not use their political status to try to undermine the judiciary. It is easy for those who are subject to political pressures—sometimes from an electorate who are irritated by judicial decisions—to move to a position where they covertly or overtly criticise judges and their decisions. If that happens in this country, we shall face a serious situation that we have so far succeeded in consistently avoiding.

To illustrate the point, we could contrast that with the situation in France, a country that featured in yesterday's debate in relation to the merits of its judicial system. I remind the Minister that in a recent trial of a French Minister on serious charges of tax evasion and, I seem to remember, fraud, the situation became so bad that the judges trying the case said that they no longer felt safe to use the computers provided to them by the state to record their daily rendering of the case and their notes, because they were convinced that they were being hacked into. They started using their own laptops. There was a long litany of complaints about political interference in the judicial process. There were protectors of this Minister, or ex-Minister as he was by then. Indeed, he was the leader or chairman of a political party.

I am sorry to say that that is not the only such problem that has arisen in France over the past 30 or 40 years. Mercifully, we have succeeded in avoiding such problems in this country. It may sometimes be said that our system of law is slower than those of other countries, and it can make mistakes; but the reputation for integrity of English and, for that matter, Scottish and Northern Irish judges is remarkably consistent, and has not been called into question. Judges' sagacity may occasionally be called into question, but not their integrity. That is largely owing to the absolutely accepted convention in the Government that judges cannot be criticised, even if Ministers are hopping mad about what they have done.

One of the problems of the changes envisaged in the Bill is the alteration of the Lord Chancellor's status from that of a judge in the Government to that of any other Minister. He loses his judicial status—which we accept, because we recognise that he can no longer sit as a judge—but continues to have a unique role, which we highlighted when we discussed schedule 6: the role of carrying out functions that require him to behave as if he were a judge, and certainly to apply standards of independence and integrity. We also know that one of the reasons for the Government's accepting that the Lord Chancellor should take a particular oath when taking office, albeit not the original oath, is the fact that his role is different from that of every other Minister. We have debated what the terms of the oath should be, but I think there is a community of view throughout the Chamber that the Lord Chancellor has, or should have, a different status and oath.

One question that has been discussed both in the other place and here is whether the Lord Chancellor should be a Minister who can sit in either House of Parliament, or whether he should sit only in the other place. The Government have strongly expressed the view that he should be capable of being a Minister in the House of Commons, whereas we—as I have said, and as the Minister knows—have argued long and hard that he should be a lawyer sitting in the House of Lords. It will be interesting to see, when the Bill returns to the House of Lords, what it will make of the amendments that we have made to the relevant part.

We want the Lord Chancellor to be a lawyer in the House of Lords not because we think it is quite nice for him to be the Speaker in full fig on the Woolsack—although if the Lords wish him to be Speaker that will be possible—but because we think that it will provide at least a measure of further protection from the political interference that is, I fear, inevitable in a democratic Chamber where Members are likely to express, both privately and publicly, a range of sentiments on behalf of their constituents, including criticism of the judiciary. It is vital for the judiciary to be protected.

Mr. Leslie: Is it still Conservative party policy to support an elected, or largely elected, second Chamber?

Mr. Grieve: Yes, indeed. Clearly, if there were an elected or largely elected second Chamber, which we are not currently in a position to implement, the question of who apart from elected Members should be in the Lords would require careful consideration. If that were to happen, perhaps that would be the time when the Lord Chancellor would no longer have a role in the Lords. Equally, given that it is perfectly possible to preserve some non-elected functions in the Lords, it would be possible to keep him there.

I am sure that the Minister has had an opportunity to look at the paper on the subject produced by a cross-party group that included Labour Members, which I found fascinating reading. It makes an important contribution to the debate. It is apparent from the paper that the group saw scope for continuing to have non-elected Members in the other place, and for retaining a role for the bishops. I do not see the Lord Chancellor's being part of that arrangement as incompatible with those proposals. Those are all subjects for discussion, but I do not want to stray from the main issue.

5.15 pm

Mr. Cash: The role of the Lord Chancellor in regard to the rule of law is clearly set out in clause 1, which states:

"This Act does not adversely affect—

(a) the existing constitutional principle of the rule of law, or

(b) the Lord Chancellor's existing constitutional role in relation to that principle."

Does my hon. Friend agree that, having hived off the judicial functions of the Lord Chancellor from that existing role by statute, a vast amount of extremely important functions would still be retained? In the light of that, the Lord Chancellor should not be reduced to the role of Secretary of State, which is an indivisible function. If I have an opportunity to speak later, I shall go into that matter further.

Mr. Grieve: I agree with my hon. Friend. He heard me refer earlier to the powers in schedule 6, and other provisions in the Bill also make it clear that the Lord Chancellor remains a linchpin in terms of ensuring the independence of the judiciary, and the integrity of the judicial system and the dispensation of justice in this country. It is important that we get the right structures in place to ensure that that tradition, which the Lord Chancellor has honoured so well in the past, can continue.

That brings me to the issue surrounding the new clause. Currently, by virtue of taking the judge's oath in the Lords, the Lord Chancellor is effectively disqualified from taking any other ministerial office thereafter. He is a judge, and like any judge, he cannot go back to his professional career at the Bar—if he is a lawyer—when he ceases to be Lord Chancellor. He cannot become any

[Mr. Grieve]

other kind of Government Minister, and he has hitherto been required to remain in the House of Lords. He can continue to sit as a Law Lord, if he so wishes, until he reaches retirement age, and that is it. The great merit of that arrangement is that he has no desire for further preferment, and therefore has some immunity from the political pressures that can easily build up on a politician who feels that he still has a career in front of him.

The problem with the Government's proposals is that, having insisted that the Lord Chancellor need not be in the Lords and could be a Minister in this House—I suspect that if the Government get their way, that will inevitably happen—they will end up appointing quite a junior Minister in the pecking order of the Cabinet hierarchy in this House who is seeking to further his career. It is at that point that a Lord Chancellor could become particularly susceptible to pressure from colleagues trying to influence the system of judicial appointments, for example—an area in which the Lord Chancellor will still have important functions to perform, either with the judicial appointments commission or through his extensive powers under schedule 6—to do what the Prime Minister or other Cabinet colleagues want done.

Given that the Government are insisting on going down that road, and that they have rejected our view that the Lord Chancellor should be in the Lords—an arrangement that already provides that extra protection—the only solution is to have a clause in the Bill to ensure that the Lord Chancellor is disqualified from holding any other ministerial office when his period as Lord Chancellor comes to an end. In my view, that will ensure that he is somebody who is at the end or peak of his career when he is appointed, who has no further desire for preferment—

Mr. Stephen Pound (Ealing, North) (Lab): I wonder whether the rest of the House noticed that the hon. Gentleman used the words "at the end of his career". As he is entirely legally qualified to denigrate the independence of the judiciary, being professionally qualified himself, is he aware that he proposes that we elect as Lord Chancellor a man or woman who is, in effect, Eastbourne in ermine—someone at the end of their career? Is that really what we want? Do we want someone at the tail end of their career holding this supremely important position?

Mr. Grieve: That is not what I said at all. When I referred to the appointee being at the end of his career, I meant someone who sees holding the office of Lord Chancellor as effectively the last thing he wishes to do before retiring from public life. That is a sensible measure. He must be in a position to resist political pressures from those around him. While it is true that the Prime Minister can dismiss a Lord Chancellor at will, it is also the case that if the replacement Lord Chancellor is similarly isolated from desires of political preferment, the position will be reinforced that he will not be able to succeed in getting much better from another Lord Chancellor.

There are compelling reasons for including the new clause. The appointee could be someone in their 30s or 40s who does not wish to continue with a career in politics thereafter—they need not be, as the hon. Gentleman suggested pejoratively, Eastbourne in ermine.

Simon Hughes: I was fearful that the hon. Gentleman was under some misunderstanding. My understanding of the new clause is that all that it would preclude is further ministerial office. One could remain in Parliament as a Back Bencher and take other public office. My hon. Friends and I will support the new clause, but it is clear that that is the specific reason, and it seems to me to be a very good one.

Mr. Grieve: I am most grateful to the hon. Gentleman for his expression of support, because that is the intention. Given the way that public life works, in reality, the appointee might be someone of maturity, but that is not a bad thing. It is a question not of Eastbourne in ermine but of having a bit of experience of life and of politics and of having a good track record. That is exactly the benefit that past Lord Chancellors have given us, irrespective of which party they have come from. It is precisely to preserve that that we have tabled the new clause. Were the Government to accept it, it would go a long way towards meeting the criticisms that we have otherwise made about the danger of the Lord Chancellor being politicised, which, I think, would provide substantial reassurance. I hope that the Minister will respond positively.

I do not want to see in 10 years' time—if the Government get their way on this Bill—someone who is effectively a junior ministerial appointment in the House suddenly realising that they are in fact at the mercy of the political pressures with which they will inevitably be surrounded. We should be sensible. One of the reasons why our political system has worked well to prevent impropriety is that it is robust. What the Minister is doing, with the changes that he is introducing, is making it much less robust in terms of the Lord Chancellor's independence. I realise that that is theoretical, but theory will usually turn into practice if the safeguards are not there. The new clause provides those safeguards, and I commend it to the House.

Mr. Leslie: The reformed office of the Lord Chancellor, as we envisage it, would take away the requirements to be a judge, lawyer or peer, because it is fundamentally a ministerial post that requires political accountability, not least for the £3 billion of public expenditure carried out by the Department for Constitutional Affairs and Lord Chancellor. The Government believe in the simple principle that the person appointed must be the best person for the job, on merit, and that there should not be false constraints that could jeopardise that choice. The assertion that all Lord Chancellors might somehow be corruptible because they could be induced by the prospect of another ministerial job not only is an insult to past Lord Chancellors—incidentally, they have had no such statutory restriction, including during the 18 years of the previous Administration—but provides an intriguing insight into how the Conservatives view ministerial life.

Mr. Grieve: It is absolutely right that Lord Chancellors have no such statutory restriction, but equally, because they are judges they are in fact constrained in what they can do when they cease to hold that office.

Mr. Leslie: But not in a ministerial context, and I am surprised that—*[Interruption.]* Statutorily, there is no such bar on former Lord Chancellors holding other ministerial posts. I shall elaborate on some other perverse consequences of the hon. Gentleman's new clause.

Mr. Grieve: Once again, we confront the question of convention. I should be interested to hear from the Minister whether, during the period to which he referred, a Lord Chancellor held other ministerial office after ceasing to hold that one. The answer, I suspect, is that no one did, because the existing convention makes it completely impossible to do so. Throughout the Bill's passage, it has become clear that the Government loathe convention. They put it in the bin, yet convention has served this country very well. The Government then argue that because a certain practice was only convention, they need do nothing else, but that is precisely how the safeguards in our constitution are eroded.

Mr. Leslie: The hon. Gentleman says with complete confidence that no Lord Chancellor has ever held any other ministerial post; my officials and I will look back through the history books to double-check that assertion. *[Interruption.]* He says that it is impossible for a Lord Chancellor ever to hold another ministerial post, but he is wrong. He talks about convention, but it is he who proposes to put a statutory bar on former Lord Chancellors holding another ministerial post. I am simply discussing the proposal before the House.

There would be other very significant disadvantages to such a statutory bar. For example, it might put the best person for the job off accepting it, if they felt that such a bar would be an artificial constraint on their future ministerial career. It would prevent that person from taking on any ministerial role—in which their skills and expertise might be of great value to the running of the country—even if it were blatantly obvious that they were the right choice for the post in, for example, a time of national emergency or crisis.

There could be other perverse consequences for public affairs. For example, because a post-holder could not hold any other ministerial post or perform any other role in public affairs, they would have a perverse incentive to hang on to their office. They might not resign at the time most others would consider appropriate, or when circumstances would normally suggest that they should. New clause 9 gives rise to all manner of oddities.

Simon Hughes: This point may have been dealt with, but my assumption is that, under the new dispensation, a Lord Chancellor could be sacked by the Prime Minister of the day—just as a recent Lord Chancellor allegedly was—or a retirement age could be established. Neither of those ideas is unmanageable: the first happens anyway; and even if the Bill does not provide for a retirement age, it could, and there is no reason why it should not.

Mr. Leslie: The hon. Gentleman is introducing other elements such as retirement age and term limits, which are somewhat false constraints on the holding of ministerial posts. We should not have such constraints; rather, we should have the best person for the job. Of course, in normal circumstances it may well be that the best person for the job happens to be at the end of their ministerial career, but that will not always, axiomatically, be the case. Strength of character and political courage cannot be legislated for in the crude way suggested in new clause 9. If a post-holder is likely to be swayed by political patronage, they are as likely to be swayed by all sorts of other "temptations", such as European Union posts, international postings and directorships.

There are all manner of problems with new clause 9. We must keep focused on allowing the best person for the job to be appointed, whoever they may be. I urge Members to reflect on the fact that this is a new and reformed post of Lord Chancellor, which requires the right person. False barriers, age-related criteria and term limits are not typically features of our constitution as it relates to public affairs, nor should they be. We stick with the principle of appointment on merit, and I urge the hon. Member for Beaconsfield (Mr. Grieve) to withdraw the motion.

5.30 pm

Simon Hughes: As I said a few moments ago, my hon. Friends and I will support new clause 9. The Minister knows that both Houses have supported the notion that the new Chancellor under the new arrangements should not have to be a Member of the House of Lords, should not have to be a judge and can therefore be someone from either House. The Minister also knows that we would have preferred the title "the Minister of Justice", but we accept that the opening up of opportunities is generally a good thing.

The argument that no special characteristics apply to the post does not hold up. For example, the Law Officers of the Crown have always been people who, in theory, could have been chosen from anywhere, but they have, in fact, been chosen from people with appropriate qualifications. The Minister of Justice under the new dispensation is someone who will for the first time be responsible to Parliament only for the justice system in this country—England and Wales in some respects and the whole of the United Kingdom in other respects. That is different from the present role.

I agree with the hon. Member for Beaconsfield (Mr. Grieve) that the job needs to be as protected as possible from the normal pressures of political aspiration and from the temptation to be popular with colleagues in order to obtain preferment. I cannot believe that, in future, there will not be people who would view it as a huge honour and privilege to serve for an indefinite term as the Lord Chancellor from either House of Parliament. I cannot believe that only an old person should be considered. I understand, in parenthesis, that Eastbourne has a declining average age rather than a rising one, and it

[Simon Hughes]

may be a misrepresentation of Eastbourne to suggest that everyone there is old: indeed, many young people live there.

Mr. Pound: It is a Lib Dem target, no doubt!

Simon Hughes: And we hope that it will be a Lib Dem gain in the offing. I am grateful to the hon. Gentleman for that prompt.

The person we need could be a young person chosen by the Prime Minister of the day because they would bring a different style and character to the job. The key issue is that the person must not seek to carry out the functions of the job in a way that renders them a candidate for another ministerial office which is not responsible for the independence of the courts and the judiciary. We have talked about the oath that the person would be obliged to take. It need not preclude the person from going on to the Back Benches or from becoming a judge of the Court of Justice of the European Communities in Luxembourg or the European Court of Human Rights in Strasbourg. There is no need to preclude the person from sitting on the International Court of Justice, from being Advocate General in Luxembourg or from all sorts of other jobs. They could be chairmen or chairwomen of tribunals or serve in a variety of other public offices. The one thing that has to be renounced is preferment as a Cabinet Minister or Minister of the Crown.

Mr. Leslie: I understand the hon. Gentleman's point and I do not wish to denigrate the virtues of the convention of having someone at the end of their ministerial career. However, I earnestly caution him to think very carefully before supporting a statutory bar. Surely he can envisage circumstances that could amount to a fettering of the democratic choice of the country in respect of an individual who could be excellent at being Lord Chancellor and also capable of going on to higher things. I believe that preventing that possibility through statute would be a backward step which would fetter the democratic choice.

Simon Hughes: I acknowledge that the issue is debatable, but I have thought about it and I come down very strongly, when it comes to this particular job, on the side of protecting people from the usual pressures to give in to colleagues in order to be seen to be advancing a particular party view.

Let us consider the present circumstances and a Bill such as this coming before Parliament, steered by the future Lord Chancellor, who could be a member of this House rather than the other place. Let us imagine that we are eight or nine weeks away from a general election and that a certain Bill faces the deadline that all its stages must be completed before Parliament is prorogued. Colleagues might exert all sorts of pressure to get the measure pushed through, but the compromises involved might not be in the interests of justice.

The party and political pressures faced by the person who is Minister of justice in all but name must be different from those faced by other office holders. The nature of democracy is that people are subject to such pressures, but the new system should provide protection for the person in that role.

Mr. Cash: One aspect of the Lord Chancellor's role has not been debated today but is very important. Traditionally, the Lord Chancellor brings weight and authority to Cabinet discussions of constitutional matters. He is also the Government's conscience, and that is not a light matter. That role goes back to Sir Thomas More, and beyond, and it has an unromantic but practical function. The Lord Chancellor traditionally has qualities that enable him to provide the Cabinet with advice that other Ministers cannot, for the reasons that have been set out. Does the hon. Gentleman agree that that is another reason for supporting new clause 9?

Simon Hughes: I do. The Bill will change the Lord Chancellor's historical role, but the holder of the office has always acted differently in Cabinet from other Ministers.

Finally, there has been growing controversy in recent days—not for the first time in history—about the role played in government and public life by the Attorney-General. I have no reason to impugn the current Attorney-General: I have met him a couple of times and found him to be entirely reputable, decent, honourable and straightforward. However, it would be foolish to deny that a debate is going on outside the House about his independence. The Attorney-General is one of the two Law Officers, and the other is a Member of this House. We must do everything that we can to protect the person who holds the new post that is being created, and his or her successors, from the political criticism that I have described—the task of upholding justice must not be compromised by the political expediency of the day.

Every week, we are asked how we can do more to get people to vote and believe in politics as a good thing. We are expected to raise the public perception of the role of politicians, and one small step in that direction would be to protect the person running the justice system in this country from the normal pressure exerted by party, friends and colleagues. I cannot believe that there will not be plenty of good candidates to choose from in every Parliament.

Mr. Beith: The Constitutional Affairs Committee has published two reports on the Government's proposals. In the first, it said that the Lord Chancellor

> "has a special constitutional importance enjoyed by no other Member of the Cabinet and . . . is usually at the end of his career (and thus without temptations associated with possible advancement)".

That is a statement of fact, but the report also expresses an aspiration that that should continue. In our second report, the Committee reinforced that approach, although we did not say that the Lord Chancellor had to be a Member of the House of Lords.

New clause 9 is a genuine attempt to achieve that aspiration. One might believe that the convention was well established and that there would be no need for legislation, but the Minister's remarks made me realise that that is not so. He said that people might be reluctant

to become Lord Chancellor because that would interfere with their future career prospects—an observation that goes to the heart of the concerns felt by me and by the Committee.

Mr. Grieve: A story has been going around the Bar for some years that, when the present Lord Chancellor took office, the Lord Chief Justice suggested to him that, as he would not sit as a judge, it might be a mistake to take the judicial oath because it might cause him problems with his future career. I cannot help but think that one of the reasons why the Government resist this proposal so hard is the problem that it would pose to the present Lord Chancellor.

Mr. Beith: I make no prediction about the duration in office of the present Lord Chancellor—I will not even quote what the Lord Chief Justice was alleged to have said about his many endearing qualities—but something quite important is at stake. We have probably lost the conventions during the argument. We are considering a Minister with a substantial Department that involves a lot of spending, and there may be a case of his sitting in the House of Commons and it may not be essential for him to be a lawyer. If we start to add all those things together, the convention could go out with the bathwater. It is a valuable convention for all the reasons that have been given—I do not want to repeat them—and I see no other way to safeguard it or to signal that we think it important than by supporting the new clause, so I intend to do so.

Ross Cranston: I congratulate the Opposition on raising this serious issue; but, on balance, they are wrong. I accept all that the hon. Member for Beaconsfield (Mr. Grieve) has said about the need for my right hon. and hon. Friends to respect the judiciary, but mutual respect is needed. The judiciary itself must respect what Parliament has done and what the Executive do in accordance with our constitution, but there are three reasons why the Opposition are wrong on balance.

First, we are recasting the office of Lord Chancellor in relation to the statutory obligations that we have already considered in clauses 1 and 4, and the obligations to protect the rule of law and respect the independence of the judiciary. We are recasting the office in terms of the concordat, whereby the Lord Chief Justice, for example, has a much enhanced role. So the first reason is that the office has a different character.

The second point is that there is no comparable provision in the other jurisdictions to which we might look. I know the situation in Canada and Australia best of all, and there is no suggestion that their Attorneys-General, who occupy a role that combines that of our Attorney-General and Lord Chancellor, are precluded from going on to other high ministerial office. The best example that I know is Sir Nigel Bowen, who was a Conservative Attorney-General in Australia. I worked with him very closely on an inquiry. He became the Australian equivalent of Foreign Secretary, and there is no suggestion that he in any way pulled his punches, while Attorney-General, in protecting the independence of the judiciary.

The third reason is that convention is important—I agree with Member for Beaconsfield and the Liberal Democrats in that respect—but we should allow such conventions to develop. A convention may develop that the people who occupy the role ought not to go on to accept other ministerial office. The great office of Lord Chancellor has changed over the centuries depending on the historical context. My hon. Friend the Minister is absolutely right to say that we ought not to stifle the development and evolution of that office as it faces new challenges.

Mr. Grieve: I am interested to hear the contributions that have been made. I am particularly grateful to the hon. Member for Southwark, North and Bermondsey (Simon Hughes) and the right hon. Member for Berwick-upon-Tweed (Mr. Beith) for their support. I note entirely what the Minister and the hon. and learned Member for Dudley, North (Ross Cranston) have said, but my view is that the new clause is important and I wish to press it to the vote.

Question put, That the clause be read a Second time.—

The Committee divided: Ayes 167, Noes 283.

Division No. 107] **[5.44 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bourn'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
François, Mark
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Hendry, Charles
Hermon, Lady
Heyhoe, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian

Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Thurso, John
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Whittingdale, John
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Mr. David Ruffley and
Mr. Geoffrey Clifton-Brown

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Buck, Ms Karen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cummings, John
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
David, Wayne
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Kumar, Dr. Ashok
Lammy, David
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCartney, rh [illegible]
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
McNulty, Tony
Mactaggart, Fiona
McWilliam, John
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
Olner, Bill
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*

Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salmond, Alex
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stinchcombe, Paul
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverhton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Wareing, Robert N.
Watson, Tom
Watts, David
Weir, Michael
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Noes:
Mr. John Heppell and James Purnell

Question accordingly negatived.

It being more than five hours after the commencement of proceedings in Committee, THE SECOND DEPUTY CHAIRMAN, *pursuant to Orders [17 and 31 January], put forthwith the Questions necessary for the disposal of the business to be concluded at that hour.*

New schedule 1 brought up, read the First and Second time, and added to the Bill.

Government amendments Nos. 647 and 648 made.

Clause 22, as amended, ordered to stand part of the Bill.

Government amendment No. 57 made.

Clause 23, as amended, ordered to stand part of the Bill.

Government amendments Nos. 58 to 80 made.

Schedule 7, as amended, agreed to.

Government amendments Nos. 81 and 82 made.

Clause 24, as amended, ordered to stand part of the Bill.

Government amendments Nos. 83 to 87 made.

Clause 25, as amended, ordered to stand part of the Bill.

Government amendments Nos. 88 to 93 made.

Clause 26, as amended, ordered to stand part of the Bill.

Government amendments Nos. 94 to 98 made.

Clause 27, as amended, ordered to stand part of the Bill.

Government amendments Nos. 99 to 102 made.

Clause 28, as amended, ordered to stand part of the Bill.

Clauses 29 and 30 ordered to stand part of the Bill.

Government amendments Nos. 103 and 104 made.

Clause 31, as amended, ordered to stand part of the Bill.

Government amendments Nos. 105 and 106 made.

Clause 32, as amended, ordered to stand part of the Bill.

Government amendments 107 and 108 made.

Clause 33, as amended, ordered to stand part of the Bill.

Clause 34 ordered to stand part of the Bill.

Government amendment No. 109 made.

Clause 35, as amended, ordered to stand part of the Bill.

Government amendments Nos. 110 and 111 made.

Clause 36, as amended, ordered to stand part of the Bill.

Clauses 38 to 41 ordered to stand part of the Bill.

Government amendment No. 112 made.

Clause 42, as amended, ordered to stand part of the Bill.

Government amendments Nos. 113 to 115 made.

Clause 43, as amended, ordered to stand part of the Bill.

Clause 44 ordered to stand part of the Bill.

Government amendment No. 116 made.

Clause 45, as amended, ordered to stand part of the Bill.

Government amendment No. 117 made.

Clause 46, as amended, ordered to stand part of the Bill.

Government amendments Nos. 118 to 122 made.

Clause 47, as amended, ordered to stand part of the Bill.

Clause 48 ordered to stand part of the Bill.

Government amendments Nos. 123 to 125 made.

Clause 49, as amended, ordered to stand part of the Bill.

Government amendment No. 126 made.

Clause 50, as amended, ordered to stand part of the Bill.

Government amendments Nos. 127 and 128 made.

Clause 51, as amended, ordered to stand part of the Bill.

Clause 52 disagreed to.

Clause 53 ordered to stand part of the Bill.

Government amendments Nos. 129, 649 and 650 made.

Schedule 9, as amended, agreed to.

Government amendment No. 130 made.

Clause 54, as amended, ordered to stand part of the Bill.

New clauses 31, 43 and 44 and new schedule 3 agreed to.

Clause 55 ordered to stand part of the Bill.

Government amendments Nos. 131, 651, 574, 652, 653, 132, 575, 133, 654 to 657, 134 to 141, 576 to 579, 142, 580, 143, 144, 581 and 145 to 175 made.

Schedule 10, as amended, agreed to.

Clause 56 ordered to stand part of the Bill.

Government amendments Nos. 176, 582, 658, 659, 583, 660, 661, 177, 178, 640, 179 to 197, 584 and 198 to 202 made.

Schedule 11, as amended, agreed to.

Clause 57 ordered to stand part of the Bill.

Government amendment No. 203 made.

Clause 58, as amended, ordered to stand part of the Bill.

Government amendments Nos. 204 to 208, 585 and 209 made.

Clause 59, as amended, ordered to stand part of the Bill.

Government amendments Nos. 586 and 587 made.

Clause 60, as amended, ordered to stand part of the Bill.

Government amendment No. 588 made.

Clause 61, as amended, ordered to stand part of the Bill.

Clause 62 ordered to stand part of the Bill.

Government amendments Nos. 215 to 218 made.

Clause 63, as amended, ordered to stand part of the Bill.

Government amendments Nos. 219, 589, 220, 590, 221, 591, 222, 223 and 592 made.

Clause 64, as amended, ordered to stand part of the Bill.

Government amendments Nos. 224 to 228 made.

Clause 65, as amended, ordered to stand part of the Bill.

Government amendments Nos. 229 to 232 and 593 made.

Clause 66, as amended, ordered to stand part of the Bill.

Amendments made: Nos. 594 and 595.

Clause 67, as amended, ordered to stand part of the Bill.

Government amendment No. 596 made.

Clause 68, as amended, ordered to stand part of the Bill.

Clause 69 ordered to stand part of the Bill.

Government amendments Nos. 237 to 240 made.

Clause 70, as amended, ordered to stand part of the Bill.

Government amendments Nos. 241, 597, 242, 598, 243, 599, 244, 245 and 600 made.

Clause 71, as amended, ordered to stand part of the Bill.

Government amendments Nos. 246 to 250 made.

Clause 72, as amended, ordered to stand part of the Bill.

Government amendments Nos. 251 to 254 and 601 made.

Clause 73, as amended, ordered to stand part of the Bill.

Government amendments Nos. 602, 255, 603 and 256 made.

Clause 74, as amended, ordered to stand part of the Bill.

Government amendments Nos. 662, 562, and 622 to 625 made.

Schedule 12, as amended, agreed to.

Clause 75 disagreed to.

Government amendments Nos. 605 and 606 made.

Clause 76, as amended, ordered to stand part of the Bill.

Government amendments Nos. 262 to 265 made.

Clause 77, as amended, ordered to stand part of the Bill.

Government amendments Nos. 266, 607, 267, 608, 268, 609, 269, 270, 610 and 611 made.

Clause 78, as amended, ordered to stand part of the Bill.

Government amendments Nos. 271 to 275 made.

Clause 79, as amended, ordered to stand part of the Bill.

Government amendments Nos. 276, 612, 277, 278, 613, 279 and 614 made.

Clause 80, as amended, ordered to stand part of the Bill.

Government amendments Nos. 280 and 281 made.

Clause 81, as amended, ordered to stand part of the Bill.

Clause 82 disagreed to.

Government amendments Nos. 616 to 618 made.

Clause 83, as amended, ordered to stand part of the Bill.

Government amendments Nos. 285 to 288 made.

Clause 84, as amended, ordered to stand part of the Bill.

Government amendment No. 289 made.

Clause 85, as amended, ordered to stand part of the Bill.

Government amendment No. 290 made.

Clause 86, as amended, ordered to stand part of the Bill.

Government amendments Nos. 291 to 293 made.

Clause 87, as amended, ordered to stand part of the Bill.

Government amendment No. 294 made.

Clause 88, as amended, ordered to stand part of the Bill.

Government amendments Nos. 295 to 298 made.

Clause 89, as amended, ordered to stand part of the Bill.

Government amendments Nos. 299 and 300 made.

Clause 90, as amended, ordered to stand part of the Bill.

Government amendment No. 301 made.

Clause 91, as amended, ordered to stand part of the Bill.

Clause 92 ordered to stand part of the Bill.

Government amendment No. 302 made.

Clause 93, as amended, ordered to stand part of the Bill.

Government amendments Nos. 303, 626 and 627 made.

Clause 96, as amended, ordered to stand part of the Bill.

Government amendments Nos. 628, 304, 305, 629, 630, 307 and 631 made.

Clause 97, as amended, ordered to stand part of the Bill.

Government amendments Nos. 308, 632 and 309 made.

Clause 98, as amended, ordered to stand part of the Bill.

Government amendments Nos. 310 and 311 made.

Clause 99, as amended, ordered to stand part of the Bill.

Clauses 100 to 103 disagreed to.

Government amendments Nos. 619, 620, 637 and 621 made.

Clause 104, as amended, ordered to stand part of the Bill.

Motion made, and Question put, That new clauses 11 to 19, 21 to 25, 28 to 30 and 42 be read a Second time:—

The House proceeded to a Division.

Mr. Grieve: On a point of order, Sir Michael. Leaving aside the fact that hundreds of amendments are being pushed through at the end of the process without their being examined, new clause 42, which the Government have adopted, was tabled not as a Government amendment but as a Back-Bench amendment for consideration by the Committee. It has not been considered. Although it may be desirable, it alters substantially assurances that the Government gave in another place that the only criterion for the appointment of the judiciary would be merit. Is it in order for the Government to act in that way, especially when no notice was given to the Opposition or anyone else until early this afternoon that the Government

viewed the new clause with favour? Consequently, it is impossible to consult sensibly on whether it should be supported.

The Second Deputy Chairman: I understand the hon. Gentleman's point but the Government's actions are clearly laid down in Standing Orders and are not a matter for the Chair. We must proceed with the Division.

Mr. Edward Garnier (Harborough) (Con): On a point of order, Sir Michael. First, I congratulate you on making probably the longest contribution—

The Second Deputy Chairman: Order. If the hon. and learned Gentleman wishes to make a point of order, it would be more sensible if we first completed the Division and he raised it subsequently.

The House having divided: Ayes 296, Noes 127.

Division No. 108] **[6.24 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Borrow, David
Bottomley, Peter *(Worthing W)*
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*
Campbell, Ronnie *(Blyth V)*
Caton, Martin
Cawsey, Ian *(Brigg)*
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Edward *(Kingston)*
David, Wayne
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Donohoe, Brian H.
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jenkins, Brian
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Joyce, Eric *(Falkirk W)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Kumar, Dr. Ashok
Lamb, Norman
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWilliam, John
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moore, Michael
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
Olner, Bill
Öpik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Price, Adam *(E Carmarthen & Dinefwr)*
Primarolo, rh Dawn
Prosser, Gwyn
Pugh, Dr. John
Purchase, Ken
Purnell, James
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robertson, Angus *(Moray)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*

Salter, Martin
Sanders, Adrian
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheerman, Barry
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soley, Clive
Southworth, Helen
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stinchcombe, Paul
Stringer, Graham
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
Weir, Michael
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Paul Clark and
Gillian Merron

NOES

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Boswell, Tim
Brady, Graham
Brazier, Julian
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cran, James *(Beverley)*
Curry, rh David
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Forth, rh Eric
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Hammond, Philip
Hayes, John *(S Holland)*
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lansley, Andrew
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Ruffley, David
Selous, Andrew
Shepherd, Richard
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Willetts, David
Wilshire, David
Winterton, Ann *(Congleton)*
Young, rh Sir George

Tellers for the Noes:
Mr. Mark Prisk and
Mr. Geoffrey Clifton-Brown

Question accordingly agreed to.

New Clauses 11 to 19, 21 to 25, 28 to 30 and 42 read a Second time, and added to the Bill.

Clause 110 ordered to stand part of the Bill.

Schedule 13 agreed to.

Clause 111 ordered to stand part of the Bill.

Government amendment No. 466 made.

Clause 112, as amended, ordered to stand part of the Bill.

Clause 113 ordered to stand part of the Bill.

Government amendment No. 319 made.

Clause 114, as amended, ordered to stand part of the Bill.

Government amendments Nos. 320 and 663 made.

Clause 115, as amended, ordered to stand part of the Bill.

Government amendments Nos. 321,638 and 467 made.

Clause 116, as amended, ordered to stand part of the Bill.

Clause 117 ordered to stand part of the Bill.

Government amendments Nos. 468 to 470 and 16 made.

Schedule 14 agreed to.

Clause 118 ordered to stand part of the Bill.

Government amendments Nos. 471, 472, 563 to 565, 473, 566, 474, 567, 475 to 478, 568, 569, 479, 480, 570, 571, 481 to 483, 572, 573, 484, 485, 368, 486, 664, 665, 487 and 666 made.

Schedule 15, as amended, agreed to.

Government amendment No 641 made.

Clause 119, as amended, ordered to stand part of the Bill.

Government amendments Nos. 322, 488, 489, 323 and 324 made.

Clause 120, as amended, ordered to stand part of the Bill.

Government amendment No. 642 made.

Clause 121, as amended, ordered to stand part of the Bill.

New Clauses 32 to 41 agreed to.

New schedule 2 agreed to.

Bill reported, with amendments

6.41 pm

Simon Hughes: On a point of order, Sir Michael. I have a predictable point of order. I do not remember ever having been in the House previously when the proposals from the Chair for amendments, new clauses and new schedules have taken 27 minutes, without the Division. I do not pretend to be 100 per cent. accurate, but by my calculation there were 91 clauses, 8 schedules, 31 Government new clauses, one non-Government new clause, two new schedules and 102 amendments. Apart from asking whether anyone in this place keeps records—as I think that we have broken one—is there anything that we can do, if we anticipate that this is what is likely to happen, other than to ask the Procedure Committee to re-examine this process? This is the second day in a row—I understand that today's context is not as controversial as yesterday's—when a major constitutional Bill, on the Floor of the House, has not been debated. Many perfectly reasonable Government amendments that were made, and one or two new clauses and amendments from the Opposition, have not had a chance of debate. That does not do a service to the legislation or the cause and certainly does not do a service to Parliament.

Mr. Garnier: Further to that point of order, Sir Michael. The hon. Member for Southwark and Bermondsey (Simon Hughes) completed the point of order that I was intending to make to you during the Division. I fully accept that that was perhaps not the most convenient time to take it. Is there no procedure, however, whereby a Minister who introduces a guillotine motion to curtail debate on a Bill, and on this Bill in particular, can be required to explain himself after the event so that he can justify, after what he has done, what he intended to do beforehand?

I presume that all Ministers come to the House with the good motive of wishing to allow the House ample time to discuss their legislation. Clearly, Sir Michael, you have been on your feet for nearly half an hour, which is probably the longest contribution that you have made on the Floor of the House since becoming a Deputy Speaker. I am delighted for you, but it is an abuse of our constituents and of our role as Members of Parliament, of which you are one, for a Government to deal with constitutional legislation, or any legislation, in this way. You may say that that is no more than a point of frustration, and not a point of order that you can deal with. None the less, the Government are increasingly abusing this place and we increasingly look to the Chair to protect us and the integrity of our procedures.

I appreciate that you, Sir Michael, are as much a servant as a master of this House and that you must do what the House—through the Executive, telling Parliament what to do—dictates. We live by the fiction that we in this place are free agents, and that being understood I urge you to apply some pressure to persuade the Government to behave themselves.

The Second Deputy Chairman: I think that I have understood the hon. and learned Gentleman. On the first of several points that he made, concerning the Minister's providing an explanation, I am afraid that no allowance is made in our proceedings for requiring such an explanation, so there is nothing that the Chair can do about that.

On the original point of order from the hon. Member for Southwark, North and Bermondsey (Simon Hughes), all that I can say is that we have done things this evening absolutely correctly and as the House—until now, at least—decided that we should do them. I am sure that all his remarks will have been noted by everybody in the House; perhaps the House will want to return to this issue on another occasion.

Peter Bottomley (Worthing, West) (Con): Further to that point of order, Sir Michael. To be fair to the Government, it is worth recognising that a substantial number of the amendments involved putting back the words "Lord Chancellor", which is what the House desired.

The Second Deputy Chairman: That is absolutely true. A number of amendments were technical, but the House will be able to decide for itself which were and which were not. That is now a matter for the record.

Order for Third Reading read.

6.46 pm

Mr. Leslie: I beg to move, That the Bill be now read the Third time.

The Bill's Second Reading has been debated on the Floor of the House, followed by three full days in Committee on the Floor of the House. That process was agreed through the usual channels following discussion about there being insufficient time. We have had an interesting and long discussion in Committee, but even so a number of amendments, new clauses and schedules were adopted that we did not have time to discuss. Of course, that is always a matter of regret, but I pay tribute to the hon. Member for Worthing, West (Peter Bottomley), who leapt to my defence—that was unsurprising; nevertheless, I shall remember it—to point out that many amendments were consequential and drafting amendments that simply replaced the word "Minister" with the phrase "Lord Chancellor." Of course, that was not the Government's original intention; rather, it was a reflection of the debate and of having listened to concerns expressed here and in the other place. It was unfortunate that we had to go through such amendments one after the other, but they did constitute the bulk of those tabled.

That said, other matters arose as well, and in the light of the earlier request that I deal with them I shall try my best to do so.

Peter Bottomley: In this spirit of comradeship, does the Minister accept that if the Government had thought before they spoke in creating this constitutional disarray—if they had asked the Lord Chancellor to

[Peter Bottomley]

agree not to sit as a judge and if they had agreed with the senior Law Lords that they should not take part in partisan debates—we would not have needed these provisions?

Mr. Leslie: The hon. Gentleman has just spoiled his standing in my eyes with that contribution; if only things could have stayed as they were. I am afraid that I disagree with him on that point.

This significant Bill is driven forward by a number of fundamental principles, the first of which is clarifying the relationship between the three arms of the state—the legislature, the judiciary and the Executive—thereby allowing a Minister with an unambiguous constitutional role to focus on the administration of the courts and the justice system. Another principle is modernising the constitution to make it better fitted to carrying out its vital role in a modern democracy, and a third is providing the public with greater confidence in the clearer shape and nature of each of its branches.

Mr. Grieve: I take the Minister back to what he said to my hon. Friend the Member for Worthing, West (Peter Bottomley), who was indeed right to say that many of the Government's amendments merely substituted the word "Minister" with the phrase "Lord Chancellor." One thing that has to be assessed when the usual channels negotiate how much time should be allowed for discussing a Bill is which issues will require close debate. In such circumstances, if the Government do not indicate beforehand that they will adopt Back-Bench amendments, there is no opportunity for Members to understand the Government's thinking or to ask for sufficient time to debate those issues.

Mr. Leslie: I understand that the hon. Gentleman is talking about new clause 42, proposed by my hon. Friend the Member for Leicester, East (Keith Vaz). It is a simple new clause, which I can read out now that it has been adopted in the Bill. It states that the judicial appointments commission, in performance of its functions

"must have regard to the need to encourage diversity in the range of persons available for selection for appointments."

The provision is subject to clause 57, according to which selection must be "solely on merit" and the person should be "of good character". It is a simple and, I would have thought, wholly uncontentious new clause.

This admirable and worthy provision has been welcomed by the judiciary and its genesis lies with the Constitutional Affairs Committee. I would have thought that our adoption of it accords with the spirit of responding to debate and to suggestions from the Select Committee. Instead of rebutting these sorts of provisions, Opposition Members should listen and allow a level of dialogue to take place, even if not in this particular debate. I have sought to respond to appropriate suggestions, which is why I accepted the new clause.

New clause 42 has been available for Members to view in the amendment paper and hon. Members have been able to make their judgments about it. I accept that it is buried away in a number of other amendments, but it is there and it was wrong to vote against it. I regard voting against it as extremely regrettable. Perhaps, on further reflection, Opposition Members will accept the provision in the other place.

Mr. Grieve: It is indeed the case that when the provision is subjected to proper scrutiny in the other place, those who follow the Conservative Whip will have had a further opportunity to discuss the matter and may decide that they are content with it. However, it is simply not good enough for the Government to adopt a Back-Bencher's new clause that is not their own without expressing their view on the Select Committee's report, when they know perfectly well that when the issue was extensively debated in the other place they accepted the centrality of basing judicial appointment wholly on merit. I fully accept that what the Government have done may not wholly dilute that aspect, but it nevertheless has an impact on it. The Government should not have behaved in that fashion.

Mr. Leslie: I am getting mixed messages from Conservative Members. They say that we should respond to debate and not simply railroad Government amendments through. If sensible amendments are proposed by the Select Committee or by hon. Members, we are encouraged to respond to them. That is precisely what I have done. It is not my fault that we did not have sufficient time to debate that particular part of the Bill in full. It was a matter for hon. Members, some of whom—they are no longer in their places—spoke for considerable periods of time on matters connected with the oath and so forth, which others may feel was excessive. Nevertheless, what happened was all in order; if it were not, we would not have been able to adopt the new clause. I am glad that new clause 42 now stands part of the Bill and I hope that my hon. Friend the Member for Leicester, East will make some further comment on it later.

I return to my overview of why the Bill should have its Third Reading. It reforms the office of Lord Chancellor, removing the bloodlines between Ministers and present judicial roles and removing outdated functions. It ends the Lord Chancellor's judicial functions, ensuring that his responsibilities for the judiciary are exercised under a new transparent statutory arrangement in the form of a concordat with the Lord Chief Justice. Reform will enable that Minister to focus on his and the Government's main priority—the delivery of essential public services. We also recognise the Lord Chancellor's important role in the administration of the courts and in accounting for the appointment of judges.

The Bill gives all Ministers, particularly the Lord Chancellor, a statutory duty to uphold the independence of the judiciary. It creates a free-standing UK supreme court, separating the highest appeal court from the upper House and removing the Lords of Appeal in Ordinary from the legislature—a very important step forward. The Bill ensures that the judiciary's voice can be heard and represented to Parliament and that our highest appeal court will be visibly separated from the legislature by being housed outside the Palace of Westminster, our first preference being Middlesex Guildhall. It also puts beyond any doubt the independence from politics and the legislature of the UK's highest appeal court.

The Bill also sets up the new judicial appointments commission, an independent body responsible for selecting judges in England and Wales. It sets out the process to be followed in appointing judicial office holders and in making complaints to the ombudsman. The Bill defines the limitations of the Lord Chancellor's role in the appointment of judges, and provides real accountability over appointments. It is no longer appropriate for a Minister to have unfettered discretion in the appointment of judges. The Bill also makes provision for a new disciplinary process for the judiciary that is open, transparent and accessible. The JAC will have a positive and beneficial impact on the diversity of appointments, even though all will be made solely on merit.

A further series of amendments was adopted in Committee, largely in relation to enshrining the concordat and making parallel provisions for Northern Ireland. However, the Bill's rationale is clear and simple: it is to provide a modern footing for the relationship between the Government, the judiciary and Parliament.

The Bill restates and strengthens judicial independence and will ensure the better administration of the courts, with a full-time Cabinet Minister overseeing nearly £3 billion of public expenditure. It also makes clear the responsibilities necessary for the vital functions of a modern democracy.

Our constitutional history is one of the longest and most illustrious of any country in the world. It has evolved gradually, but constantly, over the centuries. Change and reform are core features of our system of governance; they are not alien to it. The changes in the Bill will further enhance and improve our constitution so that it is fit for the 21st century.

I commend the Bill to the House.

6.56 pm

Mr. Djanogly: We now find ourselves at the end of a full day of business on the Constitutional Reform Bill. Hon. Members have covered a certain amount of it as a Committee of the whole House, but more than half the clauses have not been considered today. Hundreds of clauses and amendments remain unconsidered and the Government have adopted amendments tabled by Back-Bench Members that have not even been debated. It may be an academic matter to protest now, but the Government can take no pride in their handling of the timetable for a Bill of such constitutional significance.

This afternoon, some controversial proposals have been pushed through, among them provisions relating to the Lord Chancellor's oath, the speakership of the House of Lords, and the land charges search fees levied by local authorities. Of course, many of the clauses are not fundamentally in dispute as they deal with issues covered by the concordat between the Lord Chancellor and Lord Chief Justice. For example, the Opposition remain generally supportive of the judicial appointments commission although, despite the wording in the Bill, we still fear the influence of a candidate's politics or crony potential on his or her chances of selection as a judge.

As we have made clear from the outset, Opposition Members are not opposed to those aspects of the Bill that bring into force the sensible redefining of the relationship between the judiciary and the Government. However, the positive measures implementing the concordat do not make up for the serious damage that this Bill, in its entirety, will do to this country's delicate constitutional balance which has protected Britain's people and judiciary so effectively up to now. I maintain the view that I expressed on Second Reading. This Bill represents nothing less than constitutional vandalism in the way it sets out to replace the long-standing Appellate Committee of the House of Lords with an unnecessary supreme court, as well as in its undermining of the historical office of the Lord Chancellor.

Indeed, the situation in relation to the Lord Chancellor has become much worse since Second Reading. The other place rightly saw fit to amend the Bill to require the holder of that position to be a member of the House of Lords and a person who had previously been a senior lawyer or judge. The argument for those requirements was entirely valid. They would ensure that the traditional upholder of the rule of law and the guardian of judicial independence had an understanding of the legal significance of events with which he or she might be confronted. By overturning those requirements, the Government have done nothing to further the rule of law that they purport, in clause 1, to uphold. Presumably, we are supposed to feel grateful that the Government have at least respected the Opposition amendment in another place that ensured that the position of Lord Chancellor remained in existence.

As I said, a new supreme court is being thrust upon us. I make no apology for reiterating the effects of that proposal. The creation of such a court will guarantee only unnecessary upheaval and exorbitant costs. The principle of the separation of powers does not require such a change, and neither does the Human Rights Act 1998, which has not been used successfully to challenge our present position. No lack of integrity and independence on the part of the Law Lords necessitates such action. Contrary to what the Government have previously maintained, we believe that the role of the Law Lords is widely understood by the British public.

A starting estimate of £30 million in set-up costs and an estimated £8.8 million in annual running costs will be required for the new court. By contrast, for a little over £168,000 a year, we already have a final appeal court in the Appellate Committee, which is admired at home and abroad for its authoritative rulings. The Lords of Appeal in Ordinary will be removed from Parliament, reducing the quality of debate and legislation in the other place. The Law Lords will lose the benefit of their existing location at the heart of government.

The many reasons for opposing the Bill have been made quite clear throughout the debates in the House. The Government are modernising for the sake of it, and the Conservative party cannot go along with that. I ask the House to take what may be its final opportunity to vote against the Bill, which is damaging to our constitution and wasteful and unnecessary in practice.

7.1 pm

Keith Vaz: I want to speak briefly on Third Reading because we have rehearsed the arguments over so many days and, indeed, a number of months since the Government first published their proposals.

[Keith Vaz]

I pay tribute to the Minister, who has conducted himself eloquently and tirelessly in ensuring that the House has an opportunity to be provided with as much information as possible, and he has done it all with good humour. I thank him for the work that he has done in ensuring that the Bill passes all its stages.

I want to say how pleased I am that the Lord Chancellor and the Minister have worked so hard with the judiciary. Certainly, when these proposals were announced, some of those in the senior judiciary were concerned about some of them. There was concern in the judicial part of the House of Lords and a number of Law Lords were not consulted about what was happening. Since then, we have agreed the concordat with the Lord Chief Justice. I am glad that we worked with the judiciary because we have the finest judiciary in the world. It is important that the judiciary should be kept fully informed of the developments and properly consulted, and I now think that the judiciary support the reforms. I hope that the Minister will take the message from the House to those in the senior judiciary that we will consult them on matters that concern them and ensure that we consider their views.

What has saddened me tonight, however, is the attitude of the hon. Member for Beaconsfield (Mr. Grieve) and the Conservative party's decision to vote against diversity in the House. It is appalling that a party that claims to the black and Asian communities and on the gender issue that it is in favour of diversity should wish to vote against an innocuous clause proposed by the Government—new clause 42.

Mr. Grieve *rose—*

Keith Vaz: Hang on—wait a minute. The hon. Gentleman will attend an Asian function in the House this Saturday. He attended Baisakhi last year. I think that he even put a turban on his head in the middle of Baisakhi. He says to the ethnic minority community that his party is in favour of diversity, yet he comes to the House and votes against diversity. *[Interruption.]* He has had a lot to say. Let me just say that he should have known about the substance of new clause 42 and we cannot do his homework for him. He is a clever man and I should have thought that he would have established what that clause was intended to do.

First, it was originally proposed by myself, his hon. Friend the Member for Worthing, West (Peter Bottomley) and my hon. and learned Friend the Member for Dudley, North (Ross Cranston), who is, sadly, to retire from the House, despite his distinguished service in the Government and on the Select Committee on Constitutional Affairs. It is obvious that when the three individuals concerned all signed the same proposal, it is worth reading and considering very carefully.

Secondly, new clause 42 comes straight from Northern Ireland legislation. It reflects exactly what was intended in respect of the Northern Ireland Judicial Appointments Commission.

Mr. Grieve: Will the hon. Gentleman give way?

Keith Vaz: I will when I have finished making my point.

The proposal has worked well in Northern Ireland and it was therefore appropriate to suggest it again. The third point is that the clause is specific on merit. No woman and no black or Asian person in this country wants to be appointed to any job on the basis of their colour or gender. The first and overriding consideration is merit, and that is exactly what new clause 42 states. That is why it is written in terms that allow merit to be the overriding consideration.

Mr. Grieve: I am sorry to note that the hon. Gentleman's sensible points are, characteristically, marred by the malevolence of tone that he so habitually adopts. He knows that the Conservative party is proud of promoting diversity, but as a parliamentarian I want to ensure that the Government do what they promise. Central to the Bill has been their promise that judicial appointment wholly on merit would be preserved. If the Government wanted to table a sensible amendment, I would have expected them to do so in a way that guaranteed debate and with their views known to the House before they did so.

Keith Vaz: That was not an opportunity for the hon. Gentleman to make another speech. He is wrong and the message will go out to the community today that the Conservative party—despite what it said during the Leicestershire, South by-election when the Leader of the Opposition ran from mosque to mosque saying that he was in favour of diversity, despite what the shadow Home Secretary said at the Diwali function at the Dorchester hotel last year when he tucked into his chicken tikka masala and told everyone that he was in favour of diversity, and despite what the hon. Member for Beaconsfield says at ethnic minority community functions—when it came to the crunch, it voted against diversity. That is a shame on the Conservative party and a shame on the hon. Gentleman.

7.7 pm

Simon Hughes: May I first thank the Minister? Although the Liberal Democrats did not like the programme motion, nor the fact that we did not debate so much of the Bill, he dealt with matters today with his usual expertise, competence, courtesy and friendliness. We are grateful for that because it helps to alleviate the other criticisms, which we do not lay largely at his door.

My hon. Friend the Member for Somerton and Frome (Mr. Heath) has had the conduct of the Bill through the House, except today, with the assistance of my hon. Friend the Member for North Cornwall (Mr. Tyler). My right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith), who was in his place for most of the day and chairs the Constitutional Affairs Committee, gave his apologies as he had to be at another event now, but he has been assiduous in ensuring that the Committee and all its members played their full part in contributing to our deliberations. We owe them all our thanks.

The hon. Member for Leicester, East (Keith Vaz) raised, with his usual intensity, new clause 42, which was tabled by the hon. Member for Worthing, West (Peter Bottomley) and others. My colleagues and I supported that new clause and voted for it with enthusiasm. We believe that it should be added to the Bill, but I will not join the hon. Member for Leicester, East in criticising

the hon. Member for Beaconsfield (Mr. Grieve) and his colleagues for saying that the new clause should have been debated in the House and in Committee. The Government did not say that they would support it. They are entitled to do so, but in the 27 minutes of unbroken recital of new clauses, new schedules and amendments, there was no chance to discuss any of them. It is proper to say that we should debate it.

I accept that no woman or member of a minority ethnic community wants to be promoted within the legal profession on any grounds other than merit. I also accept the huge pool of talent that there was, is and will be from women and black and ethnic minority communities. I have held the strong view for many years that they have been under-represented by miles in judicial appointments at the highest level. Only in the last 12 months has the first woman made it to the most senior court in the land. That delay has done us no credit, but I am pleased that it has happened at last.

None the less, we should have been able to have this debate and the new clause could then have been judged on its merits. That has been our view for a long time, and it is unreasonable to associate a lack of concern for these issues with the way in which the Conservative party voted on the issue.

Turning to the matter of substance, the Bill is important and substantial—all 227 pages of it. I think that it is the last of the Bills envisaged under the Cook-Maclennan agreements made before the 1997 general election by the right hon. Member for Livingston (Mr. Cook) and my colleague Lord Maclennan of Rogart, as he now is. Our parties put forward a set of constitutional proposals that we said we would want to introduce when either of us were in government. Labour was elected and did good things in its initial period in government, including passing the Human Rights Act 1998. That has been spoilt by the question of derogating, but that is a sad and separate story.

The time has long come for the reforming proposal that lies behind the Bill. I do not think that in any other modern or older democracy throughout the world, the roles of the Speaker of one of the Houses of Parliament, a Minister in the Executive and the most senior judge have been fused and carried out by one person. It is absolutely proper to argue that the roles should be separated.

I support a two-Chamber Parliament, with a principal Chamber and a second revising Chamber. In passing, may I say that I support a predominantly elected second Chamber and hope that we will have one before long? I think that that was on the Prime Minister's agenda at one point, but it has slipped a bit as he has changed his view in a retrograde way. It is self-evident that the two Chambers of Parliament should choose their own Speakers and call them what they want.

Additionally, there should be a Minister of Justice—he will now still be called the Lord Chancellor—who is accountable to parliamentarians, one hopes in the elected House of Commons. That will be the case in the future. There should also be a separate, independent and free-standing supreme court for the United Kingdom. It should be seen as separate from legislative and party pressures and able to do its new job. That is not to say that the Law Lords have not done a good job. We value hugely what they did as recently as December when they found that the Government had acted illegally and that the law of this country was contrary to the European convention on human rights. They thus effectively called on us to repeal the law, which we will inevitably now do. However, in modern democracies, courts and supreme courts are separate from the legislature, and the Bill will allow us to achieve such separation.

It is important that we modernise the way in which we appoint our judges. The system set out in the Bill is not perfect, but it is much better than the existing one. We will have an independent commission and independent scrutiny. I personally would have preferred a structure under which the nomination of the Prime Minister would also require approval by a Select Committee, as is the case in the American Congress, as well as involving the judicial commission process, because that would have provided for extra protection.

The Bill changes ancillary matters to do with such matters as the Privy Council and its appellate functions. Those changes needed to be made, so it is right for us to modernise our judicial process.

We need a judiciary that is modern, but above all independent. When Liberal Democrats have criticised the Bill, it has been because the Government have not adequately ring-fenced that independence—we had one such debate today. However, with a few reservations, we warmly welcome the Bill, so my colleagues and I will support it on Third Reading, as we have done throughout its passage. We hope that it will be on the statute book soon, whatever the date of the general election.

7.13 pm

Mr. Garnier: I am afraid that I cannot echo the enthusiastic praise for the Bill expressed by the hon. Member for Southwark, North and Bermondsey (Simon Hughes). I can, however, join in the general feeling of warmth shown towards the Minister, who has done his best in a difficult job. No doubt he had to comply with some pretty unattractive instructions, not least of which was ramming the Bill through Committee as quickly as possible with minimum inconvenience to the Government or anyone else, save for those who care about the courts, the office of Lord Chancellor and the creation of a judicial appointments commission.

I shall make my next point briefly because I gather from a Government Whip that the Labour party wants to get away early, having done its business. I am sorry that food takes a greater precedence over a debate on an important constitutional issue, but that is the Parliament we now have.

The judicial appointment commission is unnecessary, but it is the least harmful of the measures. The supreme court is an utterly unnecessary and hugely expensive way of so-called reforming the highest appeal court in our land. It is no more than an artificial way of resolving a dispute between the former Home Secretary and the former Lord Chancellor. It has produced a great deal of sadness and upset, and no identifiable benefit. I do not buy the line produced by the hon. Member for Southwark, North and Bermondsey that it is necessary to have the highest court of appeal outside Parliament. No one who has thought about that for more than 30 seconds has ever thought that the Judicial Committee

[Mr. Garnier]

of the House of Lords was anything other than a court and that its judgments were anything other than legal judgments, rather than political speeches, but the majority have had their day and that is the end of that, at least until we know the result of the general election.

On the Bill's contents—this is allied to my remarks on the supreme court—the office of the Lord Chancellor, in every sense of the word as it has been understood for many years, has been destroyed. The description of the pubic office that will be wrapped with the words "Lord Chancellor" is unrecognisable to anyone who has any interest in the history of the office. Indeed, in another guise it is possible that the Government could be sued for passing off the post-Bill Lord Chancellor as the Lord Chancellor. He is nothing of the sort.

There is some importance attached to that position beyond the point about the new role of the Lord Chancellor. He has traditionally been the protector of the rule of law, protector of the judiciary against political interference, and upholder of the independence of the judiciary at the highest levels of government. Of course, that will go because he will not be anything other than a political Secretary of State, and good luck to him. He will not, however, have the authority, either as a politician and still less as the head of the judiciary, to speak for it on such issues. We will have to rely on the Attorney-General who, at the moment, is a Member of the other place.

I am sad to say that we no longer have lawyers on the Labour Benches who appeal to the Prime Minister and are up to doing the important job of the Law Officer in this House. I regret the fact that the hon. and learned Member for Dudley, North (Ross Cranston) is no longer the Solicitor-General. He was extremely good at it. He was not an aggressive "punch you in the face" politician. He made the grave mistake of thinking about what he wanted to say before he said it, which did not necessarily appeal to the Government.

At the moment we are blessed with the right hon. and learned Member for Camberwell and Peckham (Ms Harman) as our Solicitor-General. No doubt she will long be in that office, and, if not long in that office, long remembered for her tenure of that office. However, I cannot put much faith in the Attorney-General's ability to protect the judiciary and uphold the rule of law when he suggested in the House of Lords today that the so-called précis of his advice on the legality of the invasion of Iraq was not a précis of anything that he ever said or wrote. It is extremely worrying that that is the quality of person who currently holds that office—irrespective of the Attorney-General's other merits—and that that is the state of affairs in which we find ourselves. I am not sure that I want to trust the independence of the judiciary to that sort of muddle.

I have said quite enough about the content of the Bill, and I want briefly to comment on the process by which we have reached its Third Reading. You, Mr. Speaker, will not have been present during the Committee stage, but will no doubt have had reported to you the fact that one of your deputies spoke for about half an hour simply to read out a list of clauses, amendments and other procedural material that we had no opportunity to debate. I congratulated him on making his longest contribution to the House since he became a Deputy Speaker. It is utterly regrettable that the House should allow itself to debate without proper consideration a book that claims to be a Bill and is as long and as thick as it is.

Those points are reinforced by what happened yesterday in this place, when we had to discuss the Prevention of Terrorism Bill in undue haste and when, in my submission, the procedures of this place were roundly abused by the Executive and the majority of Members of Parliament were prepared to let it happen, as they have again today. I do not know, Mr. Speaker, whether there is anything that we can realistically do about this suborning of the proper processes of deliberation in this place.

I am surprised that a Government with a majority of 165 do not have the self-confidence to allow their ideas, policies and legislation to be discussed and tested. It seems to me that a majority of 165 should allow a Government to be generous in their accommodation of other people's arguments, because they always know that they will win—that the compliant majority will deliver—and ought occasionally to do the decent thing and listen to arguments that they find unattractive. *[Interruption.]* I am hearing sedentary remarks from across the Chamber to the effect that tummies are rumbling, so I shall stop now and allow those Members to go away, enjoy whatever dinner it is that they wish to go to, and think a little more about the possibility that if they are re-elected, either as individuals or collectively, they may be forced to consider whether they have properly fulfilled their functions as Members of Parliament in holding the Executive to account. My view is that they have not, but should, and my concern is that this Bill and these proceedings are evidence of a total thoughtlessness—indeed, reckless disregard—for the people of this country in terms of how this House produces legislation.

I wish the House of Lords every opportunity to think hard about the Bill and to restore some common sense and constitutional propriety to our parliamentary procedures.

Question put, That the Bill be now read the Third time:—

The House divided: Ayes 280, Noes 118.

Division No. 109] **[7.23 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & D=wen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(W'shington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, rh Sir Menzies *(NE Fife)*

Campbell, Ronnie *(Blyth V)*
Caton, Martin
Cawsey, Ian *(Brigg)*
Chapman, Ben *(Wirral S)*
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Davey, Edward *(Kingston)*
David, Wayne
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobson, rh Frank
Donohoe, Brian H.
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Heath, David
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Hughes, Simon *(Southwark N)*
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Jackson, Glenda *(Hampstead & Highgate)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Kirkwood, Sir Archy
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lamb, Norman
Laxton, Bob *(Derby N)*
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWilliam, John
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moore, Michael
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Olner, Bill
Öpik, Lembit
Organ, Diana
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quinn, Lawrie
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'ds & Kincardine)*
Soley, Clive
Southworth, Helen
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Thurso, John
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
Weir, Michael
White, Brian
Whitehead, Dr. Alan
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Willis, Phil
Wills, Michael
Winnick, David
Wood, Mike *(Batley)*
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wyatt, Derek

Tellers for the Ayes: Gillian Merron and Paul Clark

NOES

Ainsworth, Peter *(E Surrey)*
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Burns, Simon
Burnside, David
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Davies, Quentin *(Grantham & Stamford)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Field, Mark *(Cities of London & Westminster)*

Flight, Howard
Forth, rh Eric
Francois, Mark
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Grieve, Dominic
Hammond, Philip
Hayes, John *(S Holland)*
Hendry, Charles
Hoban, Mark *(Fareham)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Malins, Humfrey
Maude, rh Francis
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Ruffley, David
Salmond, Alex
Shepherd, Richard
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Wiggin, Bill
Williams, Hywel *(Caernarfon)*
Wilshire, David
Winterton, Ann *(Congleton)*
Young, rh Sir George

Tellers for the Noes:
Mr. Mark Prisk and Andrew Selous

Question accordingly agreed to.

Bill read the Third time, and passed, with amendments.

BUSINESS OF THE HOUSE

Ordered,

That the Care of Cathedrals (Amendment) Measure, Church of England (Miscellaneous Provisions) Measure and Stipends (Cessation of Special Payments) Measure, which were laid before this House on 24th February, be referred to a Standing Committee on Delegated Legislation.—*[Mr. Watson.]*

PETITION

Fisheries

7.37 pm

Mr. Alex Salmond (Banff and Buchan) (SNP): I have great pleasure in presenting the petition of the cod crusaders. The material allegations surrounding the petition are the story of two remarkable women from Fraserburgh in my constituency, Carol MacDonald and Morag Ritchie, the cod crusaders, who have been campaigning for the past three years against the common fisheries policy and the destruction and devastation that it has caused fishing communities the length and breadth of these islands. They have collected as the climax of their campaign a mighty petition of 250,000 signatures, which will be presented tomorrow to Her Majesty the Queen at Buckingham palace. They are supported in their endeavours by fishing organisations the length and breadth of these islands. Indeed, they have international support, too. The case that they are making is to reclaim control of fishing waters to avoid the inevitable consequences of a continuation of the destruction wrought by common fisheries policy control. They are supporting the Bills for jurisdiction that have been presented by me and other Members who advance that argument, which we intend to continue until it is successful.

The petition reads:

The Petition of the Cod Crusaders

Declares that the European Common Fisheries Policy has failed to conserve fish stocks. It has caused untold hardship for fishermen and their local communities and industries. The Common Fisheries Policy has proved to be ineffective and inadequate in the conservation and management of fish resources. It has resulted in bankruptcies; the uprooting of individuals and families; and the destruction of thriving communities.

The Petitioners therefore request that the House of Commons take action to withdraw the United Kingdom from the Common Fisheries Policy.

And the Petitioners remain, etc.

To lie upon the Table.

Sentences (Appeals)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Watson.]*

7.39 pm

Mr. Graham Allen (Nottingham, North) (Lab): I am pleased to have obtained the Adjournment debate to explore a serious issue of justice and, I hope, to help the Government towards some answers. I am especially delighted to be joined by my hon. Friend the Member for Gedling (Vernon Coaker), who has taken a strong personal interest in leniency of sentencing, but is prohibited by convention from speaking in the debate because he is a Government Whip. He has taken a close interest in all matters to do with his community and its fightback against crime, which he has been leading in his constituency. The fact that he is here tonight, after the close of business, shows how deeply he feels about fighting against the criminals for his constituents' rights. He has also told me that he is appalled by the Appeal Court decisions to which I shall refer shortly. He finds them indefensible.

We are both deeply disturbed that, after two high-profile cases in our city of Nottingham, the Appeal Court has reduced sentences, much to the mystification and anger of the Nottingham public, who are struggling vigorously to beat violent crime. Everyone is playing their part. The police, with 319 extra officers since 2001, are performing superbly. The city council and city police division are pursuing a neighbourhood policing policy, with restored beat officers, community support officers and city council neighbourhood wardens, whose visible uniformed presence has made a real impact in recent months. The community is playing its part, too, and if the police and city council act with urgency to create effective neighbourhood watch co-ordination, community participation will increase massively.

The local criminal justice board is becoming more aware of its responsibilities to the community as well as to fellow professionals. There are, therefore, some very good signs. However, one cannot help feeling that sometimes the judiciary can appear to operate in a different world from that which people on the estates in my constituency and in Gedling inhabit. The judiciary's world must be reunited with ours if we are to win the battle against violent crime.

My hon. Friend and I were delighted when our Labour Government introduced the right of appeal against the decision of a lower court to impose an unduly lenient sentence. That was a breakthrough, on which we would like to capitalise. We are now aware that there is no similar provision for review of leniency of a decision taken by the Appeal Court. We believe that that should be changed.

In addition, we believe that a review is necessary, with the intention of allowing not only the prosecution but Members of Parliament to represent—in an agreed and appropriate way—the public interest in their constituency to the judiciary, without compromising judicial independence, so that the wider impact of a sentence can be understood and possibly taken into account.

For the record, two cases inspired my hon. Friend and me to raise the subject tonight. The first was a brutal racially aggravated assault in Nottingham, North on Mr. Derek Senior. Despite the climate of fear that drug kingpins and their associates have created, he bravely gave evidence. The assailants were sentenced. The day after sentencing, Mr. Senior was shot four times. That sent shockwaves through the community. The Appeal Court subsequently reduced the sentences.

The second case is the murder of Marvyn Bradshaw. He was executed by O'Brien in error. O'Brien was trying to kill a family member of Nottingham's most notorious drug-peddling family. He was sentenced to life imprisonment, with a recommendation of a minimum of 24 years to serve. As he left the court, I am told that he abused his victim's family. Drug gang-related murders have hit Nottingham and chilled and intimidated our community. The Appeal Court reduced O'Brien's minimum sentence to 18 years.

We could go into more detail about the cases and their widespread impact on our local communities, as well as the detrimental consequences of the Appeal Court ruling. However, I can do no better than quote the words of Nottinghamshire's chief constable, Steve Green, with which I wholeheartedly agree. He says:

"In this debate, perceived inappropriate sentencing has had one of the most corrosive impacts on that confidence"

—public confidence, that is.

"At least with local magistrates and judges, there can be a perception that the sentencers have some idea of local concerns. They do not have the same perceptions about an Appeal Court which is remote from the communities affected by its decisions. There may be perfectly good legal reasons why sentences are adjusted in the Court of Appeal but those reasons are lost on the communities which they affect and leave people like you and I trying to put a sensible interpretation on these decisions and generally failing dismally and probably making things worse.

One way of restoring that confidence would, undoubtedly, be to give the prosecution the right to challenge lenient decisions made on appeal. That challenge may be on legal grounds but could also be used on the grounds that the amended sentence would undermine the local fight against a particular crime problem or our response to a single high profile case. I would not seek to, in any way, undermine the independence of the judiciary in any of this but that independence cannot be a barrier to the duty of the judiciary to promote public confidence in their work, wherever this is humanly possible."

I quoted that at length because I could not possibly match the eloquence of the chief constable, whose daily life consists of confronting the perpetrators of violent crime in our communities.

Let me draw on another eminent source, Professor Ralph Henham of Nottingham Trent university law school, who has written extensively on this subject. He suggested that

"the test for determining 'undue leniency' was restrictive and misleading to the general public. The public perception of justice cannot readily be equated with the need to prevent judicial errors of principle, which is the cornerstone of the Court of Appeal's approach. I suggested an objective test for undue leniency based on considerations of public perception with due regard to sentencing convention."

He said that

"it may be argued that the sentencing process must be seen to respond adequately to a social wrong done by recognising the wider social implications of appeal decisions. These include the need to recognise the rights of victims and the wider community to participation in the process, and that the 'balance of rights' should be part of the judicial process of sentencing. In correcting unduly lenient sentences the present test effectively excludes considerations of social justice and accountability."

[Mr. Graham Allen]

He also said that

"one suggestion might be that the Chief Crown Prosecutor for the area is obliged to consider representations made by local MPs whenever the possibility of a reference . . . is being considered. A statutory amendment should set out the test to be applied. This should oblige the Court of Appeal to give due consideration to the views of the local community and victims as represented to the CPS. Any procedural changes would need to be carefully thought through, but the point of principle is sound, especially when the government is always emphasising the importance of restorative justice and putting victims at the centre of the CJS"

—that is, the criminal justice system.

Those are two sober views from eminent criminal justice professionals who are determined to help our communities fight violent crime. We believe that if the Appeal Court is minded to reduce the sentence on appeal, it should by required by law to consider the impact on the community. That is a simple statement of the point that we would like to reach. What we are not prepared to do this evening, or on any occasion, is bind the Solicitor-General's hands by making ridiculous demands. These are difficult, complicated issues, and there are many institutions whose interests we must balance before action is taken. We wish the Solicitor-General well as she deals with what is a deeply technical and constitutionally sensitive issue.

I understand that the courts now have victim impact statements before sentencing. If those are not currently available to the Appeal Court they should be made available to it, and should contain details of the impact on the wider community.

I would therefore like to ask the Solicitor-General not only to comment on the principle that my hon. Friend the Member for Gedling and I have raised this evening but to go away and, at her leisure, conduct a serious review of the two points that we have raised: the leniency anomaly that is now evident at Appeal Court stage; and the broader question of how the public interest, rather than just narrow legalism, can be taken into account before reducing sentences on appeal.

I hope that Appeal Court judges will also listen to what has been said tonight. These issues might be arcane to members of the public—and indeed to many Members of Parliament—but I hope that those judges will not feel that they are being put under pressure or under the microscope. I hope that they will feel that they can be part of the criminal justice family of which all Members of Parliament and all those who serve in our communities are part. I hope that they will become part of the wider effort to ensure that we all do our bit to stamp on violent crime, wherever it takes place. Members of the community might look at how the appeal judges act and say that they are acting with indifference, but I know that that is not the case. However, it is very easy to blame others in the criminal justice system. Our actions must be clear and we must get across to the public that we are genuinely operating in their interests. The two cases that I have raised tonight illustrate that reducing sentences on appeal can have a dramatic effect on local confidence in the criminal justice system, not through malice but more through benign neglect.

My hon. Friend the Member for Gedling and I work every day of our working lives in this place and in our constituencies to rebuild confidence in our criminal justice system, and to bring people forward to give evidence in cases, often when they are under great stress. For two cases to knock the wind out of those efforts locally shows that Appeal Court judges must, within their remit and their judicial independence, keep more of a weather eye on the impact of their judgments locally. I hope that the Solicitor-General will be able to respond to what I hope has been the constructive spirit in which my hon. Friend and I have advanced these points on behalf of our communities, because our communities need the help of everyone in the criminal justice system, including Appeal Court judges, in the fight against crime. I thank the House for its time this evening.

7.52 pm

The Solicitor-General (Ms Harriet Harman): I welcome the subject that my hon. Friend the Member for Nottingham, North (Mr. Allen) has chosen for this debate, and I acknowledge, as he has done, the deep interest of my hon. Friend the Member for Gedling (Vernon Coaker) in the matter, and his commitment to these issues. Both my hon. Friends have already taken the opportunity to convey to me the sense of injustice that their constituents feel about the sentences in the cases that have been raised tonight.

I was not surprised to see the subject that my hon. Friend the Member for Nottingham, North had chosen. Both he and my hon. Friend the Member for Gedling take a close interest in the question of crime and justice for their constituents. They focus not only on the question of sentences—which we are debating tonight—but on the fear of crime and on the effective response to crime by the police, prosecutors and courts that their constituents want, and to which they are entitled. Because of my hon. Friends' representations on the concerns of their constituents, I am in a better position than I would otherwise have been to understand the context of crime in Nottingham, which is where the impact of the Court of Appeal's sentencing decisions in these cases has been most deeply felt.

My hon. Friend the Member for Nottingham, North has argued for three things: first, for the courts to take into account the effect of their sentences on public confidence and, in particular, for the Court of Appeal to take into account the effect on public confidence locally of any reduction in a sentence that it might make; secondly, for more scope for—and public engagement in—a decision of the Law Officers to refer an unduly lenient sentence, along with a broad approach rather than a narrow legalistic one; and thirdly, for the opportunity to appeal an unduly lenient sentence when it is believed to have been imposed not by the court at first instance but following an appeal by the defendant against their sentence.

First, does the Court of Appeal take into account the effect of its sentence on public confidence? The answer is yes it does, and rightly so. Its sentence is important not only for the defendant and the victim in that case but, as my hon. Friend the Member for Nottingham, North graphically illustrated, for the wider public. There are many occasions on which judges, at first instance, rightly explain how they have had regard to the effect on public confidence in respect of a particular type of offence, a particular type of victim or a particular locality when they impose a sentence. That is helpful not

just for the defendant, victim and local community to understand how the sentencing decision has been reached, but if the defendant appeals against the sentence to the Court of Appeal, that Court can see in the papers why the judge took his or her view at first instance. It is also helpful for Law Officers, when we consider whether a sentence is unduly lenient, to see what considerations have been taken into account when a judge is sentencing, including whether he or she has recognised the effect on public confidence. The Court of Appeal will often reflect in its judgment its concerns for public confidence in the local community in the criminal justice system in relation to its sentencing decisions.

Secondly, one of the important developments in the way in which the Crown Prosecution Service handles cases is that prosecutors understand the importance of bringing to the attention of the court, in the sentencing exercise, the effect of a crime in a particular community, as well as challenging any factual errors in mitigation. It used to be felt that the prosecution's job was done as soon as the conviction had been obtained. Now prosecutors better understand that they have a role in bringing out the features of the case to assist the judge in sentencing and in challenging any wrong facts that might be put forward in mitigation. Helping the courts in the sentencing exercise is an important new role for prosecutors. When they do that at first instance, those points will be in the transcripts considered by the Court of Appeal should the defendant appeal.

On the issue of Members having the opportunity to prompt the review of a sentence, may I start by reminding the House how the unduly lenient sentence regime works? Anyone can refer a sentence to the Attorney-General or me and ask us to refer it to the Court of Appeal, even a member of the public, someone from a different part of the country or someone not involved in the case. Anyone can ask us to consider a case. Our jurisdiction, when a case has been brought to our attention, is simple: we have the power to refer a sentence from the Crown court to the Court of Appeal if we think that it is unduly lenient. It is not restrictive, nor do we interpret it restrictively, and it does not exclude any considerations. The only stipulation in the statute is the time limit—that we must refer the sentence to the Court of Appeal within 28 days. I therefore reassure my hon. Friends that setting out criteria in statute on what should be taken into account would not be of assistance. We step back, examine the sentence in the public interest and ask ourselves whether it is unduly lenient. It is as simple as that.

This is a very special jurisdiction. Parliament gave Law Officers the right to refer a sentence in order to ensure that sentences that are manifestly wrong, that would undermine public confidence in the community and that would undermine confidence in the judiciary, can be reviewed by the Court of Appeal.

What happens in the process? The facts of the case are agreed, and the case goes to the Court of Appeal. The offender is represented by counsel, and I or the Attorney-General are represented by Treasury counsel. In some cases, the Attorney-General has himself acted on a reference. The court will have before it all the case papers, including the victim impact statement, which should always have been put before the court in the first instance of sentencing. In other words, it should always be in the case papers before the Court of Appeal, which will always take them into consideration. The Court of Appeal will then judge whether the sentence is unduly lenient, and it can either confirm it as it is, or increase it. This jurisdiction is a safety valve to ensure public confidence and justice in individual cases.

The Attorney-General and I regard that power as one of the most important that we exercise, and we exercise it in the public interest, not on the Government's behalf. In every case that comes before us, we personally consider the file, the advice of Treasury counsel, and the advice of the lawyers in our excellent legal secretariat. It is very much open to any Member to ask us to look into a case and to consider referring it to the Court of Appeal. There is no need for Members to ask the chief Crown prosecutor to consider a case, although they can do so. Instead, they can come straight to us, and many do. Indeed one Member brought a case to my attention during the last Solicitor-General's questions, and after closely examining, it I did indeed refer it to the Court of Appeal as involving an unduly lenient sentence.

My hon. Friend asked what happens when a sentence is felt at first instance to be fair and not unduly lenient, but the defendant then appeals and the Court of Appeal, which is that much further away from the community that cares most about the case, reduces the sentence to such an extent that people feel that it is now unduly lenient. On the right to appeal against an unduly lenient sentence by the Court of Appeal as referred by the Law Officers, such an appeal can only concern a point of law, but it can be made to the House of Lords. As far as I am aware, that has never actually happened, but it is possible and such provision is made in statute. Law Officers can appeal against a Court of Appeal's unduly lenient sentence.

My hon. Friend asked me how that could work in respect of an appeal from the Court of Appeal's decision on a defendant's appeal against sentence. He has invited me to reflect on this point about an appeal against a sentence imposed by the Court of Appeal in an appeal by the offender against sentence that sounds somewhat circular, but my hon. Friend will get the point—and I undertake to reflect further and write to him about it.

Perhaps I can conclude by assuring my hon. Friends the Members for Nottingham, North and for Gedling that I am acutely aware of their concern that the justice system should command the confidence of their constituents, and that the Attorney-General and I will continue to consider with the greatest attention their and their colleagues' representations about sentencing on their constituents' behalf.

Mr. Allen: My right hon. and learned Friend has been very generous in saying that she will think about this issue and write to us. Will she make a point of discussing it with the judges at the Court of Appeal, so that they understand that we are not trying to attack their Lordships in this regard? Rather, we want to pick their brains and to ensure that they do what I am sure they wish to do: relate their judgments to the community impact.

Ms Harman: The judges in the Court of Appeal, who are very concerned about public confidence in the criminal justice system, will doubtless look carefully at

[Ms Harman]

the record of this debate in *Hansard*. I will consider these issues and get back to my hon. Friend, but it is very important that the Attorney-General and I have the opportunity to look at the statutes and the case papers. In doing so, we should take into account the representations made and the information given to this House about the concerns of his Nottingham constituents, and take note of the fact that he and my hon. Friend the Member for Gedling are ready to speak up for their constituents on these important issues.

Question put and agreed to.

Adjourned accordingly at four minutes past Eight o'clock.

House of Commons

Wednesday 2 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

WALES

The Secretary of State was asked—

Small Businesses

1. **Mr. Henry Bellingham** (North-West Norfolk) (Con): What plans there are for supporting small businesses in Wales through central Government initiatives. [218066]

The Secretary of State for Wales (Mr. Peter Hain): The hon. Gentleman looks a bit lonely over there on the Tory Back Benches.

Small businesses in Wales and throughout the UK are benefiting significantly from the stable economic platform built by the Government and from our measures to promote enterprise and reduce red tape.

Mr. Bellingham: I am grateful to the Secretary of State for his initial observation and also for his response to my question. He will be aware that some schemes, such as the small firms loan guarantee scheme, are going very well. Is he also aware, however, that last week the British Chambers of Commerce announced that the extra red tape and burdens that have been placed on business since 1997 now cost a staggering £40 billion a year? Surely this figure completely dwarfs any of the added value from the Government's schemes. Should not the Secretary of State's priority be to tackle this problem so as to enhance wealth creation in Wales?

Mr. Hain: I am not sure whether, by red tape, the hon. Gentleman means the minimum wage, extra parental leave or protection for people with disabilities. He is not saying whether he supports those measures. If, however, he is criticising extra bureaucracy, I agree with him. We are tackling that and bearing down on it, as he was fair enough to acknowledge in respect of the small firms loan guarantee scheme. He must know that small businesses are booming in Wales. There is a fantastic record of start-ups and the failure rate is lower than in the rest of the United Kingdom. I visited Pembrokeshire recently and found that the economy, which was on its back 10 years ago, is now booming. The level of small business creation there is now the fourth highest in the entire United Kingdom.

Kevin Brennan (Cardiff, West) (Lab): Is my right hon. Friend aware that the Financial Secretary to the Treasury recently met representatives of small businesses in my constituency and that they were very appreciative of the efforts of central Government? They certainly conveyed the message that slashing £500 million from the budget of the Department of Trade and Industry would not help small businesses in Wales in any way at all.

Mr. Hain: I agree with my hon. Friend. Abolishing the DTI, as the Liberal Democrats propose, would be even worse for small businesses in Wales. The choice before the country, and the choice for Wales, is whether to go back to the risk posed by the Conservatives to small businesses and to economic instability and bankruptcies. Ten years ago, small businesses were failing and going bankrupt at a rate of 1,000 a week. Now, they are growing right across the country.

Mr. Simon Thomas (Ceredigion) (PC): What further support could the Secretary of State give to small businesses in my constituency and throughout Wales by getting rid of the flat-rate non-domestic rates system and establishing a local income tax and a tax for small businesses based on their profit rather than on the rateable value or the size of their property? Surely that would provide a significant boost to the profitability and future success of many small businesses in Wales. Will the Secretary of State examine that proposal?

Mr. Hain: The issue of business rates and their effect on small businesses is being examined by the Welsh Assembly at the moment, because there is an issue there. If, however, the hon. Gentleman is advocating the replacement of the entire system of local government funding by a local income tax, I have to say to him and to the Liberal Democrats that that would be disastrous for hard-working families right across Wales, many of whom are on modest to average incomes and would pay much more in extra income tax than they are paying in council tax. It is Labour's huge extra investment in local government finance and public services that is benefiting the local economy, compared with the cuts that many other parties are proposing.

Mr. Bill Wiggin (Leominster) (Con): The average small business in Wales spends 23 hours a month filling in Government paperwork. That rises to 73 hours for those employing more than 25 people. Self-employment in Wales has decreased by 8 per cent. in the last year, and the number of people declared bankrupt in Wales rose by 31 per cent. in 2004. Seventy-five per cent. of those were people bankrupting themselves, which is more than double the rate of four years ago. What is the Secretary of State going to do about it?

Mr. Hain: What I am going to do is not listen to Tory attempts to talk Wales down. The truth is that employment in Wales is now at its highest ever in our history, compared with the mass unemployment under the Conservatives, and the level of small business dynamism in Wales is better than ever before. Wales is going from strength to strength. We are beating everybody in sight on the rugby field—we have beaten England and we are going to beat Scotland and Ireland—and we are cleaning up in the small business sector. Wales is now one of the most dynamic parts of Europe and the hon. Gentleman should be supporting it, not talking it down.

St. David's Day

2. **Simon Hughes** (Southwark, North and Bermondsey) (LD): What assessment he has made of the merits of making St. David's day a national holiday in Wales; and if he will make a statement. [218067]

The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig): No such assessment has been made, but the absence of a public holiday on St. David's day has not diminished the appetite of Welsh people everywhere to celebrate 1 March in style and with pride.

Simon Hughes: That is not an adequate answer, because the pressure in Wales for an ability to celebrate with pride by having a national holiday is mounting every year. The rugby team does its bit; the people on the streets of Cardiff yesterday did their bit; the new millennium centre has made its contribution. Will the Government get on with it, carry out the assessment and then, if the will of the people of Wales is to have a national holiday, give them the national holiday that they deserve to give back to Wales the pride in St. David's day that it justifiably needs?

Mr. Touhig: There is certainly no lack of pride in Wales in celebrating St. David's day. The pattern of bank and public holidays in the United Kingdom is well established and accepted, and the Government have no plans to change it. It is estimated that it would cost about £2 billion to have an additional bank holiday in the UK. However—*[Interruption.]* If the hon. Gentleman stops chuntering and listens, I will be able tell him that if a case were passed to the Government—based on full consultation with business and industry, the health service, local government and other stakeholders, and taking account of the full impact on the economy and our essential services—we would consider the matter.

Albert Owen (Ynys Môn) (Lab): My hon. Friend will be aware of my strong support for St. David's day being a national holiday, and I am pleased that he is to open a new consultation process. In that consultation, will the Wales Office consider the Republic of Ireland, which has high productivity and a high number of public holidays, and which uses St. Patrick's day to promote Ireland and the Irish economy in the four corners of the world, to the benefit of the Irish people and the Irish economy?

Mr. Touhig: So that my hon. Friend is under no misunderstanding, I am not proposing any consultation. I am saying that the Government have no plans to change the arrangement of bank holidays, but if we had a case put to us we would consider it. I take his point, but there are matters that need to be assessed very thoroughly indeed—the impact on our economy, for example. There may be benefits for our tourism industry from a public holiday on St. David's day, but there would perhaps be a downside for other parts of industry. Until we received a full and proper assessment, it would be too early for the Government to make any comment or decision whatever.

Employment

3. **Mr. Martyn Jones** (Clwyd, South) (Lab): What assessment he has made of current employment levels in Wales. [218068]

The Secretary of State for Wales (Mr. Peter Hain): Employment in Wales is at a record level with more people in work than ever before. According to the latest figures, employment in Wales rose by a massive 15,000 compared with a year ago.

Mr. Jones: Is my right hon. Friend aware that, for the first time since figures have been produced in this country, unemployment in Clwyd, South is less than 2 per cent., which is considered full employment? Is he further aware that under the Tories, when I was elected to Parliament in 1987, the figure was 16 per cent? There are not a lot of Conservative Members here today—[HON. MEMBERS: "Three."] The Conservatives could do nothing about that.

Mr. Hain: Indeed, and that is why Tory MPs lost their jobs at successive elections. My hon. Friend is absolutely right about the incredibly strong employment situation in his constituency and right across north Wales. Under the Conservatives, 39,000 people in north Wales were unemployed. Under Labour, that figure has fallen right down to 7,600, and there are more than enough vacancies in the employment market to match that. So, the message is to continue with economic stability, low interest rates, job creation and public investment—all of it creating the most dynamic economy in north Wales for generations.

Mr. Bill Wiggin (Leominster) (Con): An Institute of Welsh Affairs report says:

"On the surface . . . unemployment appears to have reached tolerably low levels, but when combined with sickness and disability claimants, the proportions not working are higher than almost anywhere else in the UK."

When will the Secretary of State realise that decreasing unemployment rates are nothing to brag about when the long-term unemployment rate has increased by 21.8 per cent. in the past year? Economic activity stands at 75.6 per cent. compared with 78.7 per cent. for the UK. The rate has continued to fall over the past year, so what has he got to boast about?

Mr. Hain: I am not boasting; I am telling the facts as we know them in Wales. The economy is more buoyant than it has been for generations and is light years away from the misery and devastation of the Conservative years. Even today in south Wales, the Ministry of Defence has announced that the Atlas consortium, which includes world-class companies such as Cogent, Logica and General Dynamics, has been awarded preferred bidder status for a £4 billion contract for high-tech security communications. Hundreds of new jobs are coming to south Wales, and it was recently announced that the contract for the AirTanker project has gone to Airbus in Broughton. There has been very good news about jobs for both north and south Wales over the past few days.

Mark Tami (Alyn and Deeside) (Lab): As my right hon. Friend has said, the AirTanker project is excellent news for north Wales. It will secure many thousands of jobs, including thousands of jobs throughout the United Kingdom and in the aerospace industry as a whole. Does it not also demonstrate the Government's commitment to British industry?

Mr. Hain: It does indeed. I am delighted for Airbus, which is now one of the leading world-class companies. It is doing better each year, with more jobs, more high-quality investment and the support of a Government who provide economic stability, lower interest rates and investment in skills, allowing it to flourish and win contracts like this.

Mr. Roger Williams (Brecon and Radnorshire) (LD): Does the Secretary of State agree that one of the big disincentives that prevent small businesses from increasing the number of jobs is the huge burden of statistical surveys that they are required to undertake? Will he go with me to visit the Radnor Hills mineral water company, which is required to fill in eight forms at any one time and may have to fill in more than 30 in a year? Representations have been made to the Treasury, but it says that the company must continue that work.

Mr. Hain: I should be happy to look into the matter for the hon. Gentleman, but I am sure that he will acknowledge that the business climate in his constituency is better than it has been in living memory. More jobs are being created, unemployment has fallen and there are business start-ups right across Wales, including in his constituency. I hope that he is backing those, rather than talking the economy down as the Conservatives always try to do.

Mrs. Betty Williams (Conwy) (Lab): Given that long-term youth unemployment has fallen by 89 per cent. in my constituency, will my right hon. Friend tell us what effect the abolition of the new deal would have on unemployment prospects in my constituency and, indeed, Wales as a whole?

Mr. Hain: It would have a disastrous impact. It is incredibly irresponsible of the Liberal Democrats and the Conservatives to advocate the abolition of the new deal. That would take us back to the days when young people in Wales had no hope and no opportunities, and people with disabilities and lone parents were left at home and ignored. We have supported them, more and more are starting work, and the new deal has been a fantastic success.

Child Poverty

4. **Mr. Alan Williams** (Swansea, West) (Lab): What assessment he has made of the effectiveness of measures to reduce child poverty in Wales. [218069]

The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig): I am proud of this Labour Government's historic commitment to halving child poverty by 2010 and eradicating it within a generation. Since 1997, 2.1 million children in Great Britain have been taken out of absolute poverty. The data show that progress made in Wales over the same period has been at least in line with progress made in the rest of the United Kingdom.

Mr. Williams: I welcome that evidence of the alleviation of the problem, but does my hon. Friend agree that all too often child poverty is a function of ongoing family poverty? How effectively are we using the education system to enable the current younger generation to break free of that cycle?

Mr. Touhig: My right hon. Friend will know that for the people whom he and I represent—working people in Wales—education has been the key path out of poverty. The commitment of the Government and our colleagues in the Assembly to investing in education, and ensuring that our people have the basic grounding and skills that they need, is making an important contribution to the eradication of poverty in our country.

Since November 2003, almost 27,000 families in Swansea and more than 350,000 in Wales as a whole, have gained from child benefit. The child tax credit introduced in 2003 is benefiting 225,000 families in Wales and 17,000 in-work families in Swansea. Those and a host of other measures are contributing to the reduction of poverty in our society. That is a commitment about which the Government are absolutely serious, and one on which we are delivering.

Lembit Öpik (Montgomeryshire) (LD): Is the Minister aware that the closure of children's care centres could exacerbate the problem of child poverty? For example, Country Kids, which currently operates a pre-school day nursery as well as an after-school and school holiday club for many children, is due to close as a result of a 300 per cent. hike in staffing costs in the past three years, caused by regulations imposed by the Wales care standards inspectorate. I accept that the Minister cannot give me a detailed answer today, but is he willing to meet me to discuss this serious issue, which surely affects more constituencies than just mine?

Mr. Touhig: Indeed, I will take on board the point that the hon. Gentleman makes. If he would like to give me some information, I will happily discuss it with him and see what can be done. However, he will recognise that this Government have put huge resources into ending the problem of child poverty, and I only wish that his party were as supportive of that as they are of some other things.

Mr. John Smith (Vale of Glamorgan) (Lab): Recognising the important link between nursery education and the elimination of child poverty, is my hon. Friend aware that the Tory-controlled Vale of Glamorgan county council is going to withdraw all full-time nursery provision from September? Will he meet his counterparts in the Welsh Assembly Government to try to prevent implementation of this disastrous policy?

Mr. Touhig: I am not surprised at anything that the Tories do in my hon. Friend's council. When we came to power in 1997, the Tories left a shameful legacy of child poverty. The problems of poverty and social exclusion across Wales and the huge gap between the rich and the

poor were evident to everybody. It is important that we continue this Government's commitment to investing in education and overcoming the problems of child poverty. One child in three in Wales lived in a low-income household when the Conservatives were in government, they will never be in government again to damage and harm our people, as they did in the past.

Mr. Bill Wiggin (Leominster) (Con): Shortly after the Chancellor announced that more money would go into child care in the UK, the National Assembly cut funding for before-school and after-school clubs by 60 per cent.—from £1 million to £400,000. Will the Minister order the Assembly to follow England, as his boss reportedly did in respect of the health service?

Mr. Touhig: The hon. Gentleman's party has a history of neglect in these matters in Wales. We hardly need lectures from a party that, when in office, waged a war of attrition against mining communities and damaged thousands of our people, putting them on the dole and leaving them in negative equity. In addressing a party conference in Wales, the leader of the hon. Gentleman's party said of an important contribution that we are making to overcoming poverty, the minimum wage, "There is only"—

Mr. Speaker: Order. The Minister can write to the right hon. and learned Gentleman about what he said.

Alan Howarth (Newport, East) (Lab): Will my hon. Friend pay tribute to the work of Home-Start in Newport and elsewhere in Wales, mobilising as it does sensitively and practically the resources of the voluntary and statutory sectors to help families with children in need, better to ensure that such children grow up other than in poverty?

Mr. Touhig: I certainly endorse what my right hon. Friend says. I have the same experience in my constituency, where people are making a hugely positive contribution to tackling the difficulties that poverty poses in our society. Of course, such initiatives are funded by this Government, who are committed to doing something about child poverty, unlike the Conservatives, who plan billions of pounds-worth of cuts in our public services. Whenever an election may come, that message will be sent loud and clear to the people of Wales.

Welsh Language

5. **Hywel Williams** (Caernarfon) (PC): If he will bring forward further legislative proposals in relation to the Welsh language. [218070]

The Secretary of State for Wales (Mr. Peter Hain): I have no plans to do so.

Hywel Williams: I have to confess that I am rather disappointed by that answer. Can the Secretary of State confirm that no legislative changes are required to put into practice the First Minister's intention to bring the Welsh Language Board back into the Welsh Assembly Government and to establish the office of the y dyfarnwr?

Mr. Hain: I have not received any request for legislative proposals in that respect, although the First Minister has said that he will look for an opportunity, should it arise.

Llew Smith (Blaenau Gwent) (Lab): Does the Secretary of State accept that there are better and far more cost-effective ways of supporting the Welsh Language than ploughing more than £100 million each year into a television channel—S4C—that very few people watch? Indeed, the only people who seem to benefit from that £100 million are the well-heeled people running that company.

Mr. Hain: I do not agree with my hon. Friend, as I believe that S4C has contributed to the rise of Welsh speaking in Wales, which we all welcome. Speaking of the Welsh language in Wales is now stronger than it has been for generations and we would like to see a Welsh language channel continuing to thrive.

Adam Price (East Carmarthen and Dinefwr) (PC): Twelve years after the passing of the Welsh Language Act 1993, and despite the promises of successive Governments, it is still not possible to register births in the Welsh language. Does the Secretary of State believe that parents in Wales should be able to register their children's birth in the language of their choice?

Mr. Hain: I would certainly be happy to look further into that, but I note that the former Welsh Language Board chairman, Rhodri Williams, said:

"We have not supported calls for a new Welsh Language Act. We believe it's through persuasion that we can get companies to use the language."

I realise that that does not directly address the hon. Gentleman's point, but it should be taken into account in the context of the overall legislative status of the language. *[Interruption.]*

Mr. Speaker: Order. The House must come to order.

New Deal

6. **Mr. Martin Caton** (Gower) (Lab): What assessment he has made of the effect of the new deal in Wales. [218071]

The Secretary of State for Wales (Mr. Peter Hain): Between January 1998 and September 2004, more than 80,000 people secured jobs through the new deal in Wales.

Mr. Caton: As my right hon. Friend says, the new deal has made a tremendous impact on employment in Wales, including for disabled people. Indeed, 7,400 Welsh people have found work through the new deal for disabled people. It remains the case that someone on incapacity benefit for more than a year has only a one in five chance of finding employment within the next five years. One proven way of dealing with that

has been through job brokering, as offered by organisations such as Shaw Trust in Wales. Do the Government intend, as they roll out their pathways to work programme, to use the expertise of the voluntary sector to get those people back into work?

Mr. Hain: Yes, indeed. We have some exciting, even moving, examples, such as the Shaw Trust in Wales, where the new deal has funded people with disabilities—sometimes the partially sighted or completely blind—and brought them into work through intensive training. That has happened in the Shaw Trust centre at Llandarcy, and Broker Cymru in Neath has helped people on incapacity benefit. Instant Muscle in Pontypridd has also helped people get into work. All that would be at risk if the new deal were scrapped, as the Conservative and Liberal Democrats propose. That is why the Labour Government will continue to fund the new deal generously and provide people with disabilities the chance to work.

Stamp Duty

7. **Mr. Elfyn Llwyd** (Meirionnydd Nant Conwy) (PC): What assessment he has made of the effects of current rates of stamp duty in poorer areas in Wales. [218072]

The Parliamentary Under-Secretary of State for Wales (Mr. Don Touhig): Three hundred and sixty-three wards in Wales benefit from the Government's stamp duty exemption scheme. In those areas, stamp duty is not payable on properties worth less than £150,000, helping to make housing more affordable in the poorer parts of Wales.

Mr. Llwyd: I thank the Minister for that response. He will recall that in a debate some months ago he agreed that there was a crisis in the provision of affordable homes in Wales. Will he look at the discussion document that we produced in January and help to open up debate across party lines to deal with that crisis in Wales? It behoves all of us in every party to do our best to sort this one out.

Mr. Touhig: I accept the hon. Gentleman's point and the Government are happy to have dialogue with anyone to help resolve these matters. Perhaps he will forgive me if I chide him a little about one of his party's websites in the south Wales valleys, which has links to homesafar.com, suggesting that people live the dream and buy their own holiday homes. I wonder whether that is a new Plaid Cymru policy. The website also invites people to go to another website called thankyoutony.com. That is good advice, so I invite the hon. Gentleman to go to that website and thank my right hon. Friend the Prime Minister.

Huw Irranca-Davies (Ogmore) (Lab): May I applaud the initiative whereby people living in communities first areas in Wales have exemptions from stamp duty? It has undoubtedly been a boon to many living in the poorest areas in my constituency, who are now able to get a foot on the property ladder.

Mr. Touhig: I recognise the point that my hon. Friend makes. The relief is an important contribution. We must also remember that, as a result of a strong economy, mortgage rates are now at their lowest for 40 years. We are doing a great deal to ensure that people who want to buy their first home get their foot on the first rung of the ladder. Stamp duty relief is making a major contribution to that and I welcome my hon. Friend's comments.

English Hospital Treatment

8. **Mr. Hugo Swire** (East Devon) (Con): What discussions he has held with the National Assembly for Wales Government Secretary for Health on the treatment of Welsh NHS patients in English hospitals. [218073]

The Secretary of State for Wales (Mr. Peter Hain): I met with the Assembly Health Minister last month and we discussed a range of health issues.

Mr. Swire: It is very good news that the Secretary of State met the Health Minister, but what did he actually say? Hundreds of people in Wales are sitting waiting for treatment on the NHS and, because of the inactivity and complacency of this Government, they are not allowed to be treated in England. When will the Secretary of State do more than talk and actually tell the Assembly to get its act together to get those people treated quickly?

Mr. Hain: What could be more inactive and complacent than the Tory record in Wales of sacking nurses and doctors and closing hospitals? We will continue to invest in the recruitment of hundreds more doctors and thousands more nurses. The people of Wales will know at the general election that under Labour waiting times are coming down, but under the Tories' plans the health service would collapse and be privatised.

PRIME MINISTER

The Prime Minister was asked—

Engagements

Q1. [218938] **Mr. Nigel Beard** (Bexleyheath and Crayford) (Lab): If he will list his official engagements for Wednesday 2nd March.

The Prime Minister (Mr. Tony Blair): This morning I had meetings with ministerial colleagues and others. In addition to my duties in the House, I will have further such meetings later today.

Mr. Beard: The greatest assets this country has are the skills and talents of its people, but many women are excluded from using their abilities in work because of the difficulties of combining a job with having children. How will the Government help to overcome those obstacles?

The Prime Minister: I am delighted that my hon. Friend gives me the opportunity to say that when we came to office maternity pay was just over £50 a week. We have doubled it, and we have increased maternity leave from 14 weeks to 26 weeks. We want to increase

that to nine months from April 2007. We have introduced paid paternity leave, and we are also now offering wrap-around child care between the hours of 8 in the morning and 6 at night for children aged three to 14. Under those measures, we will go from a country with some of the worst provision in Europe to one with some of the best. That is a record of which we can be proud.

Mr. Michael Howard (Folkestone and Hythe) (Con): Margaret Dixon is a 69-year-old pensioner who lives just outside Warrington. She is in constant pain and desperately needs an operation. Because she has a weak heart, she has been told that her chance of surviving that operation is less than 50:50. On seven separate occasions, she has been given a date for the operation, been prepared for it and said goodbye to her family in case she did not survive. On each of those seven occasions, her operation has been cancelled. She has praised the doctors and the nurses; but can the Prime Minister explain how, after eight years of his Government, all the money they have spent on the NHS and all the promises they have made, that can happen in Britain today?

The Prime Minister: I have to look into the details of the particular case the right hon. and learned Gentleman mentions. It is true that, literally seven or eight minutes before Prime Minister's questions, he faxed me some of the letters about this case, but obviously I have not had the opportunity to look into it. If it is as described, it is completely unacceptable, but I do not know the details of it. Frankly, probably neither does he at the moment. However, I think that it is wrong to take a case which, if true, is unacceptable, and to try to make what I believe to be an exception into a rule for the national health service.

The fact is that the vast majority of people treated by the NHS—a million every 36 hours—are treated extremely well. Let me remind the right hon. and learned Gentleman that when he was a Cabinet Minister waiting lists went up by 400,000. They have fallen by more than 300,000 under this Government.

Mr. Howard: Mrs. Dixon's is not an isolated case. Last year, 67,000 people had their operations cancelled—an increase of 10,000 compared with five years ago. On five of the seven occasions when Mrs. Dixon's operations were cancelled she was actually in hospital being prepared for the operation. Will the Prime Minister tell us why he thinks so many operations like Mrs. Dixon's are cancelled in that appalling way, causing such trauma not just to the patients and their families, but to the doctors and nurses who are involved as well?

The Prime Minister: Of course it is unacceptable if an operation is cancelled, but the right hon. and learned Gentleman failed to point out that the number of operations that are cancelled is a very small proportion of the overall number of operations. There are millions of people who have operations in the national health service every year and are extremely well treated.

Let us be quite clear what the right hon. and learned Gentleman and his party are trying to do: they are trying to use an individual case to undermine the basic principles of the national health service. Let me make one thing quite clear: he and his party opposed every penny of the extra investment that can be seen in extra nurses, extra wards and new hospitals, and in the fact that cancer deaths are down by more than 30,000 under this Government and cardiac deaths are down 25,000 a year.

Yes, there are problems in our national health service—there are in all health care systems—but any reasonable person looking at our health care system today would see exactly where the money is going and why it is so wrong for the Conservatives to oppose that.

Mr. Howard: The Prime Minister talks about the fall in the number of deaths from cancer and heart disease. That is of course very welcome, but the OECD has said that that is part of a long-term trend that started long before the Government came to power and it has not got better under Labour. Nothing that the Prime Minister has said explains why the number of cancelled operations has increased.

In the case of the hospital where Mrs. Dixon hopes to be treated, the number of high dependency and intensive care beds has fallen under this Government. No one denies that more money has been spent on the national health service, but it has not reached the front line. Is it not the case that there are more bureaucrats than GPs in primary care trusts; that the number of managers in the NHS is increasing three times as fast as the number of doctors and nurses; and that average waiting times have gone up in the past four years? Is it not the case that Mrs. Dixon and the 67,000 patients who have had their operations cancelled represent the real world and the real NHS, and that the Prime Minister is living in an entirely different universe?

The Prime Minister: First, let me point out to the right hon. and learned Gentleman that the reason why, for example, the number of cardiac deaths is falling is, to a large degree, the investment made by the Government—opposed by him and his party. Secondly, of course there are cases—exceptional cases, I believe—in which operations are cancelled or patients are not well treated. It is a calumny on the national health service to say that that is the rule. The rule is that people are treated excellently in our national health service.

When the right hon. and learned Gentleman says that more bureaucrats than nurses and doctors are appointed, that is completely false. There have been about 70,000 to 80,000 extra nurses and more than 10,000 extra doctors appointed; there are people working in our national health service today who would not be working there but for the extra investment that we have put in.

What is the right hon. and learned Gentleman's proposal? That is what he does not tell people. It is to take £1 billion out of the national health service and spend it on his voucher scheme, which would give people who go private half the cost of their operation.

Mr. Bernard Jenkin (North Essex) (Con): They would get treated.

The Prime Minister: Only if they could afford the other half. Do these Tories never learn? Let the hon. Gentleman tell us how an old-age pensioner, living on their pension, will afford a hip operation. They have never changed and they never will change, which is why they should never get back in charge of our health service.

Mr. Howard *rose—[Interruption.]*

Mr. Speaker: Order.

Mr. Howard: It is no use having any of that simulated anger from Labour Members. Does not the Prime Minister know that the number of people without any medical insurance who have to pay out of their own pockets all the cost of going private because they cannot get the treatment that they want under the national health service has tripled, to 250,000 a year under this Government? That is the reality of the national health service under this Government. We will increase investment and improve the service so that we have a health service of which we can be truly proud.

The Prime Minister: May I say how delighted I will be if we spend the next few months arguing about the national health service and which party would be best left in charge of it? When the right hon. and learned Gentleman was a member of the previous Government, waiting lists indeed rose by 400,000. People were waiting more than 18 months for their operations. We had hospital buildings that were virtually falling to bits and cuts in the number of beds. He mentioned high-dependency beds, but we have increased the number of those beds.

Mr. Howard: Not in Warrington.

The Prime Minister: Although I am only going on the letter that I received literally minutes before I got in the Chamber, I thought that the chief executive of the hospital had explained to the right hon. and learned Gentleman that it had been given £3 million for extra high dependency beds next year. I agree that it would be better if that came quicker and if we were able to make faster progress, but I will never agree with introducing charges to the national health service.

Mr. Howard *indicated dissent.*

The Prime Minister: Yes—those vouchers will go to anyone who is able to afford half the cost of their private operation. Let the right hon. and learned Gentleman come to the Dispatch Box to explain how people would pay for the other half if they did not have the money.

Hon. Members: More!

Mr. Speaker: Order. I am very surprised at the hon. Member for Wirral, South (Mr. Chapman).

Mr. Gerry Steinberg (City of Durham) (Lab): Is the Prime Minister aware that this is a desperate day for Durham, my constituents, perhaps many of his constituents, and also for me, because I could be asking my last Prime Minister's question on this sad note? Is he aware that LG Phillips today announced the closure of its Durham factory, which has made cathode tubes for televisions for more than 30 years in my constituency? It was announced this morning that 800 people will be made redundant, even though Phillips knew for the past seven years that cathode televisions were becoming obsolete in favour of flat-screen televisions. Does the Prime Minister agree that Phillips, in acting like an ostrich, has let down its loyal work force by failing to invest in new technology? Will he ensure that everything possible is done to alleviate this absolutely desperate situation and to assist the hundreds of workers who will be made redundant in July?

The Prime Minister: I am obviously aware of the situation. The reason why it is happening is the switch to flat-screen televisions. If my hon. Friend would like, he and I can meet to discuss how best to make progress. I assure him, however, that we will do whatever we can to put in place an emergency operation for the workers who might be made redundant so that we can work with them to provide additional jobs. I am happy to say that unemployment in County Durham is at a 30 or 40-year low, so other jobs are around. However, those people, especially skilled workers, will find things difficult, so we will do absolutely everything that we can to help them.

Mr. Charles Kennedy (Ross, Skye and Inverness, West) (LD): Would the Prime Minister acknowledge that if we are seriously to tackle the ongoing discrimination against women in the operation of our pensions system, the best way of doing so would be to establish their automatic entitlement to pensions based on residence, not national insurance contributions? Many women lose out because they have to take time out of the labour market to bring up children or care for elderly people as well.

The Prime Minister: As my right hon. Friend Secretary of State for Work and Pensions has said, there is a case for that. On the other hand, we must make sure that we can afford it, as the bill will run to several billion pounds.

Mr. Kennedy: Yes, we can certainly do it. Does the Prime Minister acknowledge that all the indications show that it is the oldest pensioners who tend to be the poorest pensioners? Given women's longevity, clearly two thirds of the poorest pensioners are women. Why does he not see the merit of frontloading the system for people aged 75 so that they receive an extra £25 a week or £100 a month, which would tackle that inequality much more effectively than at present? That is what we are arguing—why will he not argue it as well?

The Prime Minister: As a result of the additional sums of money that we have put into helping pensioners, nearly 2 million pensioners who used to live in acute hardship no longer do so. For example, the poorest pensioners in 1997 were expected to live on only £70 a week. The pension credit guarantees at least £110 a week for single pensioners and £167 for couples. It is also correct that we introduced the winter fuel payment and free TV licences for over-75s, so we have done a lot.

Bob Russell (Colchester) (LD): Answer the question.

The Prime Minister: I am about to do so, thank you very much. If we were to do what the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy) suggested, we would have to explain where we got the money from. His proposal, as I understand it, is to take that money from top-rate taxpayers by raising their rate to 50 per cent—*[Interruption.]* Where is it from then?

Mr. Kennedy: There would be £5 billion of annual public expenditure savings.

The Prime Minister: I think that I will come back to the right hon. Gentleman on that, as it sounds a little too simple and glib. If we are going to make promises to pensioners—and we have provided an awful lot more for pensioners—we have an obligation to explain responsibly where that money will come from; otherwise he, like the Opposition, is making promises that he cannot possibly keep.

Q2. [218939] **Richard Burden** (Birmingham, Northfield) (Lab): My constituency of Birmingham, Northfield will receive over £1 million of neighbourhood renewal funding in the coming year, all but £75,000 of which will come from the central Government-funded neighbourhood renewal fund. The money will have a significant impact in cutting crime, expanding youth facilities and improving the environment so that strong communities can be safe communities. Can I put it to my right hon. Friend that it is vital in the years to come that that level of funding be sustained? Could he tell me what the impact would be if there were a £35 billion cut in public—

Mr. Speaker: Order. The Prime Minister need only answer the first part of the question.

The Prime Minister: I can assure my hon. Friend that it is important to keep the regeneration money going, because it is doing good in many communities, including his own. I have seen for myself in different parts of the country how local communities, including some of the poorest and most deprived, have been able, through Sure Start programmes, housing regeneration and employment schemes, to make a better life for the people in those areas. It is vital that we keep the money going. My hon. Friend is right that we have increased the number of police officers in the west midlands and elsewhere, which is why it is important that the investment be kept there. I can assure him on behalf of the Government that we will never ever agree to the cuts proposed by the Opposition.

Q3. [218940] **Lembit Öpik** (Montgomeryshire) (LD): As the Prime Minister may know, today is my 40th birthday and yesterday was St. David's day, but neither of them is a public holiday yet. Would he therefore be willing to meet a cross-party delegation to discuss the case for making at least one of them a national holiday for Wales in future?

The Prime Minister: I congratulate the hon. Gentleman on his 40th birthday. *[Interruption.]* I would commiserate if he were 50, but he can still be congratulated on his 40th. In respect of St. David's day, I hate to be a spoilsport, but there are strong arguments for public holidays for many things. *[Interruption.]* Those arguments are made on behalf of many other parts of the country. However, before we could do such a thing we would have to have extensive consultation, not least with business. I am afraid that unless I could be sure that it would not damage the economy in Wales and elsewhere I could not agree to such a holiday. I wish that I could give the hon. Member for Montgomeryshire (Lembit Öpik) a better birthday present, but probably the best thing we can do for his 40th birthday is continue with a Labour Government.

Q4. [218941] **Mr. Michael Connarty** (Falkirk, East) (Lab): Is the Prime Minister impressed by the fact that the Post Office, which was rescued from privatisation by the election of a Labour Government, is on target to make a £400 million surplus, thanks to the hard work of its work force and the sacrifices they have made? Can the Prime Minister give a commitment that the Labour Government will go into the general election pledged to carry out the Labour party's Warwick agreement, that we will have a fully publicly owned Post Office in good health, and that we will review the work of the regulator to ensure that the Post Office can deliver the universal service obligation to deliver letters to all our 55 million constituents?

The Prime Minister: I am, of course, committed to the Warwick agreement. The employees of the Royal Mail do an excellent job, often in very difficult circumstances. I think my hon. Friend will acknowledge that the change programme going through the Royal Mail is necessary because of the competitive pressures to which it will be subject. The employees of the Royal Mail do a good job and are a national asset, and I certainly would not want to see them wasted.

Mr. Michael Howard (Folkestone and Hythe) (Con): Last week the Prime Minister said that further debate would not improve the Prevention of Terrorism Bill. On Monday it did. The Home Secretary conceded that decisions on house arrest would be made by a judge. We welcome that, and we hope that debate in the House of Lords will improve the Bill further. We have now put forward the additional safeguard of a sunset clause, over and above the other improvements that we seek, to ensure that Parliament has the time to consider these issues properly before any permanent legislation is put in place. Does the Prime Minister support that proposal?

The Prime Minister: No, I do not support it. Let me explain to the right hon. and learned Gentleman why. Let me also try and explain why we have to legislate now. The present law, as he knows, is that people can be detained in prison without trial. There was the House of Lords judgment a short time ago, which effectively said that that was incompatible with human rights and that the legislation should not be in place.

On 14 March the renewal of that legislation comes up. That is why we must act now. It is not that we are rushing the Bill through without due cause. It is because on 14 March we will be faced with a situation where we have no legislation in place, or we have to put back in place detention without trial, in defiance of the House of Lords judgment.

There are two sorts of orders that we are introducing. One is a control order, which effectively means that someone could be detained up to 24 hours in their own home. That is what is called a derogating control order, because it means there would be a derogation from our human rights obligations. I point out to the right hon. and learned Gentleman that that will effectively be subject to a sunset clause, because if we introduce it, and we will introduce it only if there is another vote of the House of Commons and the House of Lords, my understanding is that it becomes annually reviewable and renewable. In other words, that part of the Bill is already subject to a sunset clause.

Non-derogating orders are measures short of something that requires us to derogate from human rights legislation, such as access to certain people being restricted, or certain areas being restricted, or restrictions on mobile phone or internet use. The police and security services tell us they need these powers in order to be able to deal with the terrorist threat that we face. Those are, as I understand it again, to be subject to an appeal to a court within 14 days. There will also be a three-monthly report on the use of those powers by an eminent and independent person. I think those are sufficient safeguards for the civil liberties of the subject, and I ask the right hon. and learned Gentleman to reconsider his position on the matter and to allow us to present these proposals in a unified way.

Mr. Howard: It would, indeed, be highly desirable if we could arrive at a consensus on these issues. That is why we have put forward a number of proposals, of which the sunset clause is only the latest. The Prime Minister must be aware that there is concern in all parts of the House, which is why more than 60 Labour Members of Parliament voted with me on Monday night. Would it not be far better if the whole of the legislation were made subject to a sunset clause provision, so that Parliament had the opportunity to consider it all in a proper way, instead of its being rushed through the House and ramrodded through, as is currently happening?

The Prime Minister: I have already explained the position in respect of derogating control orders, which will effectively be subject to a sunset clause because they have to be renewed each year. The right hon. and learned Gentleman asks whether it would not be better if the other powers were subject to debate. There will, of course, be the continual reports by the independent person charged with assessing the way these control orders are used, and they can and will be debated by the House.

Since 11 September, more than 700 people have been arrested for various terrorist offences. That is a significant number of people, some of whom—I am not saying all of them, by any means—would, if they could, engage in serious terrorist activity that would cause severe loss of life in this country. The police and the security services tell us that they want these powers. It would frankly be bizarre if I took up the right hon. and learned Gentleman's suggestion not to have these powers but instead to re-legislate detention without trial in prison. That would be a very odd thing to do. We have the powers. They were recommended by the Newton committee and by the police and security services, and I do not believe that they are an affront to civil liberties. On the contrary, I believe that they are a proper balance between the civil liberties of the subject and the necessary national security of this country, which I will not put at risk.

Helen Southworth (Warrington, South) (Lab): Will my right hon. Friend ensure that Warrington hospital continues to receive investment, such as the £6 million for the accident and emergency unit, which is now in operation, and the £3 million for intensive care facilities, which has been agreed, so that my constituents continue to get a quality health service, free at the point of need?

The Prime Minister: The investment that is going into my hon. Friend's constituency is going into constituencies up and down the country, and that is why it is so wrong and unfair for Conservative Members to try to denigrate what is happening in our health service today. Indeed, the recent reports on accident and emergency treatment and on care for cancer patients show just how much progress has been made. None of that is to say that things do not go wrong in our health service. Of course they do; that is part of any health care system in the world. But we can be proud of the fact that our NHS is on the way back.

Q5. [218942] **Hugh Robertson** (Faversham and Mid-Kent) (Con): Last week, the Government introduced a new licensing regime for all sports and community clubs across the country. Commenting on the new fees involved, the chairman of the Central Council of Physical Recreation said that

"the effect is likely to drive sports clubs out of business. It is completely unacceptable to devastate the British sporting landscape so that the Government can appear tough on crime."

Given that the Government made a number of commitments to the contrary during the passage of the legislation, why have they said one thing and done another?

The Prime Minister: I am afraid that I will have to look into the particular point that the hon. Gentleman makes, because I doubt very much that our intention is to devastate sports clubs or sporting facilities throughout the country. I might point out that this Government are putting more money into our sports facilities, with specialist sports schools, and encouraging people to take up sport. I do not quite understand the link with crime, but I shall come back to the hon. Gentleman on the matter, as I suspect that the facts may be rather different from those that he has given.

Q6. [218943] **Hugh Bayley** (City of York) (Lab): Since Labour brought in the minimum wage against fierce opposition from the economic wizards on the Opposition Front Benches who claimed that it would cost jobs, the number of people employed in my constituency has increased by 10,000. I am pleased that the Labour Government continue to increase the minimum wage by more than inflation, but there are still some people—home workers, cockle pickers and other exploited and sweated workers—who do not get the minimum wage. Will the Government organise a major campaign to tell people about their rights at work and how to claim them?

The Prime Minister: We certainly will do that. It is important that we ensure that people are aware of their

rights under the minimum wage legislation. My hon. Friend is absolutely right to say that literally hundreds of thousands of people have benefited from the introduction of the minimum wage. The uprating is extremely welcome. It shows that we can combine a strong high-employment economy with social justice and fairness. I think that it was somebody sitting not too far away from me who described the minimum wage as "extreme, dangerous and absurd," and said that it would cost 2 million jobs. We introduced the minimum wage and we got 2 million extra jobs.

Q7. [218944] **Mr. Mark Francois** (Rayleigh) (Con): In several parts of my constituency of Rayleigh, NHS dentistry has effectively ceased to exist. Several years ago, the Prime Minister promised that everyone would have access to an NHS dentist. Is that not another example of why we can no longer believe a word that he says?

The Prime Minister: As the hon. Gentleman should know, we are introducing more dentists to the country and significantly increasing training places for dentists. If he were to talk to dentists in his constituency, they would point out to him that the previous Government introduced the disastrous contract for dentists and cut training places. Perhaps he should point out to them that when this House voted on extra money for NHS dentistry, he and his party voted against it.

Mr. Andrew Dismore (Hendon) (Lab): Last Monday, yet another safer neighbourhood team was set up in Edgware in my constituency, and it will soon be followed by teams in west Hendon and Hendon central. It will build on the success of the teams in Colindale and Burnt Oak, where the police have reduced antisocial crime by one third. Is it not a good example of how we are making great efforts to increase police numbers in my constituency and throughout London?

The Prime Minister: What is happening in my hon. Friend's constituency is also happening in many London constituencies and elsewhere. We have record numbers of police, who are being supplemented by community support officers. However, many communities still need a neighbourhood policing team, which is why it is important that we continue to expand the numbers of CSOs and police officers, who can use the new legislation to police our local communities more effectively. We will continue to increase the Home Office budget, but the Conservative party has pledged to freeze it, which would cut the numbers of police and CSOs.

BBC

12.32 pm

The Secretary of State for Culture, Media and Sport (Tessa Jowell): With permission, Mr. Speaker, I would like to make a statement about the future of the BBC. I will set out for the House the background to the current review of the BBC's royal charter and our proposals on its funding, governance and purposes. Those proposals are set out in a Green Paper, "A strong BBC, independent of government", which is published today.

Alongside the NHS, the BBC is one of the two great institutions of British national life. For more than 80 years, it has sought to represent the highest standards in broadcasting. Its archives are a record of our national collective memory, from broadcasts of the coronation and the 1966 World cup to "Dixon of Dock Green" and "The Office".

Since the corporation's foundation, its royal charter has been reviewed by the Government roughly every 10 years, the last occasion being in 1996. Like its predecessors, this review examines the corporation's scale and scope, and its funding and governance. It is, however, unique in the level of public consultation, and in tackling perhaps the greatest challenge the BBC has ever faced—the changes in TV technology that will soon result in a wholly digital Britain.

Like any public institution, the BBC must adapt if is to serve its audiences and keep pace with change, but its values, its global reach, its standards and its editorial independence must be preserved and strengthened, for that is what the British people want.

The results of our public consultation and research are very clear. Overwhelmingly, people like and trust the BBC: they understand and support the principles of public service broadcasting; they want the BBC to have scale; they want the BBC to set the highest standards; they want the BBC to be independent of Government, Parliament and any commercial influence, and they want the BBC to listen.

But they also have significant criticisms—for example, that the BBC is not responsive enough to their interests, and that there has been a decline in quality, particularly in television, with a tendency towards copycat programming at the expense of real innovation. Some people worry about the value for money of the licence fee—particularly those who want but cannot get Freeview—and some of the BBC's commercial competitors believe that it has too much freedom to expand into new markets and stifle competition.

We have to find a balance between meeting those concerns while ensuring that public service broadcasting leaves a footprint in every medium—a guarantee of quality, impartiality and innovation. That balance is harder to strike as the media change. In 1988 Britain had four TV channels; today there are more than 400. In a few years' time, we will become a fully digital nation when the switchover from analogue to digital TV is made. As technology changes, so do the public's expectations. The challenges facing the BBC are enormous, and it plays a leading role in guiding the nation through this period of change. To do so, it needs certainty about its future. Therefore, after closely considering the alternative recommendations of the Select Committee on Culture, Media and Sport, we have decided that the BBC's charter should be renewed for a further 10 years.

I now turn to the question of funding. The review looked at the different options for funding the BBC and consulted the public. Perhaps surprisingly, the licence fee retains a high degree of public support. Although it is not perfect, we believe that it remains the fairest way to fund the BBC, so it will continue throughout the next charter. In the coming months, we will decide on the right level for the fee after 2007, but beyond that we have to take account of the rapid advance in technology and media consumption. During the life of the next charter we will review the case for alternative funding models, particularly subscription, making a contribution after 2016. We will also review the risk to plurality in public service broadcasting, encompassing Channel 4's longer-term position, and whether any public funding, including licence fee income, should be distributed more widely beyond the BBC in order to sustain plurality—and if so, how any such distribution might take place.

The old definition of the BBC's purposes as to educate, inform and entertain still holds true, but is no longer enough, by itself, in a world of increasing choice. We have therefore identified five new purposes for the BBC, which I set out in the Green Paper. In addition, the BBC will play a leading role in the process of switching Britain from analogue to digital television. It will be at the forefront of public information campaigns; it will help to manage "Switchco", the organisation that will co-ordinate the technical process, and it will help to establish and fund schemes that will help the most vulnerable consumers. Hon. Members will know from their own postbags that there is disquiet in many households that are expected to pay the fee when they cannot at the moment receive the full range of BBC services. That is why we think it important that the BBC should help to drive the switchover process.

I should now like to move on to governance, where we will introduce radical change—a BBC-specific model of governance that gives expression to the values on which the BBC is built. There is widespread consensus that the current model of governance is unsustainable. The governors' dual role as cheerleader and regulator does not sit easily in a public organisation of the size and complexity of the BBC; it lacks clarity and accountability. In the Green Paper we set out a new model that reflects the public value approach of the current BBC model but also draws significantly on Lord Burns' work. The BBC governors, with their dual role of managing the BBC but also holding it to account, will be replaced by two bodies, each with a clearly defined role.

A BBC trust will be the custodian of the BBC's purposes, the licence fee and the public interest. An executive board will be accountable to the trust for the delivery of the BBC's services. The functions of the two bodies will be clearly defined, enabling the trust to judge the management's performance clearly and authoritatively. The trust will have high-level powers of approval over BBC budgets and strategy. It will have the tools to hold the BBC to account, issuing new service licences for each BBC service and applying a public value test to proposals for new services. Michael Grade, whose current appointment as chairman of the BBC continues until 2008, will be the first chairman of the trust.

[Tessa Jowell]

The trust will represent the licence fee payer. Ways of doing that will be developed further between the Green Paper and the White Paper, but they might include webcasting trust meetings, publishing audience research or electing local representative councils. Day-to-day management will be carried out by the executive board, which will be strengthened by a significant minority of non-executive members, and whose chair will be appointed by the trust.

In the past months, we have examined closely the changes that Michael Grade has made. We have also studied the model proposed by Lord Burns for an external public service broadcasting commission. Our trust model builds in the strongest elements of the BBC's proposals, which include the establishment of a separate governance unit, the introduction of service licences and the application of public value tests to both new services and any major changes to existing ones.

The BBC's proposals are undoubtedly a step in the right direction, but as they stand, they fall short of the accountability test because they do not resolve the confusion of the governors' dual role and depend too much on behavioural rather than structural change. The setting up of a BBC trust also incorporates the key recommendation from Lord Burns that there should be clear separation of different responsibilities, to avoid confusion or capture.

However, we believe that the Burns proposals for a unitary BBC board with a Government-appointed chair, and an external PSB commission also with a Government-appointed chair, would fail to provide sufficient authority, clarity or distance from Government. Our proposal ensures that there will be only one clear sovereign body and only one Government-appointed chair. That will make the trust a powerful advocate for the public interest, able to safeguard the BBC's independence.

Strong does not mean over-mighty, and we must ensure that the BBC deals fairly with the wider market. The BBC's competitors have become increasingly concerned about the impact of a publicly funded BBC on their services. Successive Governments have allowed the BBC to be, in effect, a desirable market intervention. However, we also need it to be constrained when its interests collide with the commercial sector and threaten the choice and quality of programming from other broadcasters. It should not play copycat or chase ratings for ratings' sake.

We want the corporation to maximise its income from commercial services, but we also want to see a clear link between those services and its public purposes. To achieve that, the BBC will be subject to tough new internal and external processes. Ofcom will be given powers to conduct market impact assessments for proposed new services. It will retain full Competition Act 1998 powers in relation to the BBC and, in addition, we will consider giving it a new power of approval over the BBC's internal code on fair trading.

Another subject of debate is the BBC's use of independent productions and the balance between in-house and externally commissioned programmes. I want to ensure that the licence fee truly becomes venture capital for creativity. Twenty-five per cent. of the BBC's television productions already have to be commissioned from the independent sector.

I believe that there is scope to go further, and we will consider a range of options for reform in that area, including the BBC's proposal for a new "window of creative competition" and, alternatively, increases in the existing quotas. Either way, I expect substantial progress in that area. The BBC has exclusive access to the licence fee, and in return we want that used to encourage independent production as well as in-house production.

For radio, the BBC has adopted a voluntary 10 per cent. quota, and we will consult on whether that is sufficient.

To reflect the whole United Kingdom and its different and diverse communities, the BBC also needs to make sure that a significant slice of production takes place outside London. It needs to provide a specific range of services for the UK's nations and regions. People should see the full diversity of the UK and their local communities reflected in mainstream as well as regional programming.

I am immensely grateful to Terry Burns and his panel, to Michael Grade and the BBC and to Ofcom. Most of all, though, I am grateful to the members of the public who, in their thousands, made their voices heard. We have endeavoured to take the best of what they told us.

In a changing world, values still endure. In a changing world, trust becomes ever more important in people's lives. In our changing world, the Government will secure a BBC that belongs to its licence fee payers and embodies the values that the British people want. That means a BBC that promotes citizenship and builds our civil society; that promotes education and learning; that is dedicated to creativity and cultural excellence; that celebrates our nations, regions and communities; that brings the world to the UK and the UK to the world; and that is strong, independent and securely at the heart of British broadcasting for 10 more years.

On that basis, I commend the statement and the Green Paper to the House.

Mr. John Whittingdale (Maldon and East Chelmsford) (Con): I thank the Secretary of State for allowing me sight of her statement in advance. In many areas the direction set out for the BBC is the right one, but in almost every case the statement does not go far enough. Instead, a number of largely cosmetic changes are proposed to the structure and oversight of the BBC. It appears that, once again, the BBC has successfully fought off all proposals for substantial or immediate change.

We welcome the Secretary of State's recognition of the fact that the broadcasting environment is in the middle of a period of extremely rapid change. Every day more households switch to digital, gaining access to tens, if not hundreds, more channels. Many are choosing to pay more for what they want to watch. If the BBC is to continue to receive public subsidy, it must provide programming that is different and in the public interest. It must have even greater regard to its public duty to set the highest standards for the quality of its programmes, its regard for public feeling and its treatment of commercial rivals and suppliers.

The clear remit for individual BBC services and the stronger public service obligation to which the Secretary of State referred are badly needed, but they will make a

difference only if they are rigorously enforced. As we have seen with the independent production quota, the BBC has been happy to pay lip service to the obligations placed upon it until faced with an external regulator with the power to impose real sanctions if it fails to comply. For that reason, almost every independent commentator has recommended the establishment of an external regulator, separate from the BBC.

The Secretary of State has described the existing arrangement as unsustainable. The chairman of the BBC has already gone some way to distance the governors from the management. Today she has announced that the board of governors is to be replaced by independent trustees, but that is a long way short of the external regulator that we, and others, believe to be necessary. What is the difference between the independent trustees whom the Secretary of State intends to appoint and the new arrangements for a more independent board of governors that are already being put in place by the chairman of the BBC? Is it not the case that the trustees will still be part of the BBC and will not provide the external supervision that would be provided by a public service broadcasting commission fully independent of the BBC, as was recommended to her by Lord Burns?

The Government have already given Ofcom responsibility for adjudicating on complaints about harm and offence caused by programmes, including those broadcast by the BBC. Why will the Secretary of State not accept that Ofcom should have equal powers to adjudicate on complaints about the BBC's accuracy and impartiality, as it does for other broadcasters? She has referred to the large number of complaints from the commercial sector about abuses by the BBC of its dominant position. She went on to say that she would consider allowing Ofcom to adjudicate on complaints about the BBC's unfair competitive practices. That is a welcome step forward, but why does she need to consider it? Why can she not say today that Ofcom will take over that responsibility, so that we no longer have the existing position whereby the BBC promises to examine such complaints and then, once a decent interval of time has passed, rejects them?

Why has the Secretary of State again rejected the powerful recommendation of the Public Accounts Committee that the BBC's spending be subject to the full independent scrutiny of the National Audit Office? The BBC receives about £2.8 billion of public money, yet it is still unwilling to open its books fully to the Comptroller and Auditor General, and through him to Parliament. If the Secretary of State really wants to improve the transparency and accountability of the BBC, she should make that change straight away.

Let me now turn to the funding of the BBC. As the Secretary of State started by saying that she regarded it as improbable, if not inconceivable, that there should be a change to the licence fee, it must have come as something of a shock to her to receive Lord Burns' report, which states that sustaining the licence fee will become increasingly difficult. Her acceptance of that principle is a welcome change, but her agreement to a continuation of the licence fee for another 10 years means that it is essentially business as usual.

Does the Secretary of State accept that if a move towards subscription were to occur, it would require households to have access to conditional technology? What do the Government intend to do to encourage that? Given the pace at which change is happening, why is she refusing to contemplate any change to the licence fee system until 2017 at the earliest? In the past seven years the licence fee has gone up by 30 per cent. in real terms. Can she at least guarantee that it will not increase in future by more than inflation?

Why have the Government also rejected for at least 10 years the recommendation of Lord Burns' panel—supported, we understand, by Lord Birt—that licence fee money should be made available to other broadcasters for public service programming? Does she accept the analysis of Ofcom that over time, competitive pressures will continue to reduce the amount of public service broadcasting on commercial channels? If she does accept that analysis, what does she propose to do about it?

We agree with much of what the Secretary of State has said in her statement, but having identified the priorities and challenges for the BBC, the Government have shied away from addressing them. We share their wish to see a strong BBC producing high-quality public service programmes, but we also believe that the need for change should be addressed now, and that the charter should be looked at again in five years' time. Instead, the Government appear content merely to tinker at the edges of the existing structure while essentially allowing the BBC to continue for another 10 years with business as usual.

Mr. Tam Dalyell (Linlithgow) (Lab): On a point of order, Mr. Speaker. It is deeply unsatisfactory that we have—

Mr. Speaker: Order. The Father of the House knows that points of order can be taken only—

Mr. Dalyell: We have not had a copy of the statement.

Mr. Speaker: It is no fault of any Official of the House that the statement has not been circulated. The Vote Office received the statement only recently. *[Interruption.]* Order. I am not here to say whose fault that is; I am explaining that it is not the fault of any Officer of the House.

Tessa Jowell: On that specific point, I have just been passed a note saying that the statement had not been circulated before I got to my feet, and I apologise to the House for that. Obviously, I shall supply you, Mr. Speaker, with information about why that happened.

A number of the points made by the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) are interconnected, but let me start with the fact that there is a profound difference between the Opposition's view of the future of public service broadcasting and the view on the Labour Benches of the Government's position. The Government see public service broadcasting as providing a bedrock built on universal access and safeguarded by a universal licence fee—a licence fee that is more popular and sustainable, despite its regressive nature, than any of us might have expected at the beginning of this process. I believe that the proposals that I have set before the House today respond very directly to the public opinion expressed by thousands and thousands of people during the process of consultation.

[Tessa Jowell]

What I have not done is rule out alternative forms of funding in the future. Indeed, in response to the hon. Gentleman's point, I recognise the profound changes that the switch to digital will bring. That is why, at about the time of switchover, we will conduct a review of alternative forms of funding for the BBC and public service broadcasting more generally. In advance of a new charter—in other words, before 2016, in about 2010 or 2012—in the light of the evidence at the time, we will also look at the case for some of the licence fee income being used to ensure choice and plurality for other public service broadcasters, such as Channel 4 and so forth. Those are decisions for five or six years' time; they are not decisions for now, but I have made it clear that they will be for consideration within the next charter period.

On compliance with the requirements that the trust will set for the BBC, the BBC trust will be able to impose very tough penalties and sanctions in the light of failure of any individual part of the BBC to comply with the service licence. Such sanctions might include moving money from one channel to another; it will be for the trust to dispose of such matters.

On the profound difference between the overhaul of the BBC's governance that we have set out today and the present situation—I do not think that the hon. Gentleman can have been listening that closely to what I had to say about this—the separation of the unsustainable dual present function, whereby the governors both regulate the BBC and oversee its management, will end. We will have a BBC trust that is responsible for the oversight of the BBC and for its governance.

I believe that the proposals that I have set out today meet the issues raised by the public in the course of consultation. They are not all entirely acceptable to the BBC, but that is not the point. I believe that the BBC will rise to the challenge that we have presented to it today, and that it will do so in the interests of the long tradition of public service broadcasting that it has led.

Sir Gerald Kaufman (Manchester, Gorton) (Lab): My right hon. Friend has announced proposed changes in the governance of the BBC that take account of the proposals of the Select Committee, and we appreciate that. It is also important to make the point that, after the mess that they inherited, Mr. Michael Grade and Mr. Mark Thompson deserve every encouragement in the new start that they are trying to provide for the BBC. I am sure that when my right hon. Friend produces her further proposals following the Green Paper, she will take into account the fact that her governance proposals need further clarification, and that she will be working on that.

With the Government, the Select Committee accepted, with whatever reluctance, that the only viable form of funding an independent public service BBC was the licence fee, and we do not quarrel with my right hon. Friend's proposal in that regard. While millions of people will accept, reluctantly or otherwise, that they are paying a licence fee for the BBC to continue, does she accept that they would be less happy with any possibility that the licence fee could be a kitty to be raided for other public service broadcasting organisations? It is very important that that should be taken into account.

Furthermore, I hope that my right hon. Friend will impress on the BBC the disquiet that is felt in many quarters at the nasty, menacing advertising campaign mounted by the television licensing authority to scare people in a way that is, in my view, incompatible with a democratic society.

My right hon. Friend has issued a Green Paper, and she will obviously be issuing firmer proposals in due course. She pointed out in her statement the difference between the four channels that we had 10 years ago and the 400 that we have now. Will she take into account in her final proposals the fact that the growth will be almost exponential by the end of 2016?

Tessa Jowell: I thank my right hon. Friend for that contribution and I pay tribute to his Select Committee's recent report on the BBC, the Government's response to which I have published today. The report was timely because it enabled us to take serious account of it as we drew up the proposals in the Green Paper.

I entirely accept my right hon. Friend's cautionary note in relation to the public response to any other uses of the licence fee beyond the BBC. That is why I have signalled the intention of the review today, well ahead of time, and why there will obviously have to be extensive consultation and discussion in the light of the circumstances at the time on how such a provision might be applied.

I am well aware of my right hon. Friend's disquiet about what he has previously described as the "aggressive nature" of the advertising campaign for the collection of the licence fee. In the Green Paper, we have undertaken to review a number of outstanding issues in relation to licence fee collection, which, at the moment, costs about £150 million a year—a substantial amount. I hope that my right hon. Friend will accept those reassurances, and I look forward to the Select Committee contributing further to this debate.

Mr. Don Foster (Bath) (LD): May I, too, thank the Secretary of State for giving me advance sight of her statement? For the past 80 years, the BBC has been a pre-eminent public service broadcaster. It has made a major contribution to our democracy, our culture and our standing in the world. With the world of broadcasting changing so rapidly, it is vital for the new charter to ensure that the BBC is strong, independent, and well and securely funded, so that it remains the best in the world and the envy of the world.

We very much welcome the proposals in the Green Paper, which, in the main, we support. Will the Secretary of State confirm that, while she supports the continuation of the licence fee as the means of funding the BBC for the next 10 years, she has rejected outright the calls from John Birt and others to use some of the licence fee income to support other public service broadcasters during that period? Will she also confirm that digital switchover is a Government policy, and that she is not therefore expecting the BBC to take overall responsibility for it? We accept that the BBC should take a lead role in building and funding a digital Britain, but will the Secretary of State tell us the limits on the expenditure that the BBC would be expected to make in that regard? Surely she does not expect it to sign a blank cheque for all the switchover costs.

On governance, we agree that the current conflict whereby the governors are expected to be flag wavers for the BBC as well as its regulators simply cannot continue. We would have preferred to see the establishment of a new, tough, independent public service broadcasting regulator for all the public service broadcasters, but the proposal for the trust is a move in the right direction. However, given that the trust will have strategic oversight of major BBC decisions and a role in overseeing whether it fulfils its public service purpose, will there not still be a conflict of interest? Will people not see the trustees as still being part of the BBC, rather than separate from it? Are the proposals on governance firm Government policy or merely a starting point for further debate?

Will the Secretary of State tell us what role there will be on the new trust for representatives from the nations and regions? Does she agree that, whoever serves on the trust, it would be better if appointments to it were made by a joint Committee of both Houses of Parliament, rather than simply by her or her successors?

On programming, will the Secretary of State ensure that there will be a requirement on the BBC to increase its local and regional programming, rather than merely to maintain it?

Overall, we welcome the proposals in the Green Paper, which contains most of the provisions that we seek, to ensure that the BBC is strong, independent, and well and securely funded.

Tessa Jowell: I thank the hon. Gentleman for his contribution. I have obviously confirmed the continuation of the licence fee throughout the next charter review period, but I have signalled that there will be two specific reviews. He made an observation about John Birt. As director-general of the BBC, he was a passionate advocate for the accountability of the BBC and the licence fee, and I am at one with him on his views on those matters.

The hon. Gentleman knows that I have made two written statements to update the House on digital switchover. The process of switchover is being led by broadcasters and the industry, supported by the Government. The licence fee settlement that will expire in 2007 took account of the BBC's role in promoting digital television and new digital services. We expect the negotiation of the new licence fee also to take account of the BBC's contribution to the costs of digital switchover.

On the status of the proposal for the trust, it is our intention that it should be the new form of governance for the BBC. It is important that the BBC should not be left in limbo for many months, and that it should be able to proceed to implement the new arrangements. How the membership of the trust is selected will obviously be a matter for discussion, but the working assumption is that the appointments will be made by the Crown. On the hon. Gentleman's final point on regional programming, the Government strongly believe in the BBC's right and proper role in the development of regional broadcasting, as I set out in my statement.

John McDonnell (Hayes and Harlington) (Lab): I congratulate my right hon. Friend on her statement today. I congratulate her on rejecting Lord Burns' wilder dogma, on retaining the licence fee and on the new structure of governance. Will she, however, clarify the time scale for the implementation of her proposals? There is a sense of urgency involved, and the new trust should be established quickly. If it is to have a role in maintaining quality, it should look now at the BBC's budget proposals, which include 3,000 job cuts, extensive privatisation and the slashing of 15 per cent. off budgets. The trust needs to be put in place as rapidly as possible to address those critical budgetary issues.

Tessa Jowell: I thank my hon. Friend for his comments. The proposals that I set out are intended to take effect as part of the new charter, which will come into force on 1 January 2007, but the BBC, through its internal conclusions, is moving to changes in the governance structure. It will be a matter for discussion with the BBC as to whether it is to establish some form of shadow trust arrangement in advance of the new charter and whether that will have properly established constitutional status at that time.

Mr. Gregory Campbell (East Londonderry) (DUP): Will the Secretary of State respond on the issue of funding? I note that she said in her statement that the licence fee remains the fairest way to fund the BBC, and I know that she wants to maintain the highest standards of quality of broadcasting. That view, I presume, would be shared by every Member of the House.

On the issue of the fairness of funding, the Secretary of State must be aware that, across parts of the UK, there are very high rates of evasion—non-payment of the licence fee. Through a series of parliamentary questions, I have been endeavouring to get her Department to establish the evasion in certain parts of Northern Ireland, so far without success. Surely fairness in funding can be achieved only when the 90 per cent. who pay can see action being taken against those who do not. In parts of Northern Ireland, evasion rates are very high. Surely she should examine those rates, elaborate on where they occur and put the detection vans in those places to uphold the law and ensure that the fee is paid. If it is not paid, fines should be.

Tessa Jowell: The hon. Gentleman is absolutely right that money lost in unpaid licence fee is money lost to programming. It is therefore a responsibility of the BBC, through its agencies, to ensure that the licence fee is collected.

Mr. Tam Dalyell (Linlithgow) (Lab): For a politician who wants to get a message over as opposed to winning brownie points with his constituents and others, steam radio is of course a matter of greater importance. The Secretary of State says that, for radio, the BBC has adopted a voluntary 10 per cent. quota and that the Government will consult on whether that is sufficient. To some of us, at first sight, it is grossly inefficient. In those consultations, I hope she will look after radio in general, and World Service radio in particular. What is the position of World Service radio?

Tessa Jowell: I thank my hon. Friend for his remarks. Of course we will consider the proposed 10 per cent. quota. It is also worth underlining that Radio 4 is one of the largest commissioners in the world of new writing

[Tessa Jowell]

for radio and that Radio 3 is the largest classical music commissioner in the world. The Green Paper sets out clearly the continuing support for the World Service and the challenges that face it: questions about the number of languages in which it is broadcast and about the migration from radio to television, as well as the role of BBC World. No one who travels the world underestimates the importance of the BBC World Service, and we are determined that it will continue to be strong.

Mr. Edward Leigh (Gainsborough) (Con): Is it not a fact that the World Service has been subject to parliamentary scrutiny for years without any threat to editorial independence? Why was there no mention in the Secretary of State's statement of parliamentary scrutiny of the rest of the BBC through the National Audit Office? Why did she not respond to the points made on this matter by my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale)? Is it not true that the BBC has consistently resisted parliamentary scrutiny of nearly £3 billion of public spending? Are not the voluntary arrangements working quite adequately? Why should the Comptroller and Auditor General, alone for the BBC, have to ask permission to investigate any matter? Will the Secretary of State open the matter up in the charter review?

Tessa Jowell: I realise that I did not deal with that point following the remarks made by the hon. Member for Maldon and East Chelmsford. I apologise for that and welcome the opportunity to deal with it now. As the hon. Member for Gainsborough (Mr. Leigh) is well aware, new arrangements have been established on the basis of agreement between the BBC and the NAO. The right and proper way to proceed is to judge how well those new arrangements are working, but to keep the question open during the remaining stages of charter review. However, there are good processes, which, as I understand it from the BBC's perspective and the NAO's perspective, are satisfactory. The question whether we go further during this charter period is still one for debate.

David Winnick (Walsall, North) (Lab): While I welcome my right hon. Friend's defence of the BBC, is she aware that it would be unacceptable to many of us for any slice of the BBC licence fee to go to other bodies, which in practice could mean some of the BBC's commercial competitors? Without wishing to be anything other than polite to all concerned, it would be best if Lord Birt kept away as much as possible from interference of any kind with the BBC. His record as director-general is not quite what she told the House.

Tessa Jowell: I am sure that my hon. Friend does not necessarily believe all the stories he reads in the newspapers. What would unite this side of the House is a commitment to ensuring that not just the BBC, but public service broadcasting in this country, which is an important part of our broader broadcasting tradition, remains strong. That is why I have put on the record today the need in prospect to review the security of public service broadcasting before the end of this charter review period, hence the debate for a later day on whether some licence fee money needs to be diverted to maintain the strength of public service broadcasting.

Angus Robertson (Moray) (SNP): The Secretary of State rightly said that the BBC needs to provide a range of specific services for the UK's nations. What new powers will BBC Scotland and BBC Wales have to make their own decisions on all news priorities and programming? Will there be specific BBC trusts for Scotland and for Wales? She talks about improving BBC programmes and news and current affairs, but how does she imagine that is possible when budgets are being slashed and 3,000 jobs are about to go?

Tessa Jowell: Let me deal with the last point first. Those are matters for the BBC; they are not matters in which Ministers should interfere. The Government set the terms of the charter and the BBC has to meet those terms. Secondly, there will not be separate trusts for Scotland and for Wales, but we would expect the membership of the new BBC trust to take account of the nations and regions in the ways that I have described.

Alan Keen (Feltham and Heston) (Lab/Co-op): From all the information we receive, it is clear that the public regard the licence fee as excellent value for money. It is also clear that the public trust the BBC more than politicians, which is obviously not an over-generous compliment to the BBC. The BBC is successful, so why do people fall over themselves to restrict its output against the commercial sector? I say that as someone who is happy to pay Sky five times as much as I pay the BBC so as to receive specialist sports and films. Why try to restrict one of the most successful organisations in the country?

Tessa Jowell: Maintaining public confidence and support for the licence fee relies on people believing that they are getting value for money. I referred to the concern, represented by about 500 letters a month to my Department, expressed by people who are not yet able to get Freeview, although they pay the licence fee. Hence the importance of the momentum behind the move to digital switchover.

My hon. Friend has made an important point. This country has a mixed economy of broadcasting, but the bedrock of that mixed economy is universal access, free to air, to the BBC. That leaves people free to make choices about further services to which they may wish to subscribe, but in the context of that universal entitlement—subject to payment of the licence fee—and it should continue.

Mr. Patrick McLoughlin (West Derbyshire) (Con): The Secretary of State just acknowledged that her Department receives more than 500 letters a month from people complaining that they cannot get Freeview. Can she tell me what other licence fee involves charging people for something that they cannot get? It really is unacceptable. Many of my constituents are very angry that they cannot get Freeview, but are paying for it.

Tessa Jowell: It is only a matter of time. Opposition Members may grimace, but a project as complex as digital switchover cannot be completed overnight.

The transmitters must be upgraded, and equipment must be replaced. We must ensure—while being consistent with the principle of universal access—that no one is left behind, and that we do not have a population of elderly and vulnerable people who are shut out from the benefits of digital television. It is a clear aim of Government policy that the switchover should be led by broadcasters and the industry, with Government support, and that that should take place between 2008 and 2012.

Tony Wright (Cannock Chase) (Lab): I congratulate my right hon. Friend on seeing off all the voices—heavily represented on the Conservative Benches—that wanted her to begin the process of weakening and dismantling the BBC. Is it not the case that the more our society fragments, the more we need the voice of a common culture? Is it not the case that the more the rest of the media engage in a race to the bottom, the more we need the BBC to lead the race in the opposite direction?

My right hon. Friend has issued a quality challenge to the BBC today for the next 10 years. Is it not the BBC's job to rise to that challenge?

Tessa Jowell: I thank my hon. Friend for what he has said. It underlines the profound difference between our view of the BBC and public service broadcasting, serving the people of this country, and that of the Opposition.

Mr. Ian Taylor (Esher and Walton) (Con): The Secretary of State has made an outrageous comment. It is because people like me believe that public service broadcasting and the institution of the BBC are important that we would have begun innovative thinking now, rather than deferring it. Does the Secretary of State realise that it is not attacking the BBC to say that in the real world people may not still be watching television on television sets within the time scale that she has set? We shall be able to download it on telephones; we shall have it on our mobile systems.

This is a transforming technology, and that transformation is happening now. There is no point in promoting citizenship on the BBC if no one watches the BBC. That is public service broadcasting set aside for the elite, not the people. It is because we want the contribution of public service broadcasting, and the BBC's traditional programming, to continue that I despair about the Secretary of State's failure to tackle those issues now. The change is happening now, and people are changing their viewing habits now.

Tessa Jowell: That is precisely why the sixth of the BBC's public purposes is to deal with the digital challenge. It is why my predecessor, my right hon. Friend the Member for Islington, South and Finsbury (Mr. Smith), negotiated an above-inflation-rate increase for the BBC, so that it would be competent and funded to meet the challenges. There is absolutely no disagreement between us on that, however the hon. Gentleman may try to represent the facts.

Miss Anne Begg (Aberdeen, South) (Lab): I, too, congratulate the Secretary of State on the Green Paper, which I look forward to reading in due course.

I support the continuation of the licence fee. Those who complain about paying it—we have heard some of them this afternoon—tend to take the narrow view that the BBC provides only the two mainstream analogue terrestrial channels, forgetting the raft of radio programmes, including the regional opt-out. When I am in London, I listen to BBC Aberdeen broadcasts on the computer. The BBC provides a wide range of services, and I think that the best way of preserving its uniqueness and its standing in the world is to ensure that it continues to be funded through the licence fee.

I also wonder—

Mr. Speaker: Order. It seems that the hon. Lady may want to apply for an Adjournment debate on this matter.

Tessa Jowell: I thank my hon. Friend for the important points that she has made, with which I agree.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): If we are not to have a separate trust for BBC Scotland—I do not quibble about that at this stage—it will be important for the geographical and cultural diversity of the station to be reflected not just in the composition of the trust but in its purposes. This is not just about national and regional representation; it is about local provision. In my constituency we have Radio Orkney and Radio Shetland, which are greatly valued by local people because they broadcast not just to local communities, but about our communities to the rest of the country. Can the Secretary of State assure me that high quality local output will not be lost in a concentration of power among a small number of people?

Tessa Jowell: There is absolutely no intention that that should happen, but the hon. Gentleman makes an important point that underlines the increasing local enthusiasm for very local radio and television news. This is part of the challenge not just to the BBC but to other public service broadcasters in the reassessment of the role of regional television and radio programmes.

Paul Flynn (Newport, West) (Lab): The supreme achievement of the BBC in Wales—which has itself been a magnificent achievement for the last 80 years—is its work on the use and development of one of the most ancient surviving European languages. That is partly due to the existence of the Broadcasting Council for Wales, whose chairperson has always been a member of the BBC's board of governors. Will the new set-up, with the executive and the trust, be accompanied by a guarantee of Welsh representation, and may we have an assurance that the move from analogue to digital will involve no diminution of the content and availability of broadcasting in the Welsh language?

Tessa Jowell: I strongly believe that the BBC has an important role to play in preserving what might be seen as minority languages such as Welsh and Gaelic, on a UK-wide basis. I hope that the BBC will discharge that responsibility. I also hope that my hon. Friend will forgive me if I do not give any specific undertakings at this stage about the membership of the trust. I can only tell him that I hear what he says about the importance of Welsh interests being recognised at every level of the BBC.

BILL PRESENTED

EQUALITY

Ms Secretary Hewitt, supported by the Prime Minister, Mr. Secretary Prescott, Mr. Chancellor of the Exchequer, Mr. Secretary Clarke, Mr. Secretary Johnson, Secretary Ruth Kelly, Jacqui Smith, Mr. David Lammy and Fiona Mactaggart, presented a Bill to make provision for the establishment of the Commission for Equality and Human Rights; to dissolve the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission, to make provision about discrimination on grounds of religion or belief; to impose duties relating to sex discrimination on persons performing public functions; and for connected purposes: And the same was read the First time; and ordered to be read a Second time tomorrow and to be printed. Explanatory notes to be printed [Bill 72].

Points of Order

1.28 pm

Mr. Win Griffiths (Bridgend) (Lab): On a point of order, Mr. Speaker. As far as I can recall, this is the first time I have ever raised a point of order in the House. I am doing so now not because I shall be retiring before the general election, but to record the fact that during Prime Minister's Question Time the Leader of the Opposition—whose office I have informed of this—inadvertently gave a misleading impression of what happened during Monday evening's vote. He said that I, along with 61 other Labour Members, had gone into the Lobby with him. The truth is that I had tabled amendment No. 4 to the Prevention of Terrorism Bill, and it was the Leader of the Opposition who went into the Lobby with Labour Members.

Mr. Speaker: The matter is on the record, and I will not be drawn into it.

Lembit Öpik (Montgomeryshire) (LD): On a point of order, Mr. Speaker. It concerns the explanatory notes relating to the draft Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005, which we debated in a Committee yesterday. I shall not go through the detail of the actual debate, but it subsequently occurred to me that in fact the notes were rather superficial. Indeed, had I had a deeper understanding then, and had the notes been more substantive, that might have altered the contribution that I and others made. May I ask through you, Mr. Speaker, that when highly complex issues are to be debated—specifically in the special circumstances relating to the governance of Northern Ireland—officials be requested to provide comprehensive notes on the consequences of specific orders, so that we can have a more informed debate?

Mr. Speaker: I will look into this matter and get back to the hon. Gentleman.

Kevin Brennan (Cardiff, West) (Lab): On a point of order, Mr. Speaker. Is there anything that you can do to shorten the time taken up by Front-Bench exchanges during statements? This afternoon's opening statement and the Front-Bench reply took 28 minutes, which meant that the some 25 Back Benchers who wanted to get in, including me—the headquarters of BBC Wales is in my constituency and I wanted to refer to it—were unable to do so.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): Further to that point of order, Mr. Speaker.

Mr. Speaker: Order. Let me answer the point of order; if I do so, the hon. Gentleman might not need to take it further.

During points of order, a Member sometimes comes up with a gem that allows me to put it on the record that I am displeased with the fact that Front-Bench statements are exceeding the 10 minutes recommended by the Modernisation Committee. I say with the greatest respect to Secretaries of State that they are slipping into their old habit of forgetting that Back Benchers are also entitled to have their say. Today's statement lasted

13 minutes, and as a result the Opposition Front-Bench spokesman took longer over his response; and so it goes on. So I take the point made by the hon. Member for Cardiff, West (Kevin Brennan). I want more Back Benchers to be able to be called, and it saddens me that I have to leave some uncalled.

Mr. Clifton-Brown: Further to that point of order, Mr. Speaker. I am grateful to you for allowing me to pursue it. I want to put it on the record that today's statement lasted less than an hour, and that it was 10 minutes past 1 before the three Front Benchers had concluded. Not many Back Benchers were in fact standing today. Will you look into this matter and see what can be done in future?

Mr. Speaker: Yes, and of course the hon. Gentleman will remember that I was very sharp off the mark in leaving the statement because today is an Opposition Supply day, and I want to ensure that it gets a full airing.

Mr. Edward Garnier (Harborough) (Con): On a point of order, Mr. Speaker. My complaint is not that a statement was too long but that there has been no statement at all about the announcement that Nottingham East Midlands airport is to be allowed additional flight paths over my constituency at night, which will cause huge disturbance and blight. Will you ask whether a statement has been requested of you by the Secretary of State—

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): Have an Adjournment debate.

Mr. Garnier: I have had one of those, and the Minister's response was wholly inadequate. I want the Secretary of State here to answer to the House for this decision, which has been taken undemocratically and without the opportunity for Labour and Conservative Members representing Leicestershire to deal with it.

Mr. Speaker: I am not encouraging this—far from it—but Members can also apply for an urgent question. But that does not mean to say that I will agree to it.

BILLS PRESENTED

Fisheries Jurisdiction

Mr. Alex Salmond, supported by Mr. Roy Beggs, Mr. Alistair Carmichael, Mr. Nigel Dodds, Mr. Kelvin Hopkins, Mr. Elfyn Llwyd, Mr. Eddie McGrady, Mr. Austin Mitchell, Angus Robertson, Mr. Anthony Steen, Mr. Michael Weir and Ann Winterton, presented a Bill to make provision for withdrawal from the Common Fisheries Policy of the European Union; to amend the Fishery Limits Act 1976; to make provision about the exercise of functions under that Act by Scottish Ministers, the National Assembly for Wales, Northern Ireland Ministers and the Secretary of State; to provide that that Act shall have effect regardless of the provisions of the European Communities Act 1972; to define English, Scottish, Welsh and Northern Irish waters; and for connected purposes. And the same was read the First time; and ordered to be read a Second time on Friday 13 May, and to be printed. [Bill 73].

Buses (Concessionary Fares)

Mr. Michael Foster, supported by Peter Bradley, Mr. Alan Campbell, Mr. Parmjit Dhanda, Mr. David Drew, Mr. James Plaskitt, Mr. Patrick Hall and Mrs. Janet Dean presented a Bill to make provision about concessionary fares on buses for elderly persons. And the same was read the First time; and ordered to be read a Second time on Friday 22 April, and to be printed. [Bill 74].

Annual Leave Entitlement (Enforcement)

1.34 pm

Miss Anne Begg (Aberdeen, South) (Lab): I beg to move,

That leave be given to bring in a Bill to make provision about the enforcement of entitlements to annual leave under the Working Time Regulations 1998 and to amend the National Minimum Wage Act 1998 in that connection; and for connected purposes.

The news that the national minimum wage is to be raised to more than £5 an hour in October this year hit all the national headlines last week. Seven years after the introduction of a national minimum wage, most people know about it. The work of the Inland Revenue national minimum wage enforcement agency's compliance officers has been effective. They are able to ensure that an employer is paying the whole work force the correct amount, and not just the worker who made the complaint. They can also visit some employers at random and target sectors and businesses that are notorious for low pay, such as restaurants, whose workers may be unwilling or unlikely to complain.

However, enforcement officers will often find that failure to pay the minimum wage is not the whole story. The employer who keeps his workers on illegal poverty wages is highly unlikely to be fulfilling the provisions of the working time directive, and in particular the right to four weeks paid holiday. Yet as things stand, national minimum wage compliance officers are unable to take action against employers who fail to give workers their proper holiday entitlement by, for example, not paying them the full rate or by not giving the full four weeks holiday. My Bill aims to extend the powers already exercised by the compliance officers in order to allow them to pursue an employer for failure to provide annual leave entitlement.

There are no definitive figures on the number of workers currently not receiving the paid holiday to which they are legally entitled. However, a 2002 TUC study of labour force survey data found that 400,000 full-time workers were receiving fewer than 12 days' paid leave, which means that even if they were receiving all eight bank holidays as additional paid leave, they were still not getting their statutory entitlement. More recently, a National Association of Citizens Advice Bureaux report entitled "Still Wish You Were Here", published in December 2004, stated that tens of thousands of the employment-related inquiries dealt with by their bureaux involve non-compliance with the right to paid holiday. This is likely to be a gross underestimate of the true numbers, because the right to paid holiday is not as well known or understood as the right to the national minimum wage. Those most likely to be losing out are probably in part-time or temporary work or in low-paid sectors, which are often non-unionised. Many of them will be women.

A study commissioned by the Department of Trade and Industry in November 2004, entitled "A survey of workers' experiences of the Working Time Regulations", found that 13 per cent. of a sample of workers were not receiving four weeks' paid leave. Only a third of that sample had any awareness of the right to paid holiday, and most of those did not know the actual law.

Some workers get no paid holiday at all because their employer tells them that they do not qualify, or that they have to have a particular length of service. In Aberdeen, where there are a large number of "temp" agency workers, there is a particular problem in respect of those who are told that they are receiving a slightly higher hourly rate for the hours that they work to cover their paid holiday entitlement. The GMB union, which I thank for raising this issue with me, has found examples of members who are not paid the full rate for their holiday. In one case, restaurant workers received a basic hourly rate that was below the national minimum wage, but which was made up through tips paid via the payroll. When staff were on holiday, they received only the basic hourly rate. In a furniture factory in Grantham, piece-workers queried their holiday pay because it was lower than what they earned in a normal week, and therefore fell below the national minimum wage.

In both cases, the workers raised the issue as a problem with the minimum wage, but when they were told that national minimum wage compliance officers could not take action on their holiday entitlement, they were upset, to say the least. They were told they had to go to an employment tribunal, which is a more complicated process and requires a worker first to raise the issue through the statutory grievance procedure. That is just too intimidating for a vulnerable worker to undertake—that is, if they still have a job at the end of it all. This procedure is not used for minimum wage violations, simply because it would leave an individual worker exposed to victimisation. If it is not appropriate for minimum wage violations, it is not appropriate for violations of paid holiday entitlement.

That is why I believe that the compliance officers who are already working on the national minimum wage should be given the same powers to enforce holiday entitlement. The powers have already proved effective in seeking out and ending poverty pay, so it is sensible to use them to ensure that workers receive their holiday pay entitlement. Compliance officers themselves say that holiday pay fits in well with national minimum wage work, given that to calculate a worker's hourly rate they have to understand how much money paid to the worker represents wages and what counts as holiday pay. If the normal weekly wage is illegally low, the holiday pay will fall short by the same amount. When arrears are due because of underpayment of the national minimum wage, there will inevitably be arrears of holiday pay, too. The simple solution is to extend the powers that national minimum wage compliance officers already have to cover infringements of paid holiday entitlement. That is precisely what my Bill will do.

I also want to highlight a particular problem faced by many of my constituents who work offshore in the oil and gas industry who are not, at present, getting their four weeks holiday entitlement. Despite the incorporation of the EU working time directive for the offshore industry into UK law through the Working Time (Amendment) Regulations, passed by the House on 22 October 2003, many of my constituents are still not getting their full holiday entitlement.

I realise how important the oil and gas industry is to the economic prosperity of my constituency and how much employment it provides. However, I remain

puzzled at the intransigence of operators and contractors in refusing to give their offshore employees the same paid holiday entitlement that is enjoyed by their onshore colleagues. I find it particularly perverse that their lawyers are now arguing in an industrial tribunal that the horizontal amending directive—HAD, as it is more commonly known—which extends the working time directive to the offshore oil and gas exploitation sector, does not apply offshore. I need to repeat that, in case it has not been understood. Despite the fact that the regulations define "offshore work" as

"work performed mainly on or from offshore installations, including drilling rigs",

the industry is now arguing that the regulations do not apply offshore. I believe that that does no one any good. Indeed, it risks bringing the oil and gas industry into disrepute—in other respects, I am a great supporter of the industry—as the only industry that does not provide a section of its work force with the right to four weeks paid holiday. That is a disgrace.

This week, the Aberdeen and Grampian chamber of commerce published a report on the skills shortage in the oil and gas industry in the North sea and expressed concern that not enough young people were being attracted into the industry. School leavers who are looking for jobs with not only good prospects but good terms and conditions are unlikely to be impressed by the failure to give offshore workers their full holiday entitlement. This unnecessary battle through the courts sends out a totally wrong message to potential young workers.

I appeal to the Minister for Employment Relations, Consumers and Postal Services—I am pleased to see him in his place—to adopt Order in Council procedure sooner rather than later to enforce compliance with the working time directive, particularly if the industry continues to drag its heels. Of course, if my Bill is passed, the power would rest with the national minimum wage compliance officers to force even the employers in the oil and gas industry to provide full holiday entitlement to offshore workers and not leave people bogged down in an industrial tribunal.

I do not have to tell the House how important holidays are to us all. They help to improve our physical and mental well-being, and paid holiday entitlement means that such holidays can be taken without financial worries. This is a simple Bill, with the potential to improve the lives of thousands of people. I commend it to the House.

Question put and agreed to.

Bill ordered to be brought in by Miss Anne Begg, Mr. Frank Doran, Ann Keen, Jim Knight, Ms Dari Taylor, Mr. John Grogan, Kali Mountford, Rob Marris, Lady Hermon, Iain Wright, Mrs. Anne Campbell and Mr. Malcolm Savidge.

ANNUAL LEAVE ENTITLEMENT (ENFORCEMENT)

Miss Anne Begg accordingly presented a Bill to make provision about the enforcement of entitlements to annual leave under the Working Time Regulations 1998 and to amend the National Minimum Wage Act 1998 in that connection; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 20 May; and to be printed [Bill 75].

Opposition Day

[5TH ALLOTTED DAY]

Council Tax

Mr. Deputy Speaker (Sir Michael Lord): I advise the House that Mr. Speaker has selected the amendment in the name of the Prime Minister.

1.45 pm

Mrs. Caroline Spelman (Meriden) (Con): I beg to move,

That this House notes that council tax bills have increased by 70 per cent. under the Labour Government, with further above-inflation rises planned in the forthcoming year and after the general election; expresses concern that pensioners have been hit hardest and calls on the Government to implement the Conservative policy of an automatic council tax discount for those aged 65 and over; notes with alarm the Government's plans in any third term for a revaluation which would lead to greater inequities and new higher council tax bands; rejects Liberal Democrat plans for a local income tax, regional income tax and higher national income tax; and calls for less bureaucracy and interference from Whitehall and regional bureaucrats in local government funding and for greater transparency in the allocation of local funding for councils.

I seem to be making a habit of standing before the Chamber to talk about a crisis. Last time, it was the crisis in housing and this time it is the crisis in local government funding. It seems to me that we have a Government who are prone to crises. Where the housing crisis particularly hurts the young, the council tax crisis particularly hurts the elderly—it cannot be said that the Office of the Deputy Prime Minister discriminates on grounds of age. People who have worked hard all their lives and saved for their retirement should live in dignity and security in old age, but today many of them, particularly those on fixed incomes, find it difficult to make ends meet because of the burden of taxation, which the Government have increased by stealth.

The council tax has proved to be the ultimate stealth tax under this Government, as council tax payers have seen their bills soar by 76 per cent. since 1997. That means that more than a third of the increase in the state pension has been swallowed up by council tax hikes.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Who brought it in? *[Laughter.]*

Mrs. Spelman: I do not think that this is funny, Mr. Deputy Speaker. This is a serious matter of— *[Interruption.]*

Mr. Deputy Speaker: Order. Let me make it clear from the outset that I want no interventions from a sedentary position. If Members want to intervene, they must stand up and do so in the conventional way.

Mrs. Spelman: As I was saying, more than a third of the state pension increase has been swallowed up by council tax rises. This year, typical council tax bills will top £100 a month for the first time in the history of the council tax. Is it any wonder that people feel so betrayed, when they recall the Prime Minister saying:

"We have no plans to put up taxes"?

Lembit Öpik (Montgomeryshire) (LD): Is the hon. Lady aware that the position in Wales is even worse, because the rebanding has led to 33 per cent. of properties being allocated to a higher band and only 8 per cent. to a lower one? In effect, 25 per cent. of houses in Wales have been subjected to a further significant tax increase.

Mrs. Spelman: Before responding to his intervention, I would like to congratulate the hon. Gentleman on his 40th birthday. That is the good news, but I have to impart a bit of bad news. What he says about Wales is true—I shall come on to deal with it later in my analysis—but I remind the hon. Gentleman that in July 2003 his party voted in favour of increasing council tax bands.

The fact is that it has been convenient for the Chancellor to shift the burden of taxation on to local government, and we have seen a constant stream of unfunded burdens foisted on to local government, leaving local authorities no choice but to put up council tax.

Mr. Patrick Hall (Bedford) (Lab): On the issue of underfunding, will the hon. Lady tell us how she proposes to fund her party's offer of a council tax discount for pensioners?

Mrs. Spelman: I shall be happy to explain it later in my speech, but for the avoidance of any doubt, it would be worth quickly listing some of the unfunded burdens, which make uncomfortably long reading. The increase in national insurance has added £280 million to local authorities' costs and fuel duty has increased by 25 per cent. since 1997. Councils have been faced with the financial consequences of the landfill tax, the pension tax, numerous EU directives such as the end of life vehicle directive, the waste electrical and electronic equipment directive and so forth. All those have added costs to local government, which has not been granted matched funding from the centre.

The Government defence of those rises has been a master class in dissembling and disinformation, but that has not fooled the taxpayers. When MORI asked voters last year whom they blamed for their council tax increases, 78 per cent. said that they blamed central Government. Of course, they are right to do so, as on average 75 per cent. of what is spent on local services derives from central Government grant.

The Minister is fond of telling the House that every local authority has received an above-inflation increase in formula grant, but that bland statement conceals the fact that the Government have so manipulated the level of the grant to different authorities that there are glaring contrasts in the increases that councils have had to make to council tax to maintain services. The really revealing figure emerges when we look at Government grant per capita to each local authority which, conveniently, I was given in a written answer on 11 January. At the top end, councils such as Nottingham have enjoyed a grant increase of more than 76 per cent. since 1998 and, guess what, Sedgefield is in the top five, with a 68 per cent. increase. Every authority with an per capita grant increase below 20 per cent. has suffered a real-terms cut, and that includes many Conservative-held district councils. Sevenoaks is at the bottom of the pile, with a 5.1 per cent. reduction that is, of course, a 30 per cent. cut in real terms.

Mr. Betts: Does the hon. Lady accept that overall local government has done very well from this Government? It has had a 33 per cent. increase in real terms in grant since 1997, compared with a 7 per cent. cut over the previous four years. Of the so-called burdens that have been inflicted on local authorities, which she has just read out, can she tell us which burdens her party will commit itself to removing, should it by some mischance happen to win the general election?

Mrs. Spelman: I shall come on to the removal of burdens. The point is that increases in grant vary from area to area. Perhaps the hon. Gentleman should go back to his constituency and, no doubt through gritted teeth, inform his pensioners that under our proposals a single pensioner living alone would be £456 better off when her council tax is halved.

Mr. Patrick McLoughlin (West Derbyshire) (Con): We continually hear the story of how local government has done very well in the past eight years of Labour Government. If that is the case, can my hon. Friend tell us why we have seen such a record increase in council tax?

Mrs. Spelman: I thank my hon. Friend for that intervention. He has given me the opportunity to reveal the inequity of the grant distribution. The sheer range of the allocations beggars belief, but it helps to explain why so many Conservative authorities have been short-changed since 1997. The Government have now been rumbled, and in the debate on local government finance settlements last month, the Minister fell into his own trap by threatening councils with capping if this year's council tax increases are above 5 per cent. He suddenly realised that he may have bitten the hand that feeds him. The truth is that efficient, well run Conservative councils are the goose that lays the golden egg for this Government.

Andrew Bennett (Denton and Reddish) (Lab): While we are on the question of equity, I should perhaps thank the hon. Lady for her proposal to reduce my council tax bill by £500 a year. Is that really sensible, however, given that people on very small pensions will get no benefit at all? Is not it logical to provide help for all council tax payers, rather than just the better-off?

Mrs. Spelman: With respect, I suggest that the full detail of our proposal is not completely clear to the hon. Gentleman. There is a cap of £500 and I shall explain that in more detail. I remind him, however, that it was his party that committed itself to stop means-testing. If he is in any doubt about what pensioners feel about means-testing, he should go and ask them, because they find it offensive to be means-tested in later life. That is why our discount would be universally available to the over-65s.

Mrs. Anne Campbell (Cambridge) (Lab): How does the hon. Lady explain the record council tax increases we have had in Cambridgeshire? Recent grant increases

include 11.2 per cent. from April this year, 8 per cent. for the current year and 11 per cent. for last year. Despite those record increases in grant from a Labour Government, we have had record increases in council tax from a Conservative county council.

Mrs. Spelman: The hon. Lady seems not to have got the essential point at this stage of the debate, which is that the grants distributed to various parts of the country are very inequitable. Cambridgeshire has been in receipt of a below-average Government grant, and one of the consequences has been that the local authority has been forced to recover more of what it costs to fund local services from local taxation.

The Minister for Local and Regional Government (Mr. Nick Raynsford): Will the hon. Lady please correct the record? Cambridgeshire has not received below-average grant increases; it has received above-average grant increases in each of the past three years. For the sake of accuracy, will she please now confirm that?

Mrs. Spelman: The Minister is very knowledgeable about local government finance and he knows the answer to his own question. It is because Cambridgeshire is an education authority. The unitary authorities have fared better under his grant system and the district councils have fared poorly.

It is small wonder that Runnymede council, which was rated "excellent" by the Government's watchdog, has had to double its council tax since 1997 to make up for its 20 per cent. decrease in real terms grant. One council leader rang me up this week saying that he will have to risk capping with a 5.9 per cent. increase because he is just not prepared to cut services. As a unitary authority, his council received a poor settlement of a 4.4 per cent. increase, compared to an average of 6.1 per cent. for comparable authorities. It just goes to show how unfair the system is.

Eight years ago, the Government started with a policy of deliberately forcing up council tax in what they perceived as affluent areas, then they panicked and capped, and they are now forcing service cuts on the same areas. Would the Minister like to tell me which services he wants councils such as Southend to cut?

We could spend a great deal longer than a single Opposition day discussing the smoke and mirrors deployed by this Administration in local government finance, but the fact is that the people to whom we are accountable—the tax-paying public—know that since 1997 council tax has gone through the roof.

Mr. Peter Luff (Mid-Worcestershire) (Con): Does my hon. Friend share my deep misgivings about the behaviour of the Government in relation to the West Mercia constabulary? Some 300 additional officers were paid for entirely out of increases in the council tax. The Government's reaction has been to nominate the authority and threaten to cap it. On top of that, they try to take credit for the additional police officers. The Government cannot have it both ways.

Mrs. Spelman: I thank my hon. Friend for that intervention. In another helpful written answer on 28 February, it was revealed that the per capita funding for the police also shows incredible inequity in its distribution.

The pain of the crisis in local government finance has fallen disproportionately on our pensioners, exchanging their dignity and security for anxiety and penury. We must not forget that under this Prime Minister 2 million pensioners still live in poverty. And there is worse to come. If Labour should get a third term in office and council tax inflation continues on the same trajectory that it has followed since 1997, band D bills will hit £1,836 by the end of that third term. Moreover, under Government plans to introduce new, higher bands—a measure that has met support from both Labour and, as I mentioned, the Liberal Democrats—a typical household bill will be taken to well over £2,000.

Kali Mountford (Colne Valley) (Lab): The hon. Lady was talking earlier about universality as a panacea to the problems, but has she considered the question in the round? What would happen to pensioners whose payment of council tax was entirely discounted? Has she considered how the Conservative proposal could be paid for, given that there are, I believe, proposals to end other universal benefits, such as winter fuel payments, TV licences and tax relief for pensioners?

Mrs. Spelman: Of course the proposal has been carefully thought out. It is, as the Institute for Fiscal Studies pointed out, fully costed and fully funded. I reassure the hon. Lady that the discount for pensioners, which I am about to deal with in more detail, would come on top of the existing council tax benefit, single person's discount and, as my hon. Friend the Member for Havant (Mr. Willetts) confirmed, winter fuel payments. *[Interruption.]* If Labour Members will hold on while I discuss in more detail what our proposal will consist of—perhaps when they see its merits they will join me in challenging the Government to match it—many of their questions will be answered.

The Government have committed themselves to the revaluation of property, which is already being undertaken in Wales, where four times as many homes have moved up one or more bands as have moved down. If that were repeated in England, 7 million homes would go up a band. How else should that exercise be described but as rigged revaluation? It is a ticking tax time bomb, primed to explode on the doorsteps if Labour wins the next general election.

Mr. David Borrow (South Ribble) (Lab): Does the hon. Lady agree that the effect of the revaluation is not an increase in the total amount of council tax revenues but redistribution in collection to reflect more accurately the value of properties? If more properties end up in a higher band, that reflects the fact that more properties in that area have gone up in value, but bands will go down in other areas and people will pay less.

Mrs. Spelman: I am concerned about the hon. Gentleman's naivety in this matter. Although I agree that the objective should not be to increase the total amount of money raised because it is a completely disconnected fact that property prices have risen, the fact is that the revaluation is being used in Wales as a redistributive tool. Therefore, we conclude that its extrapolation to England would have a redistributive

[Mrs. Spelman]

effect and, in fact, aggravate the inequity that I have been describing in distribution of central Government grant.

Mr. Edward Davey (Kingston and Surbiton) (LD): Will the hon. Lady clarify her position on council tax, given that the hon. Member for Brentwood and Ongar (Mr. Pickles), who is in her own team, told the House on 2 February,

"Any council tax system inevitably requires some form of revaluation"?—[*Official Report*, 2 February 2005; Vol. 430, c. 929.]

Would they keep council tax or not?

Mrs. Spelman: I think that I have made it perfectly clear that we are proposing corrections to problems in the council tax system that have been vastly aggravated by the Government.

Mr. Davey: Wriggling!

Mrs. Spelman: I am not wriggling. The answer to the question about revaluation is that, of course, a property-based tax must take account of changes in the value of the property, but it does not have to be used to fill the Chancellor's coffers with extra money by stealth or to redistribute grant inequitably between different parts of the country.

The Conservative solution to the problem facing our pensioners is simple. It is to cut the council tax in half for those aged 65. In our first year in office that would mean that more than 5 million pensioners or 3.8 million pensioner households would see their council tax bills halved. Such a discount would not be means-tested because we recognise how much pensioners dislike the intrusion of means-testing in their lives, but it would be capped at £500 to allow the resources to be targeted on those who most need it. It will be given on top of council tax benefit if a pensioner is in receipt of that and in addition to the single person's discount of 25 per cent. if the pensioner lives alone.

Andrew Bennett: Will the hon. Lady give way on that point?

Mrs. Spelman: The hon. Gentleman has had one intervention; this is a very important point, which answers a number of Labour Members' questions.

The tax cut will be fully funded by central Government from the £4 billion-worth of savings identified in central Government by our James review, which the shadow Chancellor has allocated for tax reductions.

Andrew Bennett: Many pensioners in my constituency are on a full rebate at present. How do they get the £500?

Mrs. Spelman: The hon. Gentleman might like to tell the pensioners in his constituency who pay council tax—

Andrew Bennett: Many pensioners are not paying because they get the discount.

Mrs. Spelman: Ah, but many are paying, and often it is the pensioners with just a little in savings, taking them out of eligibility for benefits, who are the worst off. The hon. Gentleman might like to tell the pensioners in his constituency who are eligible to pay council tax that, under our proposals, a single pensioner living by herself in his constituency would be more than £450 better off.

Miss Julie Kirkbride (Bromsgrove) (Con): Does my hon. Friend recognise that the reaction among Labour Members is typical, because they do not understand the pain and upset caused to people whom she and I represent in neighbouring constituencies who have worked hard all their lives and saved their money? Those people have a modest pension and nest egg for their retirement, which they want to keep to pay bills or to pass on to their children, and they find that that nest egg is decimated by their having to dip into it year on year because of increases in council tax imposed by the Government.

Mrs. Spelman: My hon. Friend has reinforced my point extremely well. Labour Members may refuse to take up that point, but I hope that they will begin to understand the strength of feeling among Conservative Members, and why we are glad to have secured this debate.

Mr. Edward Davey: Will the hon. Lady give way?

Mrs. Spelman: I should like to make progress; the hon. Gentleman will have an opportunity to make a speech later.

Labour spokesmen have decried the offer of help to pensioners with their stock response of "fantasy figures". If that discredited allegation is the best that the Government can do, it proves how desperate their position is. The fact is that the Government's own efficiency review, conducted by Sir Peter Gershon, admitted to £22 billion of waste in central Government. Surely it is not too much to ask to let hard-pressed pensioners have £1.3 billion of that to help with their council tax bills.

The Deputy Prime Minister's own empire—how I wish that he was here to hear this—wastes money, such as the millions of pounds that were poured into the futile attempt to talk the electorate into regional assemblies. That idea was roundly rejected by the people of the north-east last autumn. However, he cannot take no for an answer and he is still burning up millions of pounds of taxpayers' money transferring powers to regional level.

That is just one example of the Government's profligacy costing taxpayers dear. The savings that we have identified will help councils to keep levels of council tax down for everyone. Pensioners in particular will receive help, but all council tax payers will be helped by our action plan to reduce the costs and burdens that councils face. We would close the Office of the Deputy Prime Minister and transfer the functions to a smaller new Department for local government, whose tasks would be to decentralise and deregulate, to empower and support local decision making and to secure better value for money.

We would free local councils from the straitjacket of central Government and the plethora of performance targets and armies of inspectors that cost local

authorities and general taxpayers more than £1 billion. That £1 billion would be better spent on keeping council tax down to a sustainable level for everyone.

We believe that no single sector of society should shoulder the tax burden disproportionately. Unfortunately, that is exactly what would happen under the Liberal Democrats' proposal. The local income tax would be no panacea for the problems of local government finance. The Lib Dem slogan, "Axe the tax," is disingenuous because it implies that there would be no tax at all. In reality, however, the burden of taxation would be shifted on to hard-working families. Pensioners, many of whom are grandparents, do not like the idea of the burden of taxation being shifted on to their children and their children's children.

The Liberal Democrats' Treasury spokesman had the honesty in an interview with the *Evening Standard* to admit that local income tax would "bite" on a household with a joint income in the mid-£30,000s. By our calculations, typical working families would have to pay £630 more than their council tax payments today. Pensioners who pay income tax would not escape either. Some 71 per cent. of pensioners receive income from their savings, yet that would be taxed under the Liberal Democrats' proposal. Their plans for a local income tax would come on top of those for higher national income tax and a regional income tax to fund regional assemblies. I say, "Beware the axe man."

Council tax payers of all ages deserve better than that on offer from either Labour or the Liberal Democrats. Neither party has seriously addressed the drivers of council tax inflation. The Conservative party has pledged to halve the council tax for millions of pensioners and to scrap Labour's plans for higher council tax bands and a rigged revaluation.

Mr. Betts: Will the hon. Lady give way?

Mrs. Spelman: I am about to finish my speech.

We have pledged to cut back on unfunded burdens, regulations and red tape, and to ensure that there is fairer funding from Whitehall. Additionally, we have said that we will deliver above-inflation increases for schools, the police, health and social services. People face a clear choice: more waste and higher taxes under Labour, or value for money and lower taxes with the Conservatives.

2.12 pm

The Minister for Local and Regional Government (Mr. Nick Raynsford): I beg to move, To leave out from "House" to the end of the Question and to add instead thereof:

"welcomes the Government's support for local government with its 33 per cent. grant increase in real terms since 1997, compared to a real terms cut of 7 per cent. in the last four years of the previous administration; notes that the increase in council tax this year is set to be the lowest in over a decade at around 4 per cent. and the second lowest since it was introduced and is less than the increase in average earnings; notes CIPFA's view that it will add less than £1 a week to average council tax bills; further notes that the effect of the Opposition's policy to cut grant to councils and abolish capping would allow council tax to rise unchecked; and looks forward to the report of the Lyons inquiry into local government funding which is due by the end of this year."

We have just heard a speech of breathtaking insincerity, surprising ignorance and shameless opportunism that told us a great deal about today's Conservative party. The Conservatives have conveniently forgotten their lamentable record in government and are displaying a staggering capacity for self-delusion about the responsibilities of being in government. They are playing fast and loose with the serious business of local government finance and are unforgivably trying to perpetrate a cruel deception on millions of elderly people by promising benefits that they could never deliver. Their latest electoral gimmick, for that is what it is, comes, of course, from the same individual who gave us the poll tax when his attention was last turned to local government finance. I intend to return with some relish to the Conservatives' record and their non-credible proposals.

We should put the record straight about the council tax in 2005–06. Who would have thought, after listening to the hon. Member for Meriden (Mrs. Spelman), that according to the estimates of the much-respected Chartered Institute of Public Finance and Accountancy, we will see in the coming year the lowest council tax increases for 11 years and—*[Interruption.]* Wait for it, I have good news. Conservative Members will not like it, but they will hear it anyway. It is also estimated that that will be the second lowest council tax increase ever. Contrast that with the 16.5 per cent. increase in the last year of the poll tax, for which the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) was responsible.

Mr. Edward Davey: Did not that same CIPFA report say that spending pressures are building up in the system which threaten a huge council tax rise after the election because the Government have not guaranteed that they will repeat the one-off bribe detailed in the pre-Budget report?

Mr. Raynsford: I am a little surprised by the hon. Gentleman's language. I will come to his point later, but the claim that there was a bribe is not worthy of him. I am sure that he will accept that the CIPFA report confirms that the increase in council tax this year will be the lowest for 11 years, but one would not have had the slightest idea about that from what the hon. Member for Meriden said. Her speech was one of total delusion that showed that she simply did not understand reality.

Mr. Eric Pickles (Brentwood and Ongar) (Con): Does the right hon. Gentleman think that in addition to predicting massive council tax rises next year, the CIPFA report took into consideration the fact that the council tax for band B properties has gone up by 76 per cent. since 1997?

Mr. Raynsford: As I said, I shall come on to the subject of next year. The hon. Gentleman should remember that the CIPFA report starts with a clear statement that we will have the lowest increase in council tax for 11 years. The consequence of that will be an average increase of less than £1 a week. Those are the facts, so I am surprised that he and his colleagues are not celebrating the good news that council tax bills are being brought down from the unacceptably high levels that we have experienced.

Mr. Peter Atkinson (Hexham) (Con): Will the right hon. Gentleman give way?

Mr. Raynsford: I want to make a bit of progress, but I will give way later.

The hon. Member for Brentwood and Ongar (Mr. Pickles) should recognise that it is no accident that we will have the lowest increase for 11 years. It is the result of hard work over three years to bring down council tax from the unjustifiable levels that we saw in 2003–04. Last year, with additional resources and the judicious use of our capping powers, we cut the increase from 12.9 per cent. to 5.9 per cent. We will take the same approach this year, and the CIPFA report suggests that the increase will fall again to just 4 per cent.

Mr. Nigel Evans (Ribble Valley) (Con): Will the right hon. Gentleman give way?

Mr. Raynsford: I want to make a bit of progress.

This situation has been achieved with no help at all from the Conservative party. It has gone wobbly on capping, conveniently forgetting its record in government, and its councils have the lamentable record of making the largest council tax increases. The figures speak for themselves—*[Interruption.]* The hon. Member for Runnymede and Weybridge (Mr. Hammond) would do well to listen to these figures.

Latest indications show that while councils have budgeted prudently overall and kept council tax levels down, a clutch of councils is bucking the trend. Aylesbury Vale district council is reported to be considering a 9.2 per cent. increase. Huntingdonshire district council is thought to be making a 12.7 per cent. increase, and Mid Bedfordshire district council a 13 per cent. increase. As the hon. Gentleman will know, Runnymede borough council has already set a 17.5 per cent. increase. Hambleton district council has set a 17.9 per cent. increase.

Mr. Malcolm Moss (North-East Cambridgeshire) (Con) *rose—*

Alistair Burt (North-East Bedfordshire) (Con) *rose—*

Mr. Raynsford: If the hon. Gentlemen restrained themselves, they might find these figures instructive. They can make their interventions after they have listened to the figures because they tell an interesting story.

North Dorset district council has set a 23.7 per cent. increase and South Cambridgeshire district council has set a 100 per cent increase—yes, 100 per cent. What do all the councils that I have mentioned have in common? They are controlled or led by the Conservatives. That is the common factor behind the disproportionate increases in council tax.

Mr. Moss: I am grateful for the opportunity to set the record straight on Huntingdonshire district council. Could the proposed increase in its council tax have anything remotely to do with the fact that the Government have clawed back £750,000 of its grant?

Mr. Raynsford: No. The hon. Gentleman should do his homework. He knows that Huntingdonshire district council received an 8.5 per cent. grant increase. How does he have the nerve to come to the House to make such a complaint, given that the authority will receive a grant increase that is massively above inflation, yet wishes to impose a wholly exceptional council tax increase on his constituents?

Alistair Burt: The right hon. Gentleman referred to the outstanding increase in mid-Bedfordshire of 13.3 per cent. Is he aware that Mid Bedfordshire district council has the 10th lowest district charge of 238 authorities in England? The 13.3 per cent. increase is equivalent to £1 a month.

Mr. Raynsford: I am well aware that Mid Bedfordshire district council received a 5.2 per cent. grant increase. Contrary to the view of the hon. Member for Meriden that those Conservative councils were suffering from unreasonably low grant increases, they have received huge grant increases well above inflation. It is because they cannot manage their affairs properly that their residents have been confronted with wholly unreasonable council tax increases.

Mr. Philip Hammond (Runnymede and Weybridge) (Con): The Minister will know that the increase in Runnymede, which he mentioned, is equivalent to 34p a week. Over the eight years in which the Government have been in office, Runnymede has received an increase in total grant per capita of the princely sum of 0.4 per cent., which is equivalent to a 25 per cent. cut in real terms. Will he confirm, however, that the district councils on the list that he read out have something else in common, as their band D council tax is below the Government's notional band D figure?

Mr. Raynsford: The hon. Gentleman will know that his per capita figures are not given on a like-for-like basis. It is terribly easy to compare unlike with unlike, which creates a distorted picture. On a like-for-like basis, Runnymede council—I am speaking about comparable services because, as he knows, they can change from year to year—has once again received an inflation-matching increase in grant this year. It is one of the most affluent authorities in the country, with one of the largest council tax bases. If all other variables are removed, the single factor that links the councils that I mentioned is the fact that they are all Conservative-led or Conservative-controlled. Those abnormally high council tax increases are not the product of reduced government grant—every council in the country received an increase in grant, on a like-for-like basis, at least equivalent to inflation, and that never happened under Conservative Governments. Nor is it the case, as some Conservatives have dishonestly sought to claim, that all the grant has been shifted "up north". Many of my hon. Friends might wish that that were the case, but as the figures show, the southern regions have done just as well from the 2005–06 settlement as the northern ones.

Mr. Martin Salter (Reading, West) (Lab): The Minister will be acutely aware of discomfort in loyal Labour Reading at receiving a grant increase of 4.9 per cent., when affluent Tory Wokingham benefited from a

13.9 per cent. grant increase? Whatever accusations one levels at the Minister, they are not about partisanship in local government grant settlements in Berkshire.

Mr. Raynsford: I take that mild rebuke from my hon. Friend as an indication that the Opposition's allegations are wholly unfounded. It is sad that the hon. Member for Meriden, who made those claims, did not have the decency to withdraw them.

Authorities in the south-east will receive a formula grant increase of 5.2 per cent. in the coming year. Authorities in the north-west will receive an average of 5.1 per cent.; authorities in Yorkshire and the Humber will receive an increase of 5.2 per cent.; and authorities in the north-east an increase of 5.3 per cent. So much for the nonsense from the Opposition about favouring authorities in the north over those in the south.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): The Minister talked about the increase for authorities in the north-east. Can he explain why the Prime Minister's constituency of Sedgefield has had a per capita increase of 68 per cent. under this Government?

Mr. Raynsford: As the hon. Gentleman would know if he had been listening, the per capita increases that have been set out are not made on a like-for-like basis, so there are no proper grounds for comparison. He will be well aware that Sedgefield is an area in County Durham with serious problems of deprivation following the disappearance of traditional industries, and authorities with such problems have far more significant cost needs. The formula system rightly takes account of that, as well as the special needs of areas, such as the one represented by the hon. Gentleman, where there is sparsity. Sparsity is therefore a factor in the settlement. The system also takes account of pressures in areas with high costs, and areas such as Cambridgeshire have received substantial grant increases because of changes to the area cost adjustment.

Anyone who understands the way the formula works will know that it takes account of the cost pressures on local government, and distributes funds in the fairest possible way to authorities to ensure that they receive a settlement that enables them to deliver services. The difference—the hon. Member for Meriden would do well to listen—between what happens now and what happened when the Conservatives were in government is that in those days councils did not receive increases in grant, but often suffered cuts. In the eight years in which Labour has been in office, councils have received good grant increases year on year, as has been accepted by fair-minded commentators of all political persuasions.

The right hon. Member for Skipton and Ripon (Mr. Curry)—I am delighted that he is here today—has long experience in this subject, and had the difficult task of announcing much less generous settlements when he was a local government Minister. In the debate on 2 February, he said:

"I am tempted to say that this settlement is as good as it gets. It might well be the best settlement of the decade."

Mr. David Curry (Skipton and Ripon) (Con): Would the right hon. Gentleman like to read the words that immediately follow that quotation? I said that from now on the air would be thick with the chickens of Labour's economic policy coming home to roost, and that settlements would be much tougher if Labour won the election.

Mr. Raynsford: No, that was not it. I shall remind the right hon. Gentleman of what he said:

"I suspect that whichever party wins the . . . election, the next settlements will not be as welcome as this one." —[*Official Report*, 2 February 2005; Vol. 430, c. 945.]

I do not think that his party will take much comfort from that. However, I shall come on to future settlements, as I have already told hon. Members.

Dr. Julian Lewis (New Forest, East) (Con): The Minister referred to fair-minded commentators. Does he accept the objectivity of the Audit Commission and, if so, how does he explain the fact that it has noted that

"grant redistribution—which moved grant from London and the south to the Midlands and the north—led to some councils putting up council tax more than others. We found a clear association between the size of grant increase a council received and their increase in council tax"?

Is the commission making that up?

Mr. Raynsford: That report from the Audit Commission is a year and a half out of date. [*Interruption.*] No, it did not reflect accurately the grant distribution at the time and, on that particular issue, it got it wrong. The hon. Gentleman will know from the figures that I have just quoted that, this year, authorities in the south of England received grant increases of no lesser value than those in the north. There was no question of a differential, and the different increases in council tax, with Conservative councils introducing much larger charges, do not relate to grant levels. There is not a correlation between the levels of grant increase and the levels of council tax increase.

Several hon. Members *rose*—

Mr. Raynsford: I have already given way, and I shall make some progress.

It should be a source of shame to the Opposition that the largest increases in council tax reported this year have all been made by Conservative-led councils. The protestations from the hon. Member for Meriden about the unfair impact of high council tax increases have a strong whiff of humbug and hypocrisy about them, as the problem has been created by her own party. Instead of seeking to divert attention with specious attacks on a Government who have given far more generous funding to local government than her party ever did, she would do better to try to get a grip on her own councillors, who have shown a cavalier disregard for the impact of high council tax rises on local residents. While she fails spectacularly to tackle the problems in her own backyard no one will have any confidence at all in her or in her party's ability to keep council tax down.

Mr. Hammond: The Minister has sought to justify his redistribution of grant. Assuming for a moment that we buy that argument, that still means that authorities that have had grant redistributed away from them are faced

[Mr. Hammond]

with a simple choice: cut services or increase taxes. What services would he like my council, Runnymede, to cut if it does not increase the council tax?

Mr. Raynsford: The hon. Gentleman has made a fundamental mistake. He has forgotten that every council got a grant increase that matched or was higher than inflation; no council has had money taken away from it. When his party was in power, councils used to have grant taken away. I ask him to go back eight or nine years and remember what it was like when his party was in government and cut grant. Under this Government, councils have all had an increase in grant. He should remember that, and perhaps he should do his homework a little better before he makes further interruptions.

Because the Opposition parties know in their hearts that the 2005–06 local government settlement is a good one that enables all properly run councils to deliver high-quality services without imposing unreasonable council tax increases, they have sought to divert attention from this year's outcome by running scare stories about supposed future threats. The Liberal Democrats are just as guilty in that regard as the official Opposition. Take the issue of revaluation. The Opposition motion "notes with alarm" the plans for revaluation. The implication is that they do not wish any revaluation to take place. If the hon. Member for Meriden is saying that they do want revaluation to take place, I would be grateful if she confirmed that. I am happy to give way to her.

Mrs. Spelman: In my opening speech, I made clear our position on revaluation. Of course we understand that a property-based tax has to take account of changes in the value of property, but the revaluation exercise does not have to be a stealth exercise to garner more money for the coffers of the Chancellor or for a massive redistribution to compound further the problems of inequity that arise from the present system.

Mr. Raynsford: That is an interesting intervention, because it reveals just how badly briefed the hon. Lady is. We have repeatedly made it clear that there will be no increase in the yield as a result of revaluation. Revaluation is taking place simply to ensure that we should base values on up-to-date values, rather than on values that are 14 years old. It is nonsense to base values for council tax purposes on 1991 values that have to be notionally imputed for all new properties, so revaluation is necessary. We are doing it on a basis that ensures that we have up-to-date values, but with a clear commitment that there will be no increase in the overall yield. That has been made clear year after year, time after time. The hon. Member for Runnymede and Weybridge was in the Committee when we made that clear two years ago. We have repeatedly said that, and I am only sorry that the hon. Lady has not understood that that commitment has been given.

Mr. Curry: The right hon. Gentleman will know that revaluation is often associated with the concept of rebanding. It does not mean anything to say that there will be no increase in overall take. What matters is where the take happens within the bands. There is much speculation that there will be a new low band, which means a lower take for councils with large numbers of properties in the low band, and there is also speculation about the addition of at least two new bands, which would mean higher council taxes. In addition to that, if there is regional valuation, areas that have done relatively well in house prices in a generally depressed market will find their bands increased. The Minister's assurance means nothing unless he is also prepared to say that there will be no rebanding exercise, because it is rebanding linked to revaluation that gives rise to people's concerns.

Mr. Raynsford: Earlier, I quoted the right hon. Gentleman's comments on 2 February, and I quote him again. On that occasion he said:

> "The Minister said clearly that he did not expect to increase the yield from a rebanding and revaluation. I happily accept that"—[*Official Report*, 2 February 2005; Vol. 430, c. 945.]

He accepted that then and I hope that he will accept it now.

Yes, of course we will consider the question of rebanding. We have powers to adopt different bands in different regions and to introduce different bands if we feel that that is appropriate, but any such decision will be taken in the light of the evidence of the Lyons inquiry, because we want to look carefully at the evidence before decisions are reached. Our clear objective has always been that there will be no increase in yield as a result of the revaluation.

Mr. Curry: Of course I accept what the Minister says, but a constituent in my division would be unlikely to say to himself, "Oh, that's fine. There is no increase in overall yield for the Chancellor of the Exchequer", if his own council tax had gone up by a band. That is the heart of the argument as far as people are concerned. Unless the exercise means nothing except the maintenance of all the existing relativities, the Minister's assurances are welcome but will not mean much to the person paying the Bills.

Mr. Raynsford: There are two separate issues here, as the right hon. Gentleman will understand. The first is the overall yield. He accepts the commitment that I have given and I hope that the hon. Lady will. It has been made clearly often enough. The second issue is the impact on individual households. Yes, of course there will be variations because values have changed. Some will go up, some will stay the same and some will go down. Until we have the evidence from the valuation exercise, we will not know what the likelihood of those movements will be, or how it is appropriate to damp them through transitional arrangements or any other changes to the banding system. I have made it clear that we will do that in the light of the evidence because our overall commitment is not to increase yield, and we also do not want to aggravate potential turbulence as a result of changes. Those commitments have been made clear. We will act on that basis and I hope the right hon. Gentleman accepts that.

Mr. Edward Davey: We are coming up to a general election. The Minister suggests that he can give the British electorate no indication of how revaluation will

work. Will he admit for the record that, however it is done, revaluation will mean that millions of households will lose and receive higher council tax bills? That is the lesson not just from Wales, but from all past property tax revaluations.

Mr. Raynsford: No, and I am afraid the hon. Gentleman has, rather uncharacteristically, gone for completely unjustified scare tactics. He knows that the values are set at the date of April 2005. Until the process has begun, no one can know what the relative values of different properties are. He knows very well that, over the past two years, there have been significant variations in the movement of house prices in different parts of the country. Two years ago, the figures would have shown that in London there was a substantial increase compared with 1991 vis-à-vis Yorkshire. Latest figures suggest that Yorkshire and London are now more or less in the same relationship as they were in 1991—there is very little difference. That has been a significant move in recent years. Until we have all the evidence, examine it carefully and decide whether there should be changes in banding and, if so, what transitional arrangements there will be, it is entirely hypothetical and utterly speculative to talk about potential losses or, indeed, gains. I hope that the hon. Gentleman will in future be more serious, as he usually is in these debates.

I give way to my hon. Friend the Member for South Ribble (Mr. Borrow), who is an expert in these matters.

Mr. Borrow: May I take my right hon. Friend back to the point that the Conservative spokesman was making about unfair redistribution of grant? I have an excerpt from *The Surrey-Hants Star* in 2003, which quotes a comment from

"Finance boss Coun. Lorraine Fulbrook"

of Hart district council, who said:

"Huge council tax rises are set for the south this year as the Government diverts our money from the south to its friends in the north."

Does my right hon. Friend share my concern that should the party of Lorraine Fulbrook come to power, money will be taken away from Labour Lancashire county council and redistributed to Tory county councils in the south of England?

Mr. Raynsford: My hon. Friend makes a very good point that there are some extremely ill-informed and entirely inaccurate comments from some people. I am only sorry that those on the Opposition Front Bench have compounded some of those wild and totally unjustified allegations.

Sir Paul Beresford (Mole Valley) (Con): One concern that some of us have about revaluation is that the combination of revaluation and rebanding—increasing the number of bands at top and bottom—will be reflected in the assessment of need and grant. That is where the biggest change could happen. Will the Minister consider regionalising that to diminish the effect of just using dampening measures?

Mr. Raynsford: Had the hon. Gentleman been a member of the Committee that considered the Local Government Act 2003, he would know that we have given ourselves powers to introduce new bands, but there is no commitment to do so. We have said, and I said it again today, that we will await the advice of the Lyons inquiry. We also have powers to adopt regional bands, if necessary. That could be a useful tool to damp the impact of variations in prices since 1991 between regions. We will consider all these issues with the evidence, when that evidence becomes available, after the valuations begin. As I have already indicated, that does not happen until April 2005 because that is the valuation date.

Mr. Patrick Hall: Does my right hon. Friend share my recollection from the Standing Committee on the Local Government Bill, as it then was, in 2003, that, when revaluation was discussed, the Liberal Democrat and Conservative members of the Committee did not seek to stir up and frighten people about the effect of revaluation? They accepted the sensible need to go ahead with it. Does my right hon. Friend agree that the proximity of a general election is leading them to try to frighten people with totally spurious scare stories?

Mr. Raynsford: I agree with my hon. Friend's observation and I would only make the point that the hon. Member for Cotswold (Mr. Clifton-Brown), who was on the Front Bench in that Committee, moved an amendment to require five-yearly revaluations, but did not press it to a Division. I suspect that the fact that he is not speaking from the Front Bench shows that it did not find favour with his party.

Mr. Clifton-Brown: What the hon. Member for Bedford (Mr. Hall) says is quite untrue. In fact, during the Bill's passage, particularly on Report, I remember saying from the Front Bench, to screams from the Government Benches, that the Government had hit on "a seam of silver" in raising extra money by rebanding. The Minister will find that phrase if he looks in *Hansard*.

Mr. Raynsford: It is not particularly helpful to pursue questions of what might or might not have been said. It is on the record that the hon. Gentleman pressed for five-yearly revaluations. The Government feel that a 10-year cycle is appropriate, and I am only sorry that the Opposition, in their motion today, choose some rather extraordinary words in saying that they note

"with alarm the Government's plans . . . for a revaluation",

which everyone here has clearly accepted is necessary to bring values up to date.

We have covered valuation in some detail and I shall move on, but first, in view of the remarks made by the hon. Member for Meriden, I want to make it clear that speculation that the recent revaluation in Wales is a precedent for England is entirely misleading. The decision to have the revaluation in Wales two years before England was taken by the Welsh Assembly Government, who also decided on a new banding scheme and transitional arrangements in Wales. Wales has always had different council tax bands from England, and what is happening in Wales is not a precedent for England.

The Opposition parties also pretend that this year's increase in grant is a one-off, and that next year there will be additional pressures on local government

[Mr. Raynsford]

budgets. The truth is that this year's settlement, while good, is by no means a one-off. The overall increase in Government grant in 2005–06 will be 6.3 per cent. The equivalent increase in 2003–04 was 8 per cent. and, in 2004–05, local authorities benefited from an additional 7.3 per cent.—both higher than next year's generous investment. I hope that we will hear no more from the Opposition parties of their entirely misleading and inaccurate claim that this is a one-off.

The Government, unlike the Opposition, are committed to ensuring proper levels of support to local government to enable councils to deliver their responsibilities without imposing unreasonable council tax demands. We are also committed to the new burdens principle under which Government accept responsibility for meeting the additional costs of new responsibilities placed on local government. Of course local authorities will claim that they face rising cost pressures. They always do. They do it every year in the period leading up to the settlement. Some of those claimed pressures are real, some are exaggerated. Each year we look seriously and rigorously at the balance sheet, and, as hon. Members know full well, in each of the last two years we have put additional resources into the settlement in response to justified arguments put by local government that there were real pressures. We also expect local government to operate in a cost-effective way and to make savings where, as the Gershon review has demonstrated, there is scope to do so. That is the responsible way to support local government and ensure that it operates cost-effectively.

By contrast, the Opposition have no credible or serious policies to offer. They cannot even control their own councillors and their financial projections are so fanciful that they would make even Walter Mitty blush.

Mr. Clifton-Brown: I am grateful to the Minister for giving way because I want to make a serious point. Does he concede that all councils have cost pressures on their budgets because of the increases imposed by this Government in terms of national insurance and pension contributions, waste obligations, increases in the landfill levy, the redistribution of capital receipts and the abolition of the local authority housing grant, which of course increase their need for a council tax increase?

Mr. Raynsford: The hon. Gentleman has simply read out a list that was read out earlier, and some of those apply to some councils, but not all to all councils. All of them have been taken into account and, as he will know, local government has received a 33 per cent. real-terms increase in grant under the Government, whereas when the Conservative party was in power, local government faced cuts year on year on year. *[Interruption.]* The hon. Member for New Forest, East (Dr. Lewis), who is again commenting from a sedentary position, would do well to remember that, when his party was in power, it cut local authority spending. It did not increase it.

As the shadow Chancellor has made absolutely clear, the Conservative party is committed to £35 billion of public expenditure cuts. If it was ever elected, those cuts would cause immense damage to local government, which would bear the brunt, as it did when the Conservatives were last in power. The issue is so important that I intend to spend a little time on it. The Tories' commitment to slash £35 billion will have a massive impact on public services and a massive impact on pensioners. It is patently obvious that the Conservative party cannot make cuts of that magnitude and at the same time fund the spending pledges and tax cuts that it has promised.

Let us take the example of pensioners, as the hon. Member for Meriden made much play of pensioners in her opening remarks. The pensioners of this country will not forget what the Tories did to them during 18 long years, when the Leader of the Opposition introduced the poll tax and the Tories put VAT on fuel, for example. If any group of people in our society know about the value and importance of money and of living within one's means, it is our pensioners. They know that the Tories cannot spend money that they do not have.

Alistair Burt: Why does not the Minister talk about the £5 billion that has been taken away from the pension funds every year since the Chancellor took office? How much does that add up to now and what difference does he think that that has made to pensioners?

Mr. Raynsford: If the hon. Gentleman will wait a moment, I will tell him more about what the Government have done for pensioners and the very substantial increases in income that pensioners have enjoyed, which is in marked contrast to what happened when the Conservative party was in power.

The Tories cannot spend money that they do not have. No one has to take my word for it. The latest edition of the *Municipal Journal* has considered the matter in its usual impartial way and it described the Tory party's plans for efficiency savings to pay for its so-called council tax discount as "pie in the sky". That is what local government experts think about its calculations. Pensioners know that, if the Tories win power, the only cut that pensioners and council tax payers can rely on is £35 billion of cuts. The Tories cannot find those cuts from waste, because our plans already assume substantial efficiency savings as a result of the Gershon review. The Tories are double counting the savings that we have already allocated for reinvestment in front-line services.

Mr. John Hayes (South Holland and The Deepings) (Con): Does the Minister regret the increase in means-testing under the Government? Does he acknowledge that those pensioners least likely to take up means-tested benefits tend to be older pensioners and poorer pensioners, often overlapping groups? Why does he reject the Conservative policy of restoring the earnings link for the state pension?

Mr. Raynsford: For reasons that I will describe in a moment. Pensioners have benefited substantially from increases in living standards under this Government far greater than could possibly be delivered by the Conservative party's policies.

The Tories have also made more than £15 billion of additional spending commitments, which means that they have to find an additional £15 billion of cuts elsewhere. That gives a total of more than £50 billion of cuts by 2011–12. Again, I say that the only cut that

pensioners and hard-working families will get from the Tories is cuts to hospitals, the police, schools and services delivered to their local communities.

I said that I intended to spend some time on Tory cuts, and I have not finished yet. Let us look in detail at how the Conservative party intends to pay for its pie-in-the-sky council tax discount. It says that it can find the money from the £1 billion that it claims that it has found from the cost of local government inspection. It claims that it will abolish inspection, although the Leader of the Opposition told the Local Government Association in July that

"we will be consulting on what should take its place."

Mrs. Spelman: Will the Minister give way?

Mr. Raynsford: If the hon. Lady will contain herself, I will give way in a moment.

The Conservative party does not include in its spending proposals any costs for the alternative that it intends to put in place. To the best of my knowledge, it has not even begun the consultation promised by the Leader of the Opposition. Perhaps the hon. Lady, when I give way to her, will tell us when this consultation is due to begin.

Mrs. Spelman: I am grateful to the Minister for giving way, because since we announced our discount for pensioners, he has deliberately misunderstood this point. The Institute for Fiscal Studies has costed the pensioner discount at £1.3 billion, which will come out of central Government waste. The £4 billion from waste in local government identified in the James review will remain with local government to use as it sees fit. Among other things, it will be used to hold down council tax for people of all ages. The pensioner discount will come from the £4 billion identified by the shadow Chancellor within £35 billion of savings in central Government. I rest my case.

Mr. Raynsford: The hon. Lady has compounded the problem by showing the Conservative party's utter confusion. Its figures are not credible and it uses them in different combinations that make no sense. The overall effect is an unaffordable series of pledges and promises that they do not have the money to deliver. The prospectus is entirely bogus and comes from a party that has lost all sense of reality and that no longer faces the realities of government, which any party must do when it is in government.

Mr. Edward Davey: Has the Minister talked to any of the 235,000 civil servants who would lose their jobs under the James review? Has he asked how much the redundancy payments would cost? Does he think that those civil servants are pleased by Conservative policy?

Mr. Raynsford: I shall do no more than quote the *Municipal Journal*, which states:

"There must be an awful lot of civil servants sitting around drinking tea, judging by the Conservatives' latest expensive pledge on public spending".

The series of estimates is not credible.

The £1 billion figure quoted by the Conservative party comes from a Joseph Rowntree Foundation report in September 2001, which the Conservative party claims estimates the annual direct costs of inspection at £600 million per annum. It then adds to that figure an estimate of £400 million that the Local Government Information Unit came up with for compliance costs.

The Conservative party is wrong. The Office of Public Services Reform estimates that the total cost of all inspectorates is around £600 million, but as hon. Members know, many inspectorates—for example, the Healthcare Commission and four out of five criminal justice inspectorates—do not inspect local authorities. Even for those inspectorates that do inspect local government, local government inspection makes up only a small proportion of their overall costs. For example, the bulk of Ofsted's costs relate to school inspections, not local authorities. My Department's initial and provisional estimates of the total cost of local government inspection in 2004-05 is just more than £90 million.

Even if one were to accept the indirect costs of inspection given by the LGIU—I have yet to see proper evidence supporting those figures—the Opposition's sums do not add up. Are they proposing that we should abolish all inspections? Are they proposing that we should abolish Ofsted or the Commission for Social Care Inspection, and, if we were to do so, what would be the implications for school standards or child protection? Even those cuts do not bring them anywhere near their £1 billion pie-in-the-sky saving. Their figures have no credibility—not a shred—and that example is just one of many. Their pie-in-the-sky discount for pensioners for council tax bills has no credibility. They simply do not have the means to deliver their promise, which is a cruel deception.

The Tory cuts would force local authorities to hike council tax massively. As the Tories oppose capping, they would presumably allow council tax to rise unchecked year on year. If there were another Tory Government, pensioners would face cuts in services and uncontrolled increases in council tax.

Unlike the Conservative party, this Labour Government care about pensioners and have been working hard to raise pensioners' living standards. This Labour Government reduced VAT on fuel to help pensioners and gave free TV licences to the over-75s. This Labour Government introduced £200 winter fuel payments to all households containing someone aged 60 or over, with an extra £100 for those aged 80 or over. This Labour Government added the £100 payment for households with a member over the age of 70 to help meet council tax costs. This Labour Government introduced the minimum income guarantee for pensioners and the pension credit to give extra help to those with savings and modest occupational pensions.

The effect of Labour's reforms has been to increase the average income for pensioners by £1,350 a year, and to increase the income of the poorest pensioners by £1,750 a year. Do those hon. Members who criticise the Government on means-testing seriously think that it was wrong to give that extra help to the poorest pensioners? The Conservatives opposed all those achievements and they threaten all those benefits. Their hollow rhetoric and dishonest promises will not convince pensioners, who know more than anyone else that money does not grow on trees and that one should never promise what one does not have the means to deliver. Pensioners, more than any other section of

[Mr. Raynsford]

society, know the importance of prudent economic management and not pretending that one can live beyond one's means. Along with this House, they will reject the Tory party's blandishments with contempt.

2.55 pm

Mr. Edward Davey (Kingston and Surbiton) (LD): We are right to keep debating council tax in this House, because it is the most unfair major tax in Britain today, and because it causes huge problems. We all know that the council tax is bust, which is why the Government set up the balance of funding review and asked Sir Michael Lyons to examine the matter, and why we have seen so much unrest among pensioners in many communities throughout the country.

Since we last debated council tax, two major issues have arisen: first, the Conservative party has a new policy, which, although it has been a long time coming, we can at least debate; secondly, the revaluation issue has occurred. I would like to spend a little bit of time on those new issues.

If one examines Conservative policy, five facts leap out. First, the Conservatives intend to keep the unfair, discredited council tax system. Secondly, they would introduce a new unfairness into that system, which is a matter that I shall discuss at some length. Thirdly, they have forgotten all pensioners in Scotland and Wales, on whom they have obviously given up. Fourthly, as the Minister has said, the figures are unbelievable—the cheque will bounce because the costings are questionable at least and specious at most. Finally, if one compares the Conservative policy with other polices—particularly ours—it is not generous to pensioners.

The Conservatives have clearly nailed their colours to the mast of council tax. Given that the Leader of the Opposition introduced council tax and the ill-fated poll tax, it might have been embarrassing for him to renege on council tax.

Dr. Julian Lewis: Will the hon. Gentleman give way?

Mr. Davey: No.

The Conservatives have kept their commitment to the council tax, but that means that they have no long-term solution to the problem of local government finance, which the Government, to give them credit, are at least examining. We have heard nothing from the Conservatives about how they would deal with problems such as gearing.

As we have heard from the hon. Member for Meriden (Mrs. Spelman), the Conservatives are tied to a post-election council tax hike because they are committed to council tax revaluation, which is surprising, because we have all read the same Audit Commission report, which states that council tax is fundamentally flawed. They have made the mistake of keeping council tax.

Mr. Pickles: Will the hon. Gentleman explain why the Liberal Democrats chose to side with the Government when they were given three opportunities to vote against the rebanding? Were they trying to wreck the rebanding process?

Mr. Davey: I am glad that the hon. Gentleman has raised that point. Like the Minister, I refer him to the hon. Member for Cotswold (Mr. Clifton-Brown), who moved an amendment to the Local Government Bill, which was not subject to a vote, on 11 February 2003, to introduce a five-yearly review of revaluation. The Tories in the other place U-turned on that policy, and Lord Hanningfield tabled an amendment to get rid of revaluation. In that debate, my noble Friend Baroness Hamwee said that the Tory spokesman

"identifies the problem but the solution is entirely wrong. Let us scrap council tax. That is all I need to say."—[*Official Report, House of Lords*, 16 July 2003; Vol. 651, c. 977.]

She was right. We oppose council tax revaluation because we want to get rid of council tax, and I hope that the hon. Member for Brentwood and Ongar (Mr. Pickles) will intervene on that point later.

I want to move on to my next point about why the Conservatives' new policy is bad for pensioners—at least for the 2 million pensioners who are paying council tax and would get absolutely no help from the Conservatives. The 2000 census for England and Wales gives the figures. Some 1.6 million pensioner households have a non-pensioner living with them. Of those, 400,000 have more than one pensioner living with them. I am not talking about the people who do not pay council tax and get council tax benefit—of course, they will get no help from this policy—but the 2 million people who are really suffering. Let me cite some cases.

Dr. Julian Lewis *rose—*

Mr. Davey: I will let the hon. Gentleman intervene in a minute, but he must recognise what his party's policy means.

Some pensioner households are looking after adult disabled children, while some are being cared for by adult children, but they will get no help from the Conservatives. They are against families who are caring for each other: that is scandalous.

Mrs. Spelman: The hon. Gentleman is talking about my party's proposals and would expect me to know them in more detail. The regulations would obviously have to be framed when we come into government, but I want to make it clear that pensioner households with a disabled adult would not be precluded from being in receipt of the discount. Perhaps he is unaware of what has happened since the ruling that the Government had in the High Court regarding the winter fuel payments. Under a European directive, benefits cannot be discriminatory by gender—that is, against women aged 60 who enter retirement age before then; although according to the Government that will change in due course. That is why the joint age of 65 had to be chosen.

Mr. Davey: It is interesting that the Conservatives are now blaming Europe for not being able to help our pensioners. That is really something. If they have changed their policy within the space of a week, they should have told their leader, whom I heard saying on "Woman's Hour" that pensioner households with adult disabled children would not get their benefits. The problem is that 42 per cent. of pensioners would get no help from the Conservatives.

Dr. Lewis: The hon. Gentleman referred back to what is commonly known as the poll tax. Does he accept that one of the reasons why the poll tax ended up so disastrously was that where there were two or more wage earners in a household, that household as a whole paid an enormous amount of money in local taxation? Does he accept that under his system of a local income tax, the amount that a typical two-earner household in my constituency paid for local taxation purposes would increase by £721 per household, and by even more if there were more wage earners? Surely the answer is to compromise—not to have that burden on the wage earners but to have targeted help to the pensioners, which is precisely what the Conservatives recommend.

Mr. Davey: The poll tax was fundamentally flawed: it was not related to ability to pay and was introduced completely incompetently and unadvisedly by the hon. Gentleman's party leader. Let me deal with his point about double earners. The Conservatives are saying that a household of full-time average earners would pay more—indeed, because they would be bringing in a household income of more than £51,000. That applies to fewer than 10 per cent. of households. The figures that the hon. Gentleman cited from his constituency are completely wrong. I know the New Forest, because my grandmother lived in that area, and incomes are nowhere near the level that he suggests. That suggests to me that he is completely out of touch with his constituents, which many hon. Members will not be surprised about.

Mr. Raynsford: The hon. Gentleman has referred to some aspects of the Conservative proposals. As they are drafted—although judging from the comments of the hon. Member for Meriden they may well have changed before this debate ends, as we are getting instant policy on the hoof—Baroness Thatcher would receive the benefit, but a retired couple, one of whom is aged over 65 but the other is not, would get nothing at all. Is that, in his view, a fair assessment procedure?

Mr. Davey: The Minister is right. It is completely unfair, and 2 million pensioners, many of them struggling, will ask why Baroness Thatcher is getting £500 from her successor as leader of the Conservative party, while they are not.

Dr. Lewis *rose—*

Mr. Clifton-Brown *rose—*

Mr. Davey: I will give way in a second, but I want the next Conservative Member who intervenes on me to answer this question: what have they got against pensioners in Scotland and Wales that they refuse to give them any discount? I know that they are not doing very well in Wales in Scotland, but this policy shows that they have given up completely. *[Interruption.]* The Minister tells me that they are about to change their policy. It is quite possible that we could have three such changes in the course of my speech.

The Minister rightly focused on the Conservatives' questionable costings, including the fact that inspection costs are completely overstated. As I said earlier, 235,000 civil servants would be laid off were the Conservatives' plans ever to come to fruition. In other words, the civil service would have 10 per cent. fewer employees than in 1997, after 18 years of cuts. That is a joke. I have to say to Conservative Front Benchers that if they are really telling the electorate that they plan to sack those people to create money for the first year to provide this discount, that lacks any credibility whatever.

Mr. Pickles: I should like to put the Baroness Thatcher point to bed. As she lives in Westminster, which has a Conservative-controlled council, she would receive only a £227 discount. With regard to Scotland, the Scottish Conservatives have announced a reduction in council tax of a third through paying education directly, and have also agreed to adopt our scheme.

Mr. Davey: We will look with interest at the Scottish Conservative party's costings, because if they are anything like those of the Conservative party in England, they will not be worth the paper they are written on.

Dr. Lewis *rose—*

Mr. Clifton-Brown *rose—*

Mr. Davey: I am not going to give way.

The Minister compared the Conservatives' policy with the Government's, so let me do likewise in respect of our policy. Under the Liberal Democrats' plans for local income tax, some pensioners will gain more than £1,000 a year—double the maximum that the Conservatives offer. Liberal Democrat plans for local income tax would benefit 3 million more pensioners than the Conservative plans, with 3.2 million pensioners better off by more than £500 a year.

Mr. Adrian Sanders (Torbay) (LD): Is it not the case that under our policy, unlike the Conservative policy, low-paid households would gain?

Mr. Davey: My hon. Friend is absolutely right. Interestingly, Christine Melsom from the IsItFair campaign has said:

"The Tories' proposals will do nothing to help the many younger people on low incomes who are already struggling with the effects of previous increases".

The Conservatives' policy is opportunist and unprincipled, and does not even do what they say it is trying to do. The Conservatives plan to help 5 million pensioners, but the average pensioner couple in that group would be £100 better off under our local income tax plans. We are looking forward to debating this with the Conservatives, because pensioners will much prefer our proposals.

Mr. Clifton-Brown: I want to nail the issue of the five-year revaluation. As the hon. Gentleman, who served on the Committee, will remember, the Local Government Bill was huge and hundreds of amendments were tabled. The amendment was not pushed to the vote because it was a probing amendment and we had heard what the Minister had to say about it.

[Mr. Clifton-Brown]

On a different matter, did the hon. Gentleman see last Sunday's "Politics Show", in which the BBC consulted a Liberal website and found a household of three relatively modestly earning public servants who will be more than £800 each worse off under his party's proposals? What does he have to say about that? His colleague the hon. Member for Twickenham (Dr. Cable) was left burbling—all he could say was that the website must be wrong.

Mr. Davey: I have examined the example closely because I was worried about the reports that I heard. It appears that the household in question had a combined income of £100,000. I know that the Conservatives are worried about well-off households, but it is interesting that they are not concerned about people on low incomes. Liberal Democrats are worried about those on low incomes and we will stand up for them because we believe in fairness.

Dr. Lewis: Will the hon. Gentleman give way?

Mr. Davey: No. I have not finished answering the question that the hon. Member for Cotswold asked. He described an amendment that he tabled as "probing". I have a copy of *Hansard* for the relevant debate, and "probing" never crossed his lips. That is especially interesting.

Dr. Lewis: Will the hon. Gentleman give way?

Mr. Davey: I shall, because it might help the hon. Gentleman's blood pressure.

Dr. Lewis: I am delighted to hear that, but it will not help the blood pressure of my constituents in the New Forest, with which I am pleased that the hon. Gentleman has a connection. The £721 extra was calculated according to Liberal Democrat figures, which appear to mislead everyone. He refers to households of perhaps four people on incomes of £25,000 or less each and asks whether they should contribute more. I have news for him—they all pay income tax nationally. Why should they pay local income tax, too? If there is anything wrong with the income tax that they pay, let it be adjusted nationally. Liberal Democrats' local income tax proposals will slaughter people on relatively low incomes.

Mr. Davey: The hon. Gentleman is completely off beam. He should read the report of the independent Institute for Fiscal Studies, which Conservative Front Benchers cited earlier. It shows that our policy is massively progressive and helps all those in the first six and seven deciles of income distribution. The people who would lose are in the top two deciles. He talks about our figures. If he calculates the average earnings of households in his constituency on his figures, the result will be more than £60,000. That is the sort of figure on which Conservative calculations are based. Clearly, he needs to do some more arithmetic.

Mr. Betts: The hon. Gentleman says that the wealthy would lose and the poor would gain under his proposals. However, he has not tackled the point that foreign nationals in this country who pay no national income tax but pay council tax would not pay local income tax and would thus get their local services free, whereas trainee nurses, who do not pay council tax, would pay local income tax. Is not that a redistribution of wealth from the poor to the rich?

Mr. Davey: Student nurses can be protected through extra bursaries. I did not realise that there were so many foreign millionaires. The Chancellor said that he would ensure that they paid their fair dues, and I support him on that.

Revaluation is the next new factor in the council tax debate, because it is imminent. It is happening in Wales now, and if the Labour party or the Conservative party wins the election, revaluation will go ahead. If we win, we will get rid of the tax altogether. The Minister, in his usual charming way, tries to claim that we can wait until Sir Michael Lyons reports, and that there is nothing to worry about. He says that we must wait till 1 April to know the figures for 2005. We are looking forward to knowing those figures, because they should make for an interesting press release from the Halifax building society at the beginning of an election campaign. However, the Minister cannot get away with refusing to state Labour party policy between now and 5 May. He and his colleagues will be harried by the Conservatives, the Liberal Democrats and the media until they give an answer. People want to know what constitutes the ticking time bomb, to use the phrase that the hon. Member for Meriden stole from me.

I was especially interested to hear Conservative Members' statements today. They have been welcome because at least they have been up front and clear for the first time and said that they support a revaluation. I hope that they will explain how they propose to revalue.

It is worth reminding hon. Members of the damage that revaluation can do. The Minister claims that revaluation in England would not be like that in Wales. However, I must stress that Welsh people will have to pay those council tax bills this April. Many people will experience huge increases. In Cardiff, the council tax for 64 per cent. or more of households will increase by one or more bands, whereas it will decrease for only 2 per cent. Some of those increases through the rebanding exercise will happen in the poorest wards in Cardiff. There is therefore no relation between the increases and ability to pay. The council tax for some pensioners whom I met when I was last in Cardiff will increase by three or more bands. I met one person who explained that the council tax for one property had increased by six bands. That is the extent of the pain that may be created through the exercise.

The Government may say that revaluation in England will not be like that in Wales, but we want to know what it will be like.

Mr. Hammond: The hon. Gentleman heard the Minister say that the revaluation exercise would be revenue neutral in overall terms. However, he knows that, because of the way in which resource equalisation works, it can be hugely redistributive. The Minister did not give a commitment, either in the proceedings on the

Local Government Act 2003 or today, that the exercise would be neutral in distribution terms. Does the hon. Gentleman agree that that is worrying?

Mr. Davey: It is worrying, and that is why we want to scrap the tax. That is the best answer to that question.

Hon. Members need to focus on what rebanding means. A move from band D to band E means an increase of 22 per cent. in council tax. A move from band G to band H means an increase of 20 per cent. No move from any band is less than 13 per cent. The rebanding exercise will therefore lead to significant increases, with no relation to income. All the changes under rebanding are effectively random and arbitrary. Changes in people's bills are unrelated to changes in their circumstances. We believe that if local taxes are to be changed, it should be done on a principle—that of fairness. That is why we want to scrap the council tax.

Mr. Clifton-Brown: One of the key difficulties with the hon. Gentleman's local income tax proposals is that they will have to be redistributive. How will he tackle the fact that the tax base in the south of England would have to pay for the north of England?

Mr. Davey: No grant or local government finance system that any party has ever espoused is without some form of redistribution. That applies to the council tax system, a local income tax system and the poll tax system.

Mr. Borrow: Will the hon. Gentleman give way?

Mr. Davey: No, because I want to make some progress.

We have had silence from the Labour party about revaluation in England, and Conservative denial, except on one point. The Conservatives said that if they undertook revaluation there would be no new bands. That will be especially interesting for the 4.5 million households in band A. The figure may be higher because one of the helpful questions that the hon. Member for Meriden tabled this year elicited the response that there are 5.5 million households in band A. They will get no relief from the Conservative approach to revaluation. It appears that the 121,000 households in band H would get relief under Conservative proposals. The Conservatives are committed to not only an unfair council tax and an unfair revaluation but to the most unfair revaluation imaginable.

Our proposal for local income tax is based on a clear principle. It is based on experience throughout the developed world, in America, Switzerland, Japan, Norway, Denmark, Sweden and other countries.

We are grateful for the analysis of our policy that the Institute for Fiscal Studies and the Chartered Institute of Public Finance and Accountancy have undertaken. The IFS analysis shows that all the figures that we have published to date are spot on. Its estimate of an average local income tax was between 3.5 per cent. and 3.75 per cent. I said that our figure was 3.75 per cent. I was therefore being rather conservative with a small "c". The IFS states that 73 per cent. of families would be better off or unaffected by our policy. We said that the figure was approximately 70 per cent. Again, I underestimated the number of people who would benefit from our policy.

The second thing that the IFS said in its analysis was that the number of gainers would far outweigh the number of losers. Its press release says:

"there would be many fewer losers than gainers from this reform."

The analysis goes through the different family groups, showing that families would gain. On average, the IFS says, families in the bottom eight decile groups of income distribution would gain, which Labour Members should support. Single-earner couples would gain on average £4.56 a week, while those with children would gain £2.69, and half of two-earner couples would gain as well. This is a family-friendly policy. Around 8 million pensioners would also gain, with 6.7 million gaining at least £1 a week. Only 4 per cent. of pensioners would lose, and they are the wealthiest, the ones being given £500 by the Tories. The average pensioner couple would gain £8.46 a week, which is an annual tax cut of £440.

I was delighted by those figures. They show that what we have said all along is correct. The figures coming out elsewhere, particularly from the Conservatives, are a total fabrication and completely unrepresentative of real, ordinary families in our country. They are talking about the top 3 to 5 per cent., not ordinary families.

The third thing shown by the IFS analysis is that scrapping council tax for a local income tax is extremely progressive. Our policy is by far the fairest. The people who would gain are the large majority on ordinary incomes. They are the people on low and modest incomes who have been struggling to get by. I am proud to have fought our campaign, and I am proud that we have the fairest policy. I find it odd that some Labour Members have criticised that, and it is worth noting that the Labour Front Bench has not totally rejected our policy but has put it into Sir Michael Lyons's remit so that he can have a look at it. That has not been done in a way that we would have supported, but the Government clearly do not think our policy is as bad as their rhetoric sometimes suggests.

Dr. Alan Whitehead (Southampton, Test) (Lab): The hon. Gentleman states that in the first year of his new local income tax, income tax rises would not be above 3.75 per cent. On his website calculations, that will be achieved by allocating £1.7 billion from the proceeds of a new top rate of income tax. Is he prepared to commit himself today to continuing to put that money in and to inflating it each year in order to stop the gearing effect applying after year one? If local authorities wish to raise the tax in a second and third year to keep their services going, without that guaranteed support they will have to raise local income tax by a factor of two or three times the 3.7 per cent. that he has calculated for the first year.

Mr. Davey: I can reassure the hon. Gentleman. When we publish our costed proposals, he will see the money going through all the five years of the next Parliament. In year one, the figure is not £1.7 billion, but £2.3 billion, and if the website needs updating, I will happily do that.

I am also happy with the CIPFA analysis of our policy. CIPFA recently published a report, "Local Income Tax Exemplified", which, interestingly, had a new idea on how to administer local income tax. This is an idea that I had not come across before, and that—this will be interesting for the Minister—CIPFA did not

[Mr. Davey]

include in its report on the balance of funding. In that report, CIPFA explained how the Inland Revenue could administer local income tax and said that the policy of scrapping council tax and replacing it with local income tax would yield nearly £300 million a year in savings on administration, as we had said previously.

However, in its latest report, CIPFA comes up with an idea that would bring even more savings and make local income tax even easier and quicker to implement than our first analysis implied. By suggesting that the Inland Revenue build any individual local income tax rate into the personal income tax allowance, CIPFA has come up with a method of administering local income tax through the existing pay-as-you-earn codes, which, to use its words,

"would dispense with the need for any additional work by employers in administering the PAYE system."

Having read that report, I have had further discussions with CIPFA, which suggest that its new method would make it even easier than we had first thought to levy local income tax, not just at the principal authority level but at district and indeed parish and town level. I hope that the Minister will consider that idea, which would significantly change the conclusions of the balance of funding review to be even more favourable to local income tax.

Mr. Raynsford: How would the hon. Gentleman's party intend to deal, if that proposal were adopted, with those who are not within the PAYE system, including a large number of very wealthy people who receive income from investments and dividends?

Mr. Davey: Those 9 million people have always been the easiest to deal with, as the CIPFA report shows for the balance of funding review, so I am surprised that the Minister makes that point. An end-of-year return makes it much easier to operate a local income tax.

This has been an interesting debate, giving us the chance to expose the Conservative policy and to explain how the Government have misused the council tax system. It has also given us a chance to demonstrate that the IFS and CIPFA analyses, by independent groups, show that local income tax is by far the best and most effective policy on offer. We go into the next election with two parties wanting to keep council tax and one wanting to scrap it. We go into the election with two parties wanting to revalue everyone's homes for council tax and one party wanting to stop that revaluation. There is a clear choice, a choice of fairness, and I know which way the people are going to vote.

3.25 pm

Mr. Martin Salter (Reading, West) (Lab): It is a matter of some regret that the three Front-Bench spokespeople have between them taken so much time. To be blunt, all three have been unnecessarily indulgent, and I shall take no interventions and be as brief as possible to allow other Members to speak.

The council tax is the son—or, in these politically correct days, the daughter—of the poll tax. It was brought in in a blind panic by the previous Deputy Prime Minister. To fund the expenditure gap, value added tax, one of the most regressive taxes known to mankind, was increased from 15 to 17.5 per cent. Council tax is not a tax of which we can be proud, although its introduction in place of poll tax saw the end of Margaret Thatcher, which happened on one of the happiest days of my political career.

The fact that council tax was introduced in such a hurry meant that, in their essence, the valuations were hurried. In fact, at the time, they were referred to as second-gear valuations. Estate agents and valuers, employed quickly by local authorities and valuation offices, drove around communities in second gear deciding which row of houses were in bands B, C, D, A and whatever.

Perhaps the most popular I ever became in my 12 years as a councillor was when I uncovered fundamental flaws in the banding assessment for the Newtown part of Park ward, which I represented. We were able to get about 2,000 properties re-banded from band C down to band B. If there is anything that the public like—as the Conservatives' current policy indicates—it is being handed money back. The fact that my endeavours got back £65 for each council tax payer in my ward is something that will stay with me for some time.

In a debate on council tax, it is fair to look at how councils of different political persuasions have sought to implement it. We should also ask what value for money they give. My constituency is known as Reading, West, but it includes 24,000 electors in west Berkshire, which, as we all know, has one of the worst-performing Liberal Democrat councils. Sadly, I have to say to the Minister that it is very well rewarded for that; its revenue support grant is some 11.1 per cent. We have certainly rewarded incompetence in west Berkshire.

West Berkshire council uses the 24,000 electors who actually live in the Greater Reading area but fall under the local authority boundaries as little more than a milch cow to raise funds. The difference between the standard service in a Labour-controlled authority such as Reading and the service provided by West Berkshire council is pretty stark. Pensioners in west Berkshire do not benefit from free bus travel, as there is a derisory token system that runs out after a couple of months for the regular bus traveller.

Even worse, more recently, West Berkshire Liberals have taken the extraordinary decision to use up to £900,000 of council tax payers' money to subsidise a privately operated cinema in the centre of Newbury and Thatcham. It is a cinema that most of my constituents in Reading, West who fall under the West Berkshire council area will probably never see, never mind use. That is an extraordinary decision to use £900,000 of council tax payers' money as a subsidy.

I want to address the Conservative plans, because council tax is historically a Tory tax. It is a flawed tax that depends on too narrow a base. I make no mistake about that, and I look forward to the outcome of the Lyons review. It is fair to use an Opposition day debate to analyse the effect on council tax levels of the Opposition spending plans. I have with me a copy of the Conservatives' expenditure strategy for 2005 to 2008, which is snappily entitled, "Better public services, better value: Conservative spending plans 2005–08". The Conservatives have scored a massive own goal in publishing those plans.

The Tories propose a cash freeze on the Office of the Deputy Prime Minister. They are pledged to match this Government's expenditure plans over the next three years on education, health and police. There is no doubt or argument about that, but that is not the case when it comes to the amount that will be available from the Office of the Deputy Prime Minister through the revenue support grant to local authorities. According to the Conservatives' own figures, the budget for the Office of the Deputy Prime Minister would rise by a mere 1 per cent. by 2008. It would now be frozen for the next two years, and in the final year of the three-year period, it would rise by 1 per cent. from £39.4 billion to £42 billion. That must be set against the current comprehensive spending review expenditure pledge to increase the figure to £50.7 billion by 2008 under this Government.

That is a massive cut, and it would have an impact on council tax levels. It is a sad fact of life that Parliament and the country have not yet woken up to the impact on council tax of the ODPM Tory cash freeze. Council tax would go through the roof.

Mr. Patrick Hall: Is not the position with regard to the Opposition's spending plans even worse than my hon. Friend has outlined? By 2011–12, we would have had £35 billion of cuts year on year. Would that not put even more pressure on local government?

Mr. Salter: I am sure that it would, but let us concentrate on the three years for which we have published figures and on the facts before us. Let us ensure that the Conservative party stands condemned by its own statements.

The impact of the Conservatives' flawed policy on council tax bills in England and Wales is simply horrendous. It works out at a massive £4.2 billion cut in revenue support grant for every single local authority in England and Wales. I am no expert in local government finance, but my hon. Friend the Member for Southampton, Test (Dr. Whitehead), who is also my office mate and a former local government Minister, undoubtedly is, and I pay tribute to his work on this issue. We have taken a look at the impact on council tax in the south-east. Sadly, because he is no longer a Minister—in my view, he should be—*[Interruption.]* He should not necessarily be a Minister at the current Minister's expense. Sadly, my hon. Friend the Member for Southampton, Test does not have a bevy of special advisers or civil servants to do his number crunching, so we have prepared numbers only for the whole south-east. I think that they are worth reading into the public record.

The average increase for the 13 south-east unitary authorities as a direct result of the proposed £4.2 billion cut in the ODPM budget for revenue support grant would be a massive 44.29 per cent. over the next two years. For the 55 district councils—this is worked out on the basis of billing districts and takes into account the fire and police precepts, as well as accounting precepts—the increase is a massive 30.35 per cent. None of that allows for inflation, for which it would be perfectly accurate to add 5 per cent.

Let me read into the public record some of the figures for council tax that the poor people in the following unitary authorities would have to bear if we were unfortunate enough to have a Conservative Government after the next election. Bracknell Forest would see a council tax increase of 21.6 per cent. in 2005–06, and of 33.4 per cent. in 2006–07. That would be a massive Tory tax rise of 55 per cent. Brighton and Hove would see increase of 35 per cent. over that two-year period. The Isle of Wight's council tax would increase by 25 per cent., and that of Medway by 41 per cent. The increase in Milton Keynes would be an incredible 59.28 per cent. Portsmouth's increase would be 33 per cent., while Reading's would be 50.48 per cent. Slough would see an increase of 44.68 per cent., and Southampton an increase of 41.48 per cent. Swindon's increase would also be 41.48 per cent. over the two years.

The increase in west Berkshire would be 57.48 per cent.—as if its council tax is not high enough already—while Windsor and Maidenhead's increase would be 43.28 per cent. Wokingham would see an increase of 48.28 per cent. The average increase across the unitary authorities in the south-east of England would be 49.29 per cent. These increases represent an incredible tax burden for people to bear.

The Conservatives' proposal to hand back to pensioners a little bit, or perhaps quite a substantial amount, of their council tax is clever politics, but one of the reasons why it is fundamentally dishonest is that the Conservatives have not come clean about how much the council tax will rise as a result of their expenditure plans. Their policy simply involves robbing Peter to pay Paul. Let us look at how it would work for band D council tax payers in Reading. The council there is not particularly profligate—it certainly levies a council tax rate lower than that of west Berkshire, and lower than that in parts of Wokingham.

Over the past three years, Reading borough council has kept council tax rises as low as possible, and I have to say that it has not been particularly favoured by the amount of Government grant that it has received. None the less, in 2003–04 council tax in Reading rose by 7.5 per cent., in 2004–05 by 3.7 per cent., and in 2005–06 by 4.75 per cent. Under a Conservative Government, however, there would be a 50 per cent. increase over the next two years. In cash terms, band D council tax would rise from the current level of £1,270 to a massive £1,902, so a £632 price tag is attached to voting Conservative in Reading, or in any other council tax-paying area.

I hope that the Minister will help me and my hon. Friend the Member for Southampton, Test to ensure that every pensioner and council tax payer in the country is made well aware of the consequences of the Conservatives' fundamentally flawed and dishonest policy.

3.37 pm

Mr. Malcolm Moss (North-East Cambridgeshire) (Con): Since this Government came into office, council tax bills have risen by an average of 70 per cent. throughout England and Wales. I trawled through some statistics from my own area and the area around the constituency of the Under-Secretary of State, Office of the Deputy Prime Minister, the hon. Member for Corby (Phil Hope), who will no doubt respond to the debate later. Corby's council tax has increased by 71 per cent.

[Mr. Malcolm Moss]

over that period, Kettering's by 72 per cent., Leicester's by 88 per cent., Milton Keynes's by 73 per cent., Peterborough's by 83 per cent., Cambridge's by 77 per cent., Great Yarmouth's by 95 per cent., and Northampton's—close to the Minister's patch again—by 71 per cent. Similar figures apply across the board, across all councils of whatever political persuasion. That is the result of Labour's policy on local government funding.

In 2004, the average band D council tax bill in England was £1,167, up from £689 back in 1997–98. As we have heard today, further tax hikes are expected after the election, due to the black hole in the Government's funding of local councils, just as happened after the 2001 general election. Calculations suggest that council tax bills will top £2,000 by the end of a Labour third term.

Much was made of the additional money from the Chancellor, announced in his pre-Budget report, of £1 billion this year to help to keep council tax as low as possible—obviously with the election in mind—but we now discover that £350 million of that is money announced last year and £350 million is ring-fenced money, which will not be distributed evenly across councils throughout the country. That leaves new money of about £250 million for distribution.

Under this Government, pensioners have lost over a third of their pension increase in higher council tax. For typical single pensioners, 40 per cent. of their basic state pension increase has been snatched back in higher council tax, with pensioner couples losing a third of the rise in soaring council taxes.

To take another measurement of Government policy on council tax receipts, the increase in such receipts under this Government is about £9 billion—from £11 billion in 1997–98 to £19.7 billion last year. So, there has been a hike in council tax receipts of almost 80 per cent., which is equivalent to about 3 per cent. on the basic rate of income tax. One problem with this Government is that they claim each year that they are giving additional increases and above-inflation increases—we heard that from the Minister today—but they do not convey to the House the fact that a lot of the money in terms of the global increase is specific grant money, which is ring-fenced. The figure some years ago was 15 per cent., but the Minister recently announced that it is to drop to, I think, 13 or 13.5 per cent.

Mr. Raynsford: Nine per cent.

Mr. Moss: That tells me that the Government have accepted the mistake that they made and that they are reining back on the specific grants, which go to pet projects, usually in Labour areas.

Mr. Edward Davey: Will the hon. Gentleman give way?

Mr. Moss: No. I have been told that I have to finish fairly soon to let other hon. Members speak.

I want to refer to my constituency, North-East Cambridgeshire, and to Fenland district council, which occupies most of that territory and which was capped last year in a way that I consider spiteful, unnecessary and unwarranted. The facts of the matter are that last year Fenland district council had £420,000 withheld or clawed back under the floors and ceilings policy, while this year the amount is £360,000, which went to help those on the so-called floor.

The formula uses sparsity factors, deprivation indices and other factors to determine the grant requirement. In effect, therefore, the Government are on the one hand saying that my council area requires a certain amount to deliver services in a rural area with deprivation and sparsity problems, but on the other are taking back a considerable amount of that money. They then have the audacity to say, "We said you needed the money. We haven't given it to you, but you are increasing your council tax above a rate that we deem necessary. Therefore, we are going to cap you."

The bill paid in Fenland is, on average, the lowest in Cambridgeshire, £83 lower per dwelling than the county average, more than £60 lower than the English average and more than £130 lower than the shire district average. So, under no count can one conclude that the council tax payers of Fenland pay more than those in many other equivalent banded properties in adjoining constituencies, or for that matter in shire districts throughout the country.

David Taylor (North-West Leicestershire) (Lab/Co-op): Will the hon. Gentleman give way?

Mr. Moss: I am sorry, but I do not have time.

The problem for councils such as Fenland is that a huge proportion of their properties are in the lower bands. For example, nearly 85 per cent. of Fenland's properties are in bands A, B and C. That is a remarkable statistic for a Conservative constituency, but it is the reality. So, it costs Fenland far more to raise extra finance on council tax than it would neighbouring districts. I believe that it will require about £2 on council tax in Fenland, while neighbouring Cambridgeshire districts will need to charge only an extra £1 to raise the equivalent amount.

Nominating a few councils for capping last year was a spiteful exercise on the Government's part. It was of course intended to set a clear standard for this year, with an election coming up. The stick that the Government wielded then, plus the carrot produced by the Chancellor with his extra funding, mean that most council tax increases will be about 4 or 5 per cent., which is what the Government intended all along. They can announce that figure in the run-up to the election.

The Minister mentioned two Cambridgeshire councils, Huntingdon and South Cambridgeshire. For many years they imposed very small increases; on one occasion I think there was no increase at all. They were able to do that partly because they had sold off housing stock and had money in their capital accounts, but it is not possible to cushion the blow for ever, as the Minister well knows. Indeed, he is nodding. There comes a time when a council must put back its tax base. Huntingdon is now proposing an increase of, I think, 13.7 per cent., and South Cambridgeshire has said that it must increase the district element of council tax by 100 per cent. It will still be the case that neither council will have an average band D tax higher than that of any other shire district.

I want to say a little about the rebate that we promised to pensioners. This is extremely good news for my pensioner constituents. The constituency has an elderly population, and some 10,500 pensioner households will benefit from a £500 rebate. I congratulate my colleagues, including those on the Front Bench, on that extremely helpful suggestion.

3.47 pm

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): When we debate local government finance here, the problem with the Conservatives is that they believe that history began in 1997. They conveniently forget everything that went before: the poll tax, the problems with rate-capping and the massive cuts in grant faced by local authorities, not just during the four years before the 1997 election but throughout the 1980s.

Whose council tax is it anyway? Given the way in which the hon. Member for Meriden (Mrs. Spelman) introduced the debate, no one would believe that it was introduced by a Conservative Government. I happen to think that it was probably one of the better things that the Conservative Government did during their 18 years in office. I think it is a reasonable tax that is now in need of some reform, and that is precisely what the Government are trying to do. It would, in my view, be entirely illogical not to impose any tax on the most valuable asset that people own, whose value has increased so much over the past few years.

The Government have sensibly established a balance of funding review and the Lyons inquiry into the funding of local government. We must address the fact that because the business rate is linked to inflation, an increasing burden is being imposed on council tax to fund local services. I hope that Sir Michael Lyons will consider that. I would not oppose a local income tax in addition to council tax for larger councils, which the Chartered Institute of Public Finance and Accountancy has recommended, but proper research is needed so that we know what the impact would be. We need significant reform of council tax benefit for owner-occupiers, which is the one benefit that is not taken up by about half the people who are eligible for it. We need a campaign to deal with that, but perhaps we should also think again about some form of tax credit to replace the benefit.

We also need to look at the bands. I think that we should have more at the top, and split band A at the bottom. Given a system of rebanding and a substantial increase in the take-up of the council tax benefit to which people are entitled, council tax would become a progressive form of taxation. The figures are there to show that.

Mr. Patrick Hall: On the future of the council tax, does my hon. Friend agree that there is a serious case for looking at regional variations in the bandings?

Mr. Betts: When revaluation is done, we will certainly have to consider at a regional level the way in which assistance is given. Indeed, I think that my right hon. Friend the Minister mentioned that issue, and the Government will come back to it.

My right hon. Friend did an excellent demolition job on the pie-in-the-sky proposals from the Conservatives that he identified. The reality is that in costing the Conservatives' scheme, the Institute for Fiscal Studies did not confirm that the necessary funding would be available. That is a crucial difference and we have to get it on the record. If the Conservatives are serious—should they come to power—about preserving education and health services and the police, the massive weight of their cuts would fall on local government. They would fall on maintenance of the roads, which they claim to be interested in. They would fall on litter collection and the maintenance of open spaces, and on libraries, leisure services and the fire service. Those services are at the top of the list of people's priorities, and we need to emphasise time and again that they would be cut substantially under the Conservatives' proposals. The environment in which people live and the services that they receive are crucial to the way in which they feel about local government.

David Taylor: Will my hon. Friend give way?

Mr. Betts: I am afraid that I will have to decline as I am on a strict time limit. I want to make progress so that I can allow others who have been present throughout the debate to get in.

The worst criticism that I can offer of the Conservatives' proposals is that they are worthy of the Liberal Democrats' unfunded and uncosted proposals at their worst. During his response, my right hon. Friend made a point that I particularly welcomed. There was some concern in local government circles that the £1 billion would be a one-off sum and that next year, local government would be left to deal with the mess. I am pleased that he dealt with that issue, and local government will be somewhat reassured by what he had to say.

I have two final points to make about the Opposition parties' proposals. The Liberal Democrats say that they have done the research and the costings and that local income tax will achieve various things. However, during his speech the hon. Member for Kingston and Surbiton (Mr. Davey) gave away something that also emerged when the Liberal Democrat leader of Somerset county council appeared before our Select Committee. The hon. Gentleman said that any form of taxation needs its own form of grant distribution. When challenged, the leader of Somerset council had to admit that, on a like-for-like basis and without any change to the grant regime, local income tax in Somerset would not be affordable for many families. She said that the council would need a substantial increase in grant.

Frankly, if the hon. Member for Kingston and Surbiton has not calculated how he would distribute grant, he cannot say precisely how much people would have to pay in local income tax, compared with council tax. *[Interruption.]* He is mouthing silently that the Liberal Democrats have made those calculations, but I certainly have not seen them on his website. It will be interesting to see them in due course.

The hon. Member for Meriden put a great deal of emphasis on the fact that she opposes means-testing, but let us consider the Conservatives' proposed council tax discount for pensioners, according to my understanding of it. Those pensioners who currently pay no council tax because they get a full discount would get no discount from her. Those whose council tax is partly covered by

[Mr. Betts]

council tax benefit would get only part of her discount. However, those who would get the full discount include some of the richest, who live in some of the largest houses.

Mrs. Spelman: Let me make the position clear. Somebody who receives 100 per cent. council tax relief is obviously not in need of any discount. For somebody who receives benefit providing partial council tax relief, the full discount would apply to the residue. They would get the full 50 per cent.

Mr. Betts: The full 50 per cent. of what? Is it 50 per cent. of the council tax that they are paying or 50 per cent. of what they would be paying if they did not get any council tax benefit? It is completely unclear.

Mrs. Spelman: To make it perfectly clear, let me explain the order in which the benefits stack. First, council tax benefit applies if someone is eligible for it; after the application of the benefit, a residual sum may remain. That residual sum is the one to which the council tax discount of 50 per cent. applies. If, in addition, the person concerned is eligible for the single person's discount, the full 25 per cent. is applicable. The benefits stack in that order: council tax benefit; single person's discount, if eligible; and, if there is any residue, the full 50 per cent. discount would apply.

Mr. Betts: That is not perfectly clear. If people do not pay council tax because they receive the full benefit, they do not get the discount; if they pay part of their council tax, they will get part of the discount according to some rather unclear form of calculation. Some of the richest people living in some of the most valuable houses will receive the full amount of discount—*[Interruption.]* The hon. Member for Meriden says that this is not means-testing, but her discount is linked to a means-tested benefit—the council tax benefit—so the resulting discount must itself be means-tested, but means-tested in a wholly perverse way. It is, in fact, means-testing stood on its head. That is the charge that I level at the Conservative proposals. It is stood on its head, because the biggest discount goes to the people who have the most money and who live in the biggest houses. That is the reality.

3.56 pm

Mr. Nigel Evans (Ribble Valley) (Con): I am grateful for the opportunity to make a short contribution to the debate. I agree with only one thing that the hon. Member for Reading, West (Mr. Salter) said—we should keep our contributions short in order to allow other Back Benchers to speak. I have to say that the Minister for Local and Regional Government spoke for 43 minutes, but he said absolutely nothing and made no contribution of value to the debate.

Speaking as a former county councillor, I pay tribute to the many councillors up and down the country who do tremendous work under great pressure, frankly, as a result of the extra demands put on them. My patch includes the Lancashire county council, which is Labour controlled and Ribble Valley, which is Conservative controlled. Of course, the people of Ribble Valley will not have to wait very long—we know the date at least of the county council elections—before they have a Conservative-controlled Lancashire county council that will be able to deliver effective policies on a much lower council tax than they currently pay.

One matter on which we can all agree, irrespective of whether we have had experience on a council, is that the vast majority of people in this country simply do not understand local government finance. It is incredibly complex, yet so much of what the Government say these days depends on it. The Government are trying to use smoke and mirrors in order to confuse people, but funnily enough, one thing that does not confuse people is the demand that they receive through the letterbox. When they open up the letter, they see how much council tax they have to pay. On that matter, there is no confusion.

For a band E property in Ribble Valley in 1997, people had to pay £746; today, they have to pay £1,206. There is no confusion there at all—*[Interruption.]* The Minister knows perfectly well that biggest costs that people living in Ribble Valley will have to face will come from the Labour-controlled Lancashire county council. We hear a lot about the wonderful settlement that councils have had this year, but does not the Minister find it significant that, if we look back to the previous occasion on which a general election and county council elections were held virtually together, the council tax increase was pretty small, too? Subsequently, of course, council tax went up to a much higher level, but, lo and behold, what are we being told now? We hear that the deal this year is wonderful and that all the increases should be kept to a minimum. We are encouraged to rejoice that the increases in Ribble Valley may be only twice the rate of inflation. This is, as everyone knows, a general election year. People in Ribble Valley are pretty canny. They know that if a Labour Government are returned after the next general election, the increases in council tax will rise dramatically, just as they have done—by 70 per cent.—since the Government came to power in 1997.

I want to concentrate mainly on pensioners, but they are not the only ones to suffer. First-time buyers are also being clobbered one way or another. They are getting clobbered now because they have to pay stamp duty, which has not kept pace with inflation. Many people buying their first homes are truly being clobbered by it—*[Interruption.]* Before the hon. Member for Kingston and Surbiton (Mr. Davey) even tries to intervene, I do not agree with any of the Liberal Democrat policies. As I say, people are clobbered at one level, and then the council tax comes in on top, and they are clobbered again.

What the Government are attempting to do with their revaluations and rebanding is to introduce a very crude wealth tax. The Government should be far more intelligent about that.

Part of the problem is that councils face so many extra demands. My hon. Friend the Member for Cotswold (Mr. Clifton-Brown) listed the various extra demands that have been put on councils, and my local council complains most about the pensions claw back. That has had a huge impact on Ribble Valley council, as expressed at a meeting last night about employee pension funds. The council has to find £120,000 for that next year. The year after it will be £190,000 and the year

after that £260,000. Those sums will have a huge impact on the level of the council tax in Ribble Valley. I pay tribute to Councillor Richard Sherras, who proposed the motion last night to bring the issue to the Government's attention. It is not only Ribble Valley that will suffer, because all councils will have to find similar extra sums.

Pensioners are a vulnerable group of people because many of them have to exist on fixed incomes. That is incredibly difficult, because they have to try to budget on the money that they know is coming in. However, from year to year, they do not have the faintest idea of the full impact of the council tax.

Ribble Valley has seen a vast increase in the number of people aged over 65. In 1991, there were 15,578 and in 2001—the latest year for which figures are available—there were 18,801. As those people get older, they rely increasingly on the services that the county and borough councils provide for them. Some of the care homes in Lancashire have been closed recently and the care packages for elderly people have been reduced, at a time when demand has increased. Older people find that very worrying.

Some of my constituents have lived in Ribble Valley for many years, they have brought up a family of three or four children, they have moved house two or three times and they now live in a big house. Although the children may have moved away, leaving one or two pensioners living there, that house holds the memories of their family, and it is appalling that they may be forced to sell that family home simply because the council tax has gone up 70 per cent. since 1997. Who can say how much further it will increase? If the Government win the election, such a property may even be rebanded.

Mr. Simon Burns (West Chelmsford) (Con): Does my hon. Friend remember that pensioners in Ribble Valley had a significant increase in their council tax in 2002, because of the Government's poor funding of Lancashire county council, yet pensioners received only a 75p per week increase in pension?

Mr. Evans: Pensioners will look at all the issues in the round when it comes to the next general election. We have heard much from Labour Members in this debate about the new Conservative proposals that we will introduce after 5 May—if that is the date of the election. It is only the date that is uncertain, not the outcome of the election. Many Labour MPs are worried about the election because our proposals are popular, as I know from talking to my constituents. People cannot wait to receive a reduction in their council tax of up to £500. Unlike the hon. Member for Sheffield, Attercliffe (Mr. Betts), they understand the proposals. We will make further proposals to assist pensioners, and the council tax reduction will be the jewel in the crown.

4.4 pm

Dr. Alan Whitehead (Southampton, Test) (Lab): Frankly, the Opposition motion is in essence an appalling confidence trick. I had something of a singalong "Sound of Music" moment during the speech with which the hon. Member for Meriden (Mrs. Spelman) opened the debate, because on consulting the Conservative party website this morning I saw that she had already made the speech; quite a lot of it was on the website. Sure enough, when I entered the Chamber later, there she was making it. Perhaps that underlines the relative priorities being adopted in the propaganda at the heart of this initiative, and how much the House appears to matter in the debate.

There are two explanations for the deplorable trick that is being played. Either the hon. Lady knows what local government support the shadow Chancellor proposes, should the Conservatives be elected, in which case she is complicit in that deplorable trick, or she does not know, in which case she should consult what the shadow Chancellor says a few pages down on the website from where she has precipitately published the speech she made this afternoon, to see where the truth lies.

The shadow Chancellor said last February:

"I have agreed with my Shadow Cabinet colleagues that the baseline for spending across all of these departmental budgets"—

including the Office of the Deputy Prime Minister—

"will be 0 per cent. growth for the first two years, followed by 2 per cent. growth per year for the remaining four years of the period covered by the strategy."

That is a freeze for the first two years.

Lest the hon. Lady says that that was last February, I point out that just two days ago the Conservatives posted the uprating of their medium-term strategy on their website and said:

"Last February, we set out our medium term expenditure strategy. The heart of that strategy is a path for public spending that is affordable . . . in this document we set out how we will achieve that affordable spending."

Helpfully, on page 2 of that document is a table that sets out the three-year spending priorities. It is divided, also helpfully, into priority and non-priority areas. What every person who thinks about local government ought to know is that under the heading "non-priority areas" is Conservative future spending on local government. That spending, as last February's announcement by the shadow Chancellor shows, is to be frozen for two years, and is to rise by only 1 per cent. in real terms over three years.

What does that mean? It may not mean a great deal to some people, but it actually means that some £4.2 billion will be sucked out of local government expenditure, with the result that that money will not go to local authorities.

Mrs. Spelman: For the record, I had not finished writing my speech this morning. I think that what the hon. Gentleman saw on the website were the details of the proposal.

On the financial question, of course local government spending includes the important elements of education—on which we are committed to above-inflation spending increases—the health budget, with a read-across to social services provision, and police, on which we are committed to increasing spending. All those are elements of local government finance. In the same document, we identify more than £4 billion of savings within local government that could, of course, be used by local authorities, as they choose, to help with front-line services and so on.

Dr. Whitehead: I am afraid that that will not do. The £4.2 billion loss over the three years would occur after taking account of the increases that the Conservatives have indeed suggested they would make in their education and health expenditure. As everyone knows, in the context of local government and council tax, that £4.2 billion loss can be made up only in one of two ways: either there must be a change to the system whereby the relationship between what is raised locally and what is provided centrally is augmented by other forms of local tax, in which case the gearing ratio is not so harsh; alternatively, if one wants to maintain services at the same level, having lost that amount of money, council tax must be raised, as day follows night. It is quite simple and straightforward.

There are no Conservative proposals, as far as I am aware, for any change to how the council tax works, other than that the Conservatives apparently want rebanding, but not nasty rebanding. The Conservatives have two commitments: first, to keeping the council tax as the main source of raising revenue for local authorities; and, secondly, to reducing radically the amount that central Government put into local government, as set out in their medium-term expenditure plan.

David Taylor: Perhaps my hon. Friend was about to come on to the Conservatives' third commitment: the so-called council tax discount for pensioners. That would cost £1 billion, and although they say that it would be funded by savings, the latest edition of *The MJ*—formerly the *Municipal Journal*—shot a hole in the bows of that by saying that such savings are pie in the sky. Does he agree with that assessment?

Dr. Whitehead: I do.

Mr. Ronnie Campbell (Blyth Valley) (Lab): Will my hon. Friend give way?

Dr. Whitehead: I am sorry, but I cannot take any more interventions because I have only a little time.

Even if the Conservatives could make the savings that they claim—I agree that they are pie in the sky—and told pensioners that they could fund the scheme, what would be the effect of taking such money out of local government? We should compare their proposals with Labour's medium-term expenditure plans, which put it on record, in black and white, that such funding will increase by 17 per cent. over the same time period.

What would be the effect of a 1 per cent. increase rather than a 17 per cent. increase? Owing to the gearing effect, local authorities that wished to keep their services at the same standard would have to increase their council tax by 4 per cent. for every 1 per cent. lost from central Government grant, which explains why, when the Conservatives introduced the council tax, they increased value added tax by 2.5 per cent. They did that so that they could pack the amount given by central Government and thus keep council tax rises lower. They would not be able to say that they were not warned about that effect or that they did not know about it.

What would be the effect of the Conservatives' proposal in Southampton? Council tax would probably rise by about 40 per cent. over two years because of the loss of increased grant. That means that the council tax for an average band D property in Southampton would increase by about £600.

Sir Paul Beresford: Will the hon. Gentleman give way?

Dr. Whitehead: I am sorry, but I do not have time.

The Conservatives tell us that pensioners would receive £440, but they would have to pay an extra 50 per cent. council tax over that period. After taking inflation into account, all the money that the Conservatives would give pensioners under their phoney plan would be taken away from them due to the removal of money from local government, as identified in their medium-term expenditure plan.

The Conservative proposal is a fraud that is unworthy of the people of this country. If the hon. Member for Meriden ever has the misfortune of trying to put the policy into practice, I urge her, before she becomes distressed, to consult the shadow Chancellor to find out whether he will change his policy. If she understands what his policy really means for local government, she should withdraw the proposal that she put before us today.

4.12 pm

Alistair Burt (North-East Bedfordshire) (Con): I am grateful to the hon. Member for Southampton, Test (Dr. Whitehead) for drawing attention to any distress on the part of my hon. Friend the Member for Meriden (Mrs. Spelman). I assure him that I see no distress on her face. Her clear exposition of our party's position was given with the authority and assurance that she will carry into her new position of local government Minister in due course.

The debate is much concerned with figures, but the council tax represents more than that. We can use the debate to illustrate the way the Government go about their business more widely. They ride two waves with the British people, the first of which is disillusionment. There is a sense that they have squandered the good will with which they came to office. Those in professional and public service circles have a sense of their overbearing centralism, which prevents good professional officers from exercising their discretion and doing their work. The second wave that the Government ride is one of cynicism, which is born of the fact that the public do not trust them any more because there is sufficient evidence of their dishonesty. The council tax draws those two waves together.

Let me give examples from the three authorities that I share the honour of representing. Bedfordshire county council has been given an extra £14.9 million, which no doubt the Minister for Local and Regional Government will trumpet. Some £11.6 million of that will be automatically passported to education, which leaves £3 million to deal with new legislative issues and unavoidable growth. Some £2.5 million is required for additional social services assistance, and there are demographic pressures in the area.

An item called "Supporting People" used to be 100 per cent. funded by Government, but is now only partly funded, leaving a shortfall. Where will the extra money come from? The council must now pick up the costs for preserved rights and residential allowances, as

no extra funding is available. Bedfordshire county council therefore needs to spend more of its own money, as costs are not accounted for by the Government, yet the Government trumpet their good will towards local government.

Mid Bedfordshire district council was mentioned earlier. The guns of Whitehall are trained on it, because it proposes to make a 13.3 per cent. increase, which, as I told the Minister, equates to £1 a month. It is the 10th lowest rated district council of 238, yet the full might of Whitehall will be brought to bear on it for its unjustifiable activities in protecting its citizens. In a letter to the Minister dated 28 February, the leader of the council, Patricia Turner, raised the issue of what happens in growth areas. Mid-Bedfordshire is such an area, as the Government want to build many more houses there. Mrs. Turner said that

"This Council is in a designated growth area under the Milton Keynes and South Midlands Sub Regional Strategy and we have experienced a tax base growth of 4.7 per cent. in 3 years, equal to 2190 properties. This growth is expected to continue. The calculation for grant distribution, however, applies a band D equivalent of about £180 for each new property to be set against the Formula Spending Share."

The band D charge for mid-Bedfordshire, however, is £90, so Mrs. Turners says that

"the council effectively loses around £90 with every new property added when its FSS is reviewed."

There are clearly pressures on Mid Bedfordshire council, yet it will fall foul of Government capping rules.

There has been a 72 per cent. increase—eight times the rate of inflation—in council tax in mid-Bedfordshire since 1997. At Bedford borough council, which covers part of my constituency, the increase has been 66 per cent. or seven times the rate of inflation over seven years. It calculates that even on the Government's own needs assessment, a further £237,000 should have been made available. It is concerned about issues such as the implementation of the Licensing Act 2003, as that is not fully funded and will add 1 per cent. to the costs of the council tax. It is worried about increased pressures for recycling—a good thing—that will add an estimated 7.7 per cent. to council tax costs. The council must bear those additional costs.

The meanest cut for Bedford borough council is the loss of the disabled facilities grant. The Minister looks doubtful, but after our debate I shall give him a copy of a letter from the Office of the Deputy Prime Minister to the council dated 28 February 2005. It says:

"For 2005/06 the share available for authorities in the East of England is £9,778,000, which represents a 2 per cent. reduction compared with the amount available for 2004/05."

The disabled in Bedfordshire borough will receive less as a result of the Government's actions. The former director of the SHAC housing association is giving all his attention to Mid Bedfordshire district council, which is going to charge people an extra £1 a month, yet he shows little interest in whether or not the disabled people of Bedford borough face a reduction in the disabled facilities grant.

As I said earlier, the Government are riding two waves—disillusion and cynicism. We cannot trust everything that they say. I have given the example of three different councils that are trying to do their best under the Government. The statistics will be used to claim that they are receiving more money every week and, indeed, every day from the Government, but their own experience of rising costs affects what they can do with the money. Councillors and people who work in local government know that the figures are fiddled. As my hon. Friend the Member for Ribble Valley (Mr. Evans) said, when the bill comes through the letter box people can see that they have been charged extra and that council tax has increased at a rate many times that of inflation since 1997. The Minister says that the Government are giving councils more money, and that the problem is with the councils. However, it is an insult to electors' intelligence to be told that this year's settlement does not have anything to do with the general election. Until Ministers stop treating the electorate with contempt the twin waves of disillusion and cynicism will go all the way to the Government's grave—a moment that cannot come too soon.

4.19 pm

Mr. David Borrow (South Ribble) (Lab): Local government finance is, in some ways, straightforward. Local authorities have three sources of money. They get it from central Government in grant, the business rates and the domestic property tax. Those are the three sources that have existed in my adult lifetime. Until 1990, the level of the business rate and the domestic property tax were subject to decision by local authorities. Since 1990, the business rate has been decided by central Government and its rate has been fixed to inflation. The only flexibility that local authorities have is in the council tax.

Today's debate has ignored the fact that we will not have stable, long-term local government finance until we give local authorities control over a bigger proportion of their revenue. The Tory proposal has a lot to commend it in terms of what it does for middle income and better-off pensioners, but for local government it shifts the balance in the wrong direction. It means that local government is more dependent on central Government finance than on revenue raised locally. The Lib Dems' solution of a local income tax ignores the gearing effect. Because there will not be the bill on the doorstep that the hon. Member for Ribble Valley (Mr. Evans) mentioned, local authorities will be tempted to increase the proportion of the local income tax and mix it with the national income tax year by year in the hope that the increase will not be noticed.

I am not necessarily against the concept of a local income tax, but it is only viable if we recognise that to throw away the benefits of a property tax would be stupid. We need to ensure that a property tax is at the core of local government taxation and that should be supplemented with other locally decided revenue raising sources, of which local income tax may be one. Current council tax levels are probably at the maximum that can be supported.

Once we have the Lyons report, we need to deal with the serious issues of finding a long-term, cross-party solution to local government finance. I realise that we will not get it this afternoon, a few weeks or months away from a general election, but until we look in a grown-up way at giving local government a real opportunity to decide its own level of finance and be accountable to its local people, we will never solve the problem because, each year, the amount of revenue

[Mr. David Borrow]

grant that local authorities receive will be decided by the pressures and strains within the Treasury. We must move away from that to give greater flexibility, power and freedom to local authorities. The Lyons report will be key to that, and it is about time that we discussed the matter in a more grown-up way.

4.23 pm

Mr. Eric Pickles (Brentwood and Ongar) (Con): If ever in the early hours of the morning my sleep became troubled by worries about whether the Conservative party had done the right thing with regard to the pensioners discount, those worries have long gone, because it is clear to me that both the Labour party and the Liberal Democrats are rattled by our proposal and realise that we are on to a winner. How else can one explain the grumpy performance today of the Minister, who is usually a ray of sunshine on these occasions? Perhaps the rumours are right. Perhaps he has realised that there is a problem with regard to pensioners and has lobbied the Chancellor to do something about that in the Budget. Only time will tell. Perhaps the Minister will be eating his words in a little while. It is clear that, despite the abuse and the talk about pie-in-the-sky figures, he realises that he faces an enormous problem after the election, either in having to explain why he has left such a lousy legacy for the Conservatives or in having to defend the rapid rise in council tax that CIPFA suggests.

The Minister introduced a new definition of whether the Audit Commission is right or wrong in saying that its suggestion that increases in council tax are largely because of pressures placed on councils by central Government is wholly wrong. If the Audit Commission agrees with the Government, it is right; if it disagrees with them, it is wrong.

The Minister ended his long speech by listing a load of things that the Government have done for pensioners. Unfortunately, he did not address the one fact that pensioners remember—one third of the increase in the state pension has disappeared because of council tax increases.

My hon. Friend the Member for Ribble Valley (Mr. Evans) made a powerful case in discussing the increase in costs for council tax payers in Ribble Valley. He said that council tax has increased from £746 to £1,206 since 1997. From a sedentary position, the Minister says that that is because the example involves a Conservative council, but, as my hon. Friend pointed out, Lancashire county council is controlled by the Labour party, which imposed those increases. I hope that my hon. Friend is right, and that we take control of Lancashire county council and reduce the cost of council tax.

My hon. Friend the Member for North-East Bedfordshire (Alistair Burt) discussed the true effect on local authority expenditure of the squeeze by education spending on other forms of spending.

Sir Paul Beresford: My hon. Friend the Member for North-East Bedfordshire (Alistair Burt) mentioned the overbearing control of local authorities, which imposes an additional cost. In my small local authority, one comprehensive performance assessment costs £250,000, and when that figure is translated into council tax, it is multiplied by four. That council must collect £1 million and its budget is less than £12 million.

Mr. Pickles: My hon. Friend has made a powerful point, which further underlines why the Labour party is in such a mess. Our proposals are clear—protection for education, protection for health and protection for law and order. On the elements outside that protection, local authorities will be able to apply £4 billion a year of savings to keep down council tax or to improve services.

The Minister and the Government will be remembered for just one thing: on their watch, council tax increased by 76 per cent. For the first time, an average family in an average home will pay £100 a month in council tax—an independent survey predicts that band D council tax will hit £1,214 in England—but eight short years ago, the average family paid £30 a month in council tax, which shows how viciously the Government have targeted it.

The Government have managed to convert an earnest but dull property tax into an oppressor of pensioners, which is a mark of how cynically they have manipulated it.

Mr. Patrick Hall: Does the hon. Gentleman agree that pressure on residential council tax payers has increased since the business rate was nationalised and increases were capped annually? Does he favour the relocalisation of the business rate?

Mr. Pickles: I have to say that, if I were a Labour Member, the business rate would be the last thing that I mentioned, considering what revaluation means. The hon. Gentleman must already have constituents banging on his door telling him about the problem that they face with revaluation, and that is just a foretaste of what his party plans.

We have been invited to believe that big increases in council tax are a thing of the past and that we have hit sunlit uplands where low-single-figure increases have become the norm. But surely we have been here before, within living memory. In 2001, there was an increase of 6 per cent., only to be followed by an increase of 8.3 per cent. in 2002 and 13 per cent. in the following year. The difference is the general election. Of course things will be reasonable before the general election, but we want to know about Labour's plans for after it. Before Labour was elected, the Prime Minister preached the importance of keeping council tax down, pledging limited rises and preventing big increases. We know what followed—a 76 per cent. increase in council tax under this Government.

As my hon. Friend the Member for North-East Cambridgeshire (Mr. Moss) said, we have already received expressions of concern, including a letter from Sir Sandy Bruce-Lockhart about the £1.5 billion black hole in the Government's spending plans. As he rightly points out,

"If local government is to continue to improve, it must no longer be left to stumble from one year to the next with last minute financial fixes from central government."

The hon. Member for Kingston and Surbiton (Mr. Davey) clearly remains confused about whether he favours rebanding or not. He mentioned what his hon. Friend Baroness Hamwee said in the debate in another place. I quote:

"My Lords, the noble Lord identifies the problem but the solution is entirely wrong. Let us scrap the council tax. That is all I need to say."—[*Official Report*, 17 July 2003; vol. 409; c. 977]

Indeed, that is all she did say, so why do the Liberal Democrats favour rebanding? The last time the hon. Gentleman spoke he said that they did not, but this time he said that it was part of a deliberate policy. I have here the Liberals' official policy—I managed to get it from their website. It says:

"As an early first step, the government should increase the number of bands at both ends of the Council Tax scale."

Now it is official: rebanding comes courtesy of the Liberal Democrats. We know that their local income tax would hit working families particularly hard and cost them £630. Thanks to the honesty of the hon. Member for Twickenham (Dr. Cable), we know that it would start to bite families who earn in the mid-£30,000 bracket.

Many Members have referred to the plight of older people—a generation that this Government have done so much to airbrush out of modern Britain, and an inconvenient reminder of Labour's neglect. In eight short weeks, pensioners will have a choice, and it could not be clearer: under Labour, massive council tax increases, with a crippling revaluation; under the Liberal Democrats, a massive assault on the incomes of their children and grandchildren through an unfair local income tax; or under the Conservatives, up to £500 in their hands to address the abuses of the council tax—their own money back in their hands to do with what they wish. I am confident that given that choice, they will choose the Conservatives.

4.34 pm

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope): Let us cut straight to the main question, shall we? The key political question of the afternoon is the credibility of the Tories and their so-called council tax discount for pensioners. That is what this debate has been all about. The policy has been described by my hon. Friend the Member for Sheffield, Attercliffe (Mr. Betts) as giving more discounts to those who need them least. That is a good summary of the Tories' proposals.

Does the Tories' electoral bribe stand up or is it, as this debate has shown, unravelling? We witnessed the unedifying spectacle of Conservative MPs defending Tory councils that are going to increase their taxes by 13 per cent., 17 per cent., 23 per cent. and 100 per cent. That news will go back to the electorate in those constituencies, so that they know what those Tory councils and Tories really stand for.

What is at stake is the credibility of the Tories overall strategy for public spending. As my hon. Friend the Member for Bedford (Mr. Hall) said, they admit that by 2011–12 they will impose spending cuts of £35 billion per year, as compared with projections based on Labour's spending plans. The right hon. Member for West Dorset (Mr. Letwin), the shadow Chancellor, said in November that those spending plans

"provide the ability over a six year period for us to be spending about £35bn less per year, in the sixth year, than Gordon Brown's plan provide for."

Leaving aside council tax for a moment, we see that the choice is clear: investment with Labour or cuts under the Tories. It was ever thus.

Then the Tories con trick comes into play. They are going to give some of the money back to particular groups, such as some pensioners in England, through a so-called discount on their council tax. That is a con trick, typical of the "now-you-see-it-now-you-don't" politics of Tory tax pledges. In reality, the Tories are once again being economical with the truth and offering fool's gold to the electorate.

We know that that money will not be found from efficiency savings. The latest edition of the *Municipal Journal* says that to suggest that the £1 billion cost of the rebate will be met by efficiency savings is pie in the sky. I think that the description given by the hon. Member for Brentwood and Ongar (Mr. Pickles) was pie-eyed, as well as pie in the sky. We know that those cuts can come only from cuts in front-line services. There is no money for those discounts—it must come from such cuts.

The Tories say, for example, that they would cut £1 billion by abolishing all local government inspections. I look forward to hearing a few Tory MPs explaining on the doorstep why they are taking away the service that keeps child protection in place or how they are going to cut £1 billion from local housing. I cannot see too many of them going round the housing estates explaining those things when councils receive a massive cut in the grant.

Mr. Mark Prisk (Hertford and Stortford) (Con): Will the hon. Gentleman give way?

Phil Hope: I am not going to give way, as I have very little time.

My hon. Friends the Members for Reading, West (Mr. Salter) and for Southampton, Test (Dr. Whitehead) have done an extraordinarily good job of analysing the Conservatives' spending plans and are clear that councils that receive a massive cut in grant will inevitably increase council tax. The discount will therefore not be a discount at all. Pensioners in areas such as Reading, West and Southampton, Test and across the country will experience a 40 per cent. increase in council tax.

The Tories proposals are fool's gold. There is no money to give away to pensioners in council discounts. The Tories £35 billion of cuts means full spread council tax and an increase for council tax for all, not just pensioners.

It is important that we remember the Tory record on funding for local government. We are not dealing with a here-and-now question. The pensioners whom the Tories are trying, with their fool's gold, to bribe into voting for them remember the Tories all too well. Those pensioners remember the right hon. and learned Member for Folkestone and Hythe (Mr. Howard), the Leader of the Opposition, introducing and scrapping the poll tax, and increasing VAT from 15 per cent. to 17.5 per cent., as we have been reminded. Those

[Phil Hope]

pensioners remember that in the last four years of their term the previous Tory Government cut funding for local government by 7 per cent. That stands in stark contrast to the 33 per cent. real-terms increase that the Labour Government have given to local councils.

Even if memories among those pensioners were not very strong, however, they would know about the track record of Tory councils and about the average council tax, which is £200 more under Conservative authorities, as compared with Labour authorities. Labour authorities have lower council tax and better services, as measured by the Audit Commission's comprehensive performance assessment.

Finally, the Liberal Democrats continue to peddle their slogan, "Axe The Tax", in a desperate attempt to win votes, despite the fact that not a single organisation with real expertise in local government funding supports the idea of replacing council tax with local income tax. What it means is a massive increase in the income tax of every family across the country. That is the Liberal proposal—written on the back of a fag packet, it does not add up and will not be accepted by local people.

The Tories have been caught out. Their track record on funding and support for local government is shameful. Their proposal on spending means savage cuts, and their promises on council tax discounts are worthless. The choice is clear: continued public investment and low council tax under Labour or cuts in services and massive increases in council tax under the Tories.

Question put, That the original words stand part of the Question:—

The House divided: Ayes 140, Noes 322.

Division No. 110] **[4.40 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brazier, Julian
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cran, James *(Beverley)*
Curry, rh David
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, Iain
Evans, Nigel
Fabricant, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Gillan, Mrs Cheryl
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Grieve, Dominic
Hammond, Philip
Hawkins, Nick
Hayes, John *(S Holland)*
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
McLoughlin, Patrick
Malins, Humfrey
Mates, rh Michael
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Randall, John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Roe, Dame Marion
Ruffley, David
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Steen, Anthony
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Willetts, David
Wilshire, David
Winterton, Ann *(Congleton)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Gregory Barker and
Mr. Peter Atkinson

NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Beith, rh A. J.
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brake, Tom *(Carshalton)*
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bruce, Malcolm
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burstow, Paul
Byers, rh Stephen
Cable, Dr. Vincent
Caborn, rh Richard
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Carmichael, Alistair
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Paul *(Gillingham)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon

Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Corston, rh Jean
Cotter, Brian
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Doughty, Sue
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fisher, Mark
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
George, Andrew *(St. Ives)*
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gilroy, Linda
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hancock, Mike
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Heath, David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Ladyman, Dr. Stephen
Lammy, David
Laws, David *(Yeovil)*
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Llwyd, Elfyn
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
Oiner, Bill
O'Neill, Martin
Opik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pound, Stephen
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Bob *(Colchester)*
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sanders, Adrian
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'ds & Kincardine)*
Soley, Clive
Southworth, Helen
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Straw, rh Jack
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
Webb, Steve *(Northavon)*
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Gillian Merron and
Jim Fitzpatrick

Question accordingly negatived.

Question, That the proposed words be there added, *put forthwith, pursuant to Standing Order No. 31 (Questions on amendments), and agreed to.*

MR. DEPUTY SPEAKER *forthwith declared the main Question, as amended, to be agreed to.*

Resolved,

That this House welcomes the Government's support for local government with its 33 per cent. grant increase in real terms since 1997, compared to a real terms cut of 7 per cent. in the last four years of the previous administration; notes that the increase in council tax this year is set to be the lowest in over a decade at around 4 per cent. and the second lowest since it was introduced and is less than the increase in average earnings; notes CIPFA's view that it will add less than £1 a week to average council tax bills; further notes that the effect of the Opposition's policy to cut grant to councils and abolish capping would allow council tax to rise unchecked; and looks forward to the report of the Lyons inquiry into local government funding which is due by the end of this year.

4.55 pm

Gregory Barker (Bexhill and Battle) (Con): On a point of order, Mr. Deputy Speaker. You will be aware of today's severe weather conditions in East Sussex and Kent, which have made driving particularly treacherous. According to the BBC, the Army has been deployed to help the emergency services. Have you had any indication from the Ministry of Defence that a Minister will come to the House to make a statement on these unusual circumstances and what assistance the Army is giving to the emergency services?

Mr. Deputy Speaker (Sir Alan Haselhurst): Only in the narrowest sense is that a point of order for the Chair, but we would all be concerned and express sympathy for the people who are affected by these drastic weather conditions and those who seek to help them in the circumstances. Those on the Treasury Bench will have heard what the hon. Gentleman said. As necessary, the matter may be dealt with or he and his colleagues might wish to pursue it at some later date on behalf of their constituents and local authorities, but the Chair cannot say more on the subject.

Hospital-acquired Infections

Mr. Deputy Speaker (Sir Alan Haselhurst): I must inform the House that Mr. Speaker has selected the amendment in the name of the Prime Minister.

4.56 pm

Tim Loughton (East Worthing and Shoreham) (Con): I beg to move,

That this House, whilst applauding the endeavours of dedicated NHS staff to do the best for their patients, is deeply concerned at the Government's continued failure to tackle effectively the continuing rise in the incidence of hospital-acquired infection; notes with alarm the recent report by the Office of National Statistics that 955 people died with methicillin resistant staphylococcus aureus (MRSA) as a contributing factor in 2003 alone, an increase of 155 on the year before and more than double the level in 1997; further notes that this seriously understates the gravity of the problem, given the failure to designate hospital-acquired infections on death certificates; is particularly worried by the sharp rise in the number of MRSA infections in children and babies as confirmed in a Patients Association study; further notes the continuing detrimental effect of the Government's obsession with targets which hinders the closure of beds or wards on clinical grounds when recommended by infection control teams; believes that matrons should have responsibility in hospitals for the hygiene, cleanliness and care of patients and the power to enforce measures including bed or ward closures; regrets the continuing failure of the Government to take measures recommended by the Public Accounts Committee and the failure to support a 'search and destroy' strategy as recommended by the Chief Medical Officer in his report 'Winning Ways'; and calls on the Government urgently to take concerted action to reduce drastically the level of hospital-acquired infections and restore the public's confidence in the safety of hospitals.

The terms of the motion will not be unfamiliar to many hon. Members here today, who will recognise the problem of hospital-acquired infections from constituency cases. The Opposition have raised this problem in their debating time on numerous occasions, and we shall make it a central plank of our campaigning up to the general election. It is right that we do so, and I make no apology for returning to the issue again, for the simple truth is that the problem is getting worse, not better.

Despite all the Government's initiatives, semi-initiatives, gimmicks, awareness campaigns and bluster, they have completely failed to get a grip on the situation, and the relentless advance and spread of hospital-acquired infections on their watch, leading to many thousands of avoidable deaths, is one of the great scandals of the past eight years.

We have had from this Government, and particularly from the Secretary of State for Health, prevarication, obfuscation, deflection and pure mystification, culminating last week in the Office for National Statistics reporting that 955 people died from specified methicillin-resistant staphylococcus aureus, or MRSA, in 2003 alone—an increase of 155, or 20 per cent., over the previous year, and well over double the rate that Labour started with in 1997. That, however, is just the tip of the iceberg, as it deals only with those deaths that are attributed directly to MRSA on the death certificate, let alone all the other hospital-acquired infections and the tens of thousands of patients who have contracted infections in hospital and survived.

Andrew Mackinlay (Thurrock) (Lab): When the hon. Gentleman was doing his research, did he notice a parliamentary question that I tabled—funnily enough, to the Minister who is to reply to him today, when she was a Treasury Minister dealing with statistics—relating to the fact that death certificate reporting was misleading? A person would die of septicaemia or pneumonia and that would go on the death certificate, but it would not show MRSA. If I catch the Speaker's eye, I want to show that the reporting figures that the hon. Gentleman is referring to are false, because this Minister remedied the problem. I also want to refer to the failure of successive Ministers, Labour and Tory, to address that and related problems.

Tim Loughton: I am grateful to the hon. Gentleman for those comments. In my research I spotted not only his question but the fact that he was one of only two Labour Members, including members of the Government, who ever raised the subject of MRSA in debate during the five years between 1992 and 1997 under the previous Government. It was such a scandal, apparently—all the fault of the Conservatives, who started all this—that not a single Minister initiated a debate on the subject in five years. Only one future Secretary of State for Health, the right hon. Member for Sheffield, Brightside (Mr. Blunkett), tabled a written question on MRSA during the five years of the last Conservative Government. It was such a scandal that there was not a single debate and not a single oral question about it; just one written question.

The hon. Gentleman made a valid point about the problems of getting at the real facts and figures, caused by what is specified on death certificates. We know that doctors are increasingly reluctant to register deaths as MRSA-related because they fear that it might lead to legal action by patients' families.

Mr. David Hinchliffe (Wakefield) (Lab): I believe that we should be even-handed. If the hon. Gentleman is going to campaign on the issue of MRSA, good luck to him, but is it not reasonable to ask why the motion makes no mention of the last Government's decision in 1983 to introduce competitive tendering, which drove down cleanliness standards in hospitals across the country as well as the wages of decent, hard-working cleaners? Does he accept that that has a key bearing on the problems we are discussing?

Tim Loughton: I am afraid that the hon. Gentleman's intervention was typical of the deflection tactics usually employed by Ministers—but they do not usually have to go back more than 20 years to pin the problem on the Conservative party. There is hardly any record of infections of this kind in those days. I shall return to that subject later.

A conservative but realistic estimate by the National Audit Office puts the number of deaths from MRSA at more than 5,000 per annum. More than 40,000 people may have died of MRSA under the present Government; certainly more die of it each year than die in traffic accidents. Hospital-acquired infections are affecting more than 100,000 people each year in hospitals in England and Wales, the number being divided proportionally.

It is a particularly British crisis. The number of incidences of MRSA infection in the United Kingdom, at 44 per cent. of staphylococcus aureus blood isolates resistant to methicillin, compares with just 1 per cent. in Denmark and The Netherlands and 19 per cent. in Germany. Much as the Secretary of State always likes to shift the blame away from the Government, we do not think that the accusing finger should be pointed at hard-working, dedicated NHS staff.

Dr. Phyllis Starkey (Milton Keynes, South-West) (Lab): The hon. Gentleman's figures related to hospital-acquired infections. Has he figures for the incidence of MRSA in the British population compared with that in the populations of the countries that he cited? Is that not the relevant factor, and is that not why the incidence is so much higher in the British hospital population?

Tim Loughton: That is another bit of deflection. Now we are blaming people before they go into hospital. All those figures are covered in all the reports, and whatever measure the hon. Lady chooses, and however subjective we may be, I am afraid we do not come out of it well.

David Davis (Haltemprice and Howden) (Con): Given what was said by the hon. Member for Milton Keynes, South-West (Dr. Starkey), let me remind my hon. Friend that the report that first mentioned 5,000 deaths a year from MRSA in this country was the National Audit Office report, which specifically excluded a series of categories. Under this Government, those who die at home are not counted, along with youngsters and those on immunosuppressant drugs. The hon. Lady should take no comfort from the 5,000 figure, as the true figure is probably much higher.

Tim Loughton: That is why I said that my estimate—not my estimate, in fact, but a widely accepted estimate—was conservative. It also relies in part on the way in which hospitals account for hospital-acquired infections. Many hospitals will not necessarily treat infections as hospital-acquired if they manifest themselves a certain amount of time after the patient has left the hospital. Hospitals such as my own—the Worthing and Southlands Hospitals NHS Trust, in Sussex—do play by the rules and account for all infections in hospital and, within a certain time, after leaving hospital. Indeed, they do rather well, but other hospitals, because of the management pressures imposed by the Government's targets, do not.

Kali Mountford (Colne Valley) (Lab): The hon. Gentleman mentions the dedicated service of hospital staff. Will he therefore consider the Royal College of Nursing's observation that alcohol wipes are the best way to deal with the problem, and that ward closures would exacerbate it by spreading disease further?

Tim Loughton: I should point out to the hon. Lady that the RCN welcomed our manifesto proposals on giving power to matrons and on infection control, so she needs to look a little beyond the headlines.

Several hon. Members *rose—*

Mr. Michael Foster (Worcester) (Lab): Will the hon. Gentleman give way?

Tim Loughton: I will give way to the hon. Gentleman, and then I will make some progress; otherwise, we will be here until the Division.

Mr. Foster: I am grateful to the hon. Gentleman for giving way, and I can assure him that when I took part in Monday's NHS cleanliness awareness day, the matrons at the Worcester royal hospital told me that they do indeed have the power to close down wards when they fear infection.

The hon. Gentleman is concerned about how the infection figures are compiled. Does he agree that although the compilation of such statistics is an issue, the more fundamental problem is how people like us use them? We have a duty to use them carefully and properly in considering these matters, so will he denounce the comments of his colleague the hon. Member for South Cambridgeshire (Mr. Lansley), who said:

"I don't believe the NHS statistics. Occasionally I bend them when they are helpful"?

Tim Loughton: The problem is that nobody knows what to believe and what not to believe. The hon. Gentleman is lucky if he found a matron who says that matrons have the power to close wards, because according to the experience of most of us, they do not, and they are too often overruled by management.

The plethora of half-baked knee-jerk reactions that the Department of Health often foists on NHS staff has served to increase the pressure on them yet further. As my hon. Friend the Member for South Cambridgeshire pointed out in an earlier debate,

"Doctors and nurses across the country tell me that they know how to deliver infection-free environments and that they have experience of doing that. They know that they can do it if they are given the support and the freedom to deliver the requirements of patient safety without being contradicted by Government targets and bureaucracy. That is what is urgently required now".—[*Official Report*, 8 September 2004; Vol. 424, c. 792.]

But they have been bombarded with no fewer than 23 initiatives in the past four years. In February 2000, departmental guidance was issued. In May 2000, the Department adopted and published "Standards of environmental cleanliness". In July 2000 there was the Government's NHS plan, which included a campaign to clean up hospitals. In December 2003, "Winning Ways Together" was published. There has been no lack of paperwork on these subjects, so why, after all those publications and initiatives, is the situation continuing to deteriorate?

The situation culminated in last week's ONS statistics and the designating of this Monday as "think clean" day. It would be laughable if it were not so serious. Every day should automatically be a think clean day. It is symptomatic of this Government's tick-box mentality that they think that, simply by having a think clean day, they can in some way sort out the problem.

Mrs. Iris Robinson (Strangford) (DUP): Is the hon. Gentleman aware that Dr. Peter Maguire, a consultant anaesthetist at Craigavon Area hospital in Northern Ireland, has called within the past couple of weeks for automatic screening of NHS staff? Does the hon. Gentleman agree that that should be done as a matter of urgency to instil confidence in the patients who are being treated by these very staff?

Tim Loughton: The hon. Lady makes an important point about screening, and I hope to ask a specific question of the Minister about screening in a moment.

Angela Watkinson (Upminster) (Con): My hon. Friend mentions pieces of paper. Does it surprise him to hear that when I recently visited a friend in hospital—in a mixed ward, incidentally—there was a piece of paper on the wall at the entrance to the ward stating, "All visitors and staff to wash their hands with the gel on the trolley on entering and leaving the ward"? There was no gel, and there was no trolley, so how on earth can a piece of paper be said to contribute to hygiene on the ward?

Tim Loughton: My hon. Friend is lucky to have seen a piece of paper giving advice. So often, during my many visits to hospitals, I have had to remind staff that I wanted to wash my hands or use the gel before visiting patients, and staff sometimes tell me that the stuff is not available.

The news has been even more worrying recently. The Minister's reply to my parliamentary question revealed that, between 1997 and 2003, the number of reports of MRSA in children up to the age of 14 trebled. More worryingly still, a study by the Patients Association released this week revealed that hundreds of babies, many just a few days old, have been infected with MRSA in hospitals around Britain. As Professor Hugh Pennington of Aberdeen university, a microbiologist and expert in hospital-acquired infections, is reported as saying:

"If babies are getting MRSA, that is of concern, because it shows there is something seriously wrong with the infection control procedures."

Hospitals in the survey included the Portsmouth Hospitals NHS trust, which admitted to having 38 babies aged under four weeks with MRSA. Eastbourne district general hospital in Sussex admitted that it had to close its baby unit for a whole week last year because five babies were carrying MRSA. Those figures alone suggest that the parliamentary answer by the Minister for Public Health, to which I referred, seriously understated the extent of the problem. In the other place, Lord Hanningfield asked a parliamentary question about the incidence of MRSA among children under five. The answer, provided by Lord Warner, estimated 71 cases in 2003, but that must be seriously awry simply on the basis of the figures that I have just provided.

Last Friday evening, I visited the neo-natal unit—the Trevor Mann baby unit—of the Royal Sussex county hospital in Brighton. It is a dedicated unit with a very professional staff doing a fantastic job under considerable pressure. The work is very demanding of staff, who have to look after babies born as early as 24 weeks after conception. If MRSA strikes there as viciously as it has in other hospitals, we really will face a serious problem that will affect some of the most vulnerable people in our hospitals.

We understand that, in order to deal with the problem, the Government have commissioned a study—yet another study—that will cost £140,000. How

long will it take to report, and what are the Government doing now about improving screening for new babies? What are they doing about people and equipment coming into contact with new babies in these very high-tech and sensitive wards? We read that thousands of babies are also being struck down by the respiratory syncytial virus, RSV, which can be picked up on dirty wards in the same way as MRSA.

We can also see this week that patients are abandoning NHS hospitals and seeking treatment abroad, because they fear catching MRSA. Hans Finck, managing director of a German medical net company that organises treatment for foreign patients, said that thousands of Britons are travelling to Germany for operations. Before, he said,

"the main thing people used to mention was waiting lists in Britain, but now many mention MRSA."

Judy Mallaber (Amber Valley) (Lab): The hon. Gentleman talks about being scared, but will he apologise to NHS patients and staff at Heanor Memorial hospital in my constituency for the Tory billboard poster on cleaner hospitals, which was placed nearby for a day? The recent Peat report showed that the hospital had good cleanliness throughout, a good matron, and good infection control procedures. The Tories were either ignorant of the controversy over press misreporting or they deliberately went ahead with scaremongering, which really upset local staff at the hospital. Will he apologise?

Tim Loughton: On the Peat report, I put it to the hon. Lady that of the 20 worst general acute NHS trusts for MRSA in England—they administer 34 hospitals—18 were rated, under the Peat guidelines, as acceptable for cleanliness; 13 were rated good for cleanliness; and three were rated excellent for cleanliness. Those included some of the hospitals with the worst MRSA rates, so she should reflect further on the definitions of her own Government and try to understand how those hospitals are being assessed. The Government are misleading the patients and the staff. If she thinks that it is a service to patients to conceal information, she is sorely mistaken. We are in favour of revealing any information for the benefit of patients, so that they can make informed choices and decisions. It is outrageous that patients who pay their taxes should not be entitled to receive that information. We will make that change after 5 May.

Mr. John Redwood (Wokingham) (Con): My hon. Friend is making a powerful case. Will he consider the complaint of a constituent of mine, Mr. Bovill, which I have submitted to my hon. Friend the Member for South Cambridgeshire (Mr. Lansley)? Mr. Bovill's experience in the Royal Berkshire, a highly rated three-star hospital, was very different from what he expected of a hospital that had passed the Government's tests. Could that demonstrate that, as my hon. Friend suggests, the Government do not always measure what matters to the patients? Mr. Bovill reports a very dirty hospital, and the explanation was that it was between cleanings and monitorings. Will my hon. Friend ensure that we allow hospitals the wherewithal to be clean at all times?

Tim Loughton: I applaud the tenacity of Mr. Bovill, who is doing the sort of job that might previously have been done by community health councils. They used to take up the fears and concerns of local patients about cleanliness in hospitals, but they can no longer do so. The poodles that replaced CHCs do not have the powers to do that job, and so in many cases it is up to individuals such as Mr. Bovill. The same problem has arisen with a hospital in a trust near my home in Sussex.

The truth is that the Government are losing the fight against the superbug. They are losing because they are substituting the quantity of their initiatives for the quality and effectiveness of what they should be doing, as recommended in previous independent studies by their medical advisers and by us. The Government have got the system wrong, and until they change it matters will not start to improve fundamentally.

Mr. David Heath (Somerton and Frome) (LD): I accept from my own subjective experience that the culture of cleanliness and disease control is very different now, even in the most dedicated hospitals, from that which existed 20 or 25 years ago when I worked in theatre. I knew what was expected of me and of other staff in the hospital.

The hon. Gentleman mentioned experience abroad. What assessment has he made of the contribution that might be made by bacteriophage therapies to reduce MRSA infection?

Tim Loughton: I have not made a detailed assessment of that, but we should learn from the experiences of successful hospitals on the continent. Indeed, we should have learned from them some years ago, but that has not happened.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): I have the permission of my constituent, Mrs. White, to use her case. She came to my surgery in a very distressed state because her husband had died of a suspected hospital-acquired disease in the Royal United hospital in Bath. She told me that it did not look as if the hospital had been cleaned for weeks, and there were used syringes lying around. The local trust is in severe financial difficulties. Is it not time that the Government got to grips with those problems?

Tim Loughton: I sympathise with my hon. Friend's constituent, Mrs. White, but I am afraid that hers is not an isolated case. We must do more to restore the confidence of patients in our hospitals. We will do the patients, the staff and the whole system a disservice if we do not restore that confidence.

I have some specific questions for the Minister. Why will the Government not conduct a search and destroy approach to tackling MRSA and other hospital-acquired infections, as recommended by their chief medical officer in "Winning Ways" in December 2003? Such an approach has been dramatically successful in Holland and Denmark and could work in the UK. In the Netherlands, they screen patients and isolate those infected, as the hon. Member for Strangford (Mrs. Robinson) mentioned earlier. Who exactly has the final say over infection control in hospitals? How can the Minister justify a situation, revealed by the National Audit Office report in July 2004, in which 12 per cent. of infection control teams reported that a recommendation

[Tim Loughton]

to close a ward or hospital to admissions for the purposes of outbreak control was ignored? When will the Government give proper control of infection outbreaks to matrons or other appropriate health professionals, rather than to management ones to carry out the Government's obsession with targets? Where exactly does the buck stop in hospitals? Who is really in charge? Does the Minister not understand—as again the NAO suggested—that because of the pressure to meet Labour's targets, hospitals have poor infection control?

"The increased throughput of patients to meet performance targets has resulted in considerable pressure towards higher bed occupancy, which is not always consistent with good infection controls and bed-management practices."

That is a quote from the NAO.

Mr. Richard Spring (West Suffolk) (Con): The obsessive intrusion by central Government—the creation of targets that lead to clinical distortions—lies at the heart of the problem. I visited my local hospital and had a meeting with the chairman and chief executive. While that meeting was going on, there were 110 patients with a diarrhoea and vomiting bug. I was not told. The culture of fear that now obtains in many parts of the NHS is such that transparency has ceased because of the way that the Government seek to control, with targets and interference, the real function of the NHS.

Tim Loughton: That is the absolutely fundamental point of our criticism of the way that the Government have handled this crisis.

David Taylor (North-West Leicestershire) (Lab/Co-op): Will the hon. Gentleman give way?

Tim Loughton: I want to make progress, but I shall return to the hon. Gentleman in a moment because this will not be a long debate and many hon. Members will seek to contribute in interventions.

If hygiene is to improve, it is vital that hospitals are given real freedoms—to introduce initiatives, improve facilities and balance competing priorities, such as waiting lists and safe bed occupancy levels, without risking the wrath of Whitehall. As Dr. Alison Holmes, the director of infection, prevention and control at Hammersmith hospital has acknowledged,

"the juggling act of quick turnarounds and bed hogging required to perform more procedures on more patients with shorter stays in hospital is fuelling the spread of infectious disease."

David Taylor: The hon. Gentleman seems to be guilty of trying to make a general case from anecdotal evidence. Does he agree with the comment in a newspaper with which, I am sure, he will be very familiar—the *Wiltshire Gazette and Herald*—where the writer said that it is easy to cut and paste to give the impression that an institution is generally bad and filthy when it is not? The writer was the hon. Member for Westbury (Dr. Murrison), who is sitting two places from him on the Front Bench.

Tim Loughton: The hon. Gentleman's comments are rather complacent. Most of the points that I have been making are from experts involved in the NAO report, which was based not just anecdotal evidence, but on a pretty comprehensive study.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): Will the hon. Gentleman give way?

Tim Loughton: I shall make some progress.

Ministers have failed to take their own advice, which we endorsed. In their response to the 2000 NAO report that warned about bed occupancy rates, Ministers promised that, by 2003–04, bed occupancy rates could be reduced to 82 per cent. In fact, three quarters of trusts have been operating at higher rates than that—averaging 89 per cent. and 91 per cent. for orthopaedic and vascular surgery respectively. More than 90 per cent. of trusts with the worst rates of MRSA operate above the 82 per cent. target set by the Department and deemed safe by the Health Protection Agency. The Opposition have warned for the past five years and beyond about the consequences of not taking that seriously.

Professor Barry Cookson of the Health Protection Agency, when speaking to health professionals, talked openly about the need to reduce the pressure on the NHS and cut bed occupancy rates to 85 per cent., but before he could give one-to-one interviews with the media, he was mysteriously spirited away for a quiet chat with officials, only to re-emerge having toned down his claims—more dumbing down by the Government, who are not allowing the professionals to speak out. Is the Minister serious about tackling bed occupancy rates? Does she acknowledge that the issue is part of the problem—or is it all talk again?

The NAO report also found that the isolation facilities in some NHS trusts had been significantly reduced and that many infection control teams believed that facilities for isolating patients were unsatisfactory. In 2001, the Department of Health assured the Public Accounts Committee that the need for more isolation facilities was being addressed. So what has been achieved since then? What has actually changed four years on?

Mr. Henry Bellingham (North-West Norfolk) (Con): Is my hon. Friend aware that the NAO report also flagged up the fact that antibiotics are becoming increasingly powerless at dealing with the superbug? Surely that fact makes the Government's complacency even more unforgivable.

Tim Loughton: I agree with my hon. Friend. Even more worrying than that was a report in today's press that in the next few years, even the most powerful drugs available to combat the most potent strains will no longer be effective. We would thus face a gap in our weapons armoury to deal with the most powerful strains, which rings the alarm bells. We cannot afford to be complacent.

Let me ask the Minister several questions. What improvements to screening have taken place? How many hospitals currently screen vulnerable patients, such as elderly people and those in neo-natal units. Is there a link between the extent of screening and the significant differences in MRSA rates among hospitals?

Do most hospitals now screen staff when there is an outbreak on a ward? What procedures are in place to make visitors more aware of precautions that they must take? Are there proposals to limit visiting times more extensively?

Jim Dowd (Lewisham, West) (Lab): Will the hon. Gentleman give way?

Tim Loughton: Not at the moment.

What action are the Government taking to promote the better training of staff? Does the Minister agree with the Royal College of Nursing that further action is needed to make infection control a mandatory part of training for all NHS workers? Is she worried about the situation described by Professor Richard Wise from the Birmingham City Trust, who said that the number of infection control nurses was "worryingly low", at one nurse to every 347 beds, and that there should be one nurse to every 200 beds? What progress have the Government made in meeting their target of one infection control nurse to every 250 beds?

Why will the Government still not publish infection rates for MRSA and other infections per clinical department as we have undertaken to do, given that hospital trusts have had a mandatory duty to report such infections since April 2001? Why should patients not have the right to know the truth? After all, the Secretary of State's opening pledge of his campaign for action in "Towards cleaner hospitals and lower rates of infection" was

"Being open with the public".

So much for that.

The Government's policy thus far has often been to deflect criticism on to anyone but them. The problem is apparently all down to the contracting out of cleaning staff that was started by the wicked Tories. Alas, the hon. Member for Wakefield (Mr. Hinchliffe) has left the Chamber. Ministers surreptitiously trot out the assertion that the blame should be put on contracted-out cleaners, or allow Unison to do the dirty work for them as a pay back for the £7 million of donations that it has given the Labour party since the last election. However, the chief medical officer is on record as saying that there is no link between contracted-out cleaning and MRSA rates. On the "Today" programme on 10 January, the Secretary of State said:

"There's no proven causal link between contracting out and MRSA".

Let us stop that debate now.

Indeed, 11 of the top 20 acute NHS trusts for cleanliness are cleaned by private contractors, while 11 of the bottom 20 are cleaned by in-house teams. Yet again, the picture is confused because the Government's patient environment action team—PEAT—scoring system gives a different impression of the situation, as I said earlier. In any case, surely it would be easier for a hospital to sack a duff cleaning firm that is failing to do its job properly than to sack in-house staff. We intend to give matrons and infection control teams a far greater say about such matters in the future and more powers to deal with the problem.

We agree that more needs to be done on cleaning. We agree that cleaning needs to be a more fundamental and central part of health spending on hospitals. However, it is entirely disingenuous to try to pin responsibility for the problem on a political decision going back to the 1980s. It is an attempt to deflect the blame from where it should lie.

The Government use the deflection tactic of saying that the problem is all down to the Conservatives' actions in the 1980s and 1990s, but if hospital-acquired infections were such a burning issue then, why did the then Labour Opposition not raise the matter a single time? There was not one Opposition day debate on hospital-acquired infections between 1992 and 1997. The right hon. Member for Sheffield, Brightside (Mr. Blunkett) tabled one written parliamentary question on the matter during his time as shadow Secretary of State for Health—on 29 October 1993. I pay tribute to the hon. Member for Thurrock (Andrew Mackinlay) for asking many more questions and securing a debate on the matter on 19 March 1997. He was surpassed only by the hon. Member for Leyton and Wanstead (Harry Cohen), who secured two debates in May 1997 and December 1995. Thus two Back Benchers raised the subject in five years, so let us lay the blame where appropriate. For the past eight years, this has been a burning issue under a Government whose own policies have exacerbated the problem. Their attempts to deflect the blame on to the previous Government do not hold water.

Mr. Bailey: Will the hon. Gentleman outline what steps the Conservative Government took between 1992 and 1997 to introduce surveillance measures for hospital-acquired infections? One reason why questions were not asked in the House is that the hon. Gentleman's Government were not providing the evidence.

Tim Loughton: It would be strange if a measure of an Opposition's effectiveness were how forward the Government were in making information available. If that were the case, we would not be raising this issue time and again. The Government have frequently sought to deflect attention away from the problem, have engaged in subterfuge and have not released the information that we have requested, so the hon. Gentleman makes a weak point. Is he saying that a Conservative Minister had to raise the issue before he would dare to ask questions? What utter nonsense. It is a national scandal that one in 11 hospital patients has a hospital-acquired infection at any time. The Labour Government have let our patients and our NHS down badly. They have confused quantity with quality by introducing a plethora of initiatives and gimmicks. They have deflected the blame so that it lies with anyone but themselves, but it has all been too late.

We will replace that catalogue of prevarication with an urgent timetable for action. Conservatives will put clinicians back in charge of determining whether or not hospital wards are safe. They will not be subject to the arbitrary targets imposed by a Government obsessed with numbers and throughput rather than quality and the safety of patients. Matron will be put back in charge of our hospital wards. There will be proper nursing matrons—not the Government's management matrons—who know whether or not a bed is clean and recognise the virtues of a good whiff of bleach in the air. There will be no doubt about who is in charge of wards.

[Tim Loughton]

under the next Conservative Government. Matrons will not soft-soap us on cleanliness. I recently spoke to a hospital infections director, who tried to convince me that dusting under a bed was not a good idea, because it encouraged any infections to become airborne and therefore more dangerous to the patient. Unbelievable—and she was on a six-figure salary.

Conservatives will not accept the Government's limp target for halving MRSA bloodstream infections by 2008, as the situation is too grave. Indeed, it is grave enough for the Secretary of State to make an appearance in the Chamber. We will institute the sort of ruthless search-and-destroy strategy that brought about drastic improvements in Holland. We will not compromise patient safety with unrealistic targets on bed occupancy levels, as that is a false economy. Hospital-acquired infections cost the NHS £1 billion, result in prolonged stays by patients who have caught infections and have a human cost for the people affected by them. The Conservatives will speed up the diagnosis of MRSA through the faster application of new methods, and will expand screening where appropriate. We will publish infection rates for all hospitals, because we believe that patients have the right to know. The National Institute for Clinical Excellence will be tasked to prepare evidence-based infection control standards, and we will fund hospitals to recruit more infection-control nurses and to install new technology to fight the superbug.

There is nothing in the motion that Members on all sides of the case cannot support if they genuinely believe in improving the safety of our patients and genuinely believe that hospital-acquired infections are a serious problem. There is nothing inevitable about the superbug crisis. It is time that the Government applied some of their own pledges from their latest rather vacuous pledge card to assess how they have dealt with this problem. "Your family better off"—not when it comes to the risk of MRSA. "Your child achieving more"—not with more children contracting MRSA in our hospitals.

"Your children with the best start"—

at the risk of catching MRSA; I do not think so.

"Your family treated better and faster"

and "Your community safer"—I do not think so. It is surely is a case of backward, not forward under this Government.

Last month, the chief medical officer, talking about MRSA, admitted:

"We've been perhaps a little bit too gentle on health infection in the past and it's now really no more Mr. Nice Guy."

It is time for Mr. Nasty on the Treasury Bench and his Government to move aside and make way for a party committed to taking this problem seriously, committed to the safety of our patients and our staff, and committed to the safety of our NHS. I commend the motion to the House.

5.36 pm

The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson): I beg to move, To leave out from "House" to the end of the Question, and to add instead thereof:

'welcomes the Government's commitment to tackle hospital acquired infections with a robust programme for improving standards in infection control; congratulates the Government on its action plan for reducing infection rates, "Towards cleaner hospitals and lower rates of infection", and the introduction of the new target to halve the rate of MRSA in the first instance, and the appointment of local directors of infection prevention and control to cut cross infection locally; supports the Chief Medical Officer's action plan "Winning Ways"; recognises that MRSA is a longstanding problem that became endemic in the National Health Service between 1993 and 1997 and believes that this Government is to be congratulated on introducing a system of mandatory surveillance for MRSA to establish its full extent; notes that the Government is working with experts from home and abroad to identify the actions and best practice which will make a difference, including a matron's charter, a national hand hygiene campaign, improved standards and better inspection of hospital cleanliness; and therefore congratulates the Government on its comprehensive programme of investment and reform that has equipped the NHS to deliver improvements in patient safety, and to reduce hospital acquired infections.'

I would like to get to some facts about why infections occur, about the solutions and what we are doing about them, about targets, about support for the NHS and about the whole issue of cleanliness, but I must start by asking why the Opposition have chosen so systematically to attack the NHS and to politicise the issue so consistently.

Last week, when the Office for National Statistics announced the new figures about MRSA on death certificates, it took the Leader of the Opposition only a couple of hours to hold a party political press conference attacking the NHS. In that press conference he had the opportunity to tell the country that while he was in the Cabinet, between 1993 and 1997, the percentage of Staphylococcus aureus isolates that were methicillin resistant, that is MRSA, increased from 5 per cent. to 30 per cent., and it has only now settled at just over 40 per cent. He also had the opportunity on that occasion of saying what he thought about the comment from Geraldine Cunningham of the Royal College of Nursing—whose comments have already been referred to—criticising the Leader of the Opposition's soundbite, saying:

"It sounds great, but how do you translate it? It is much more complex than just closing a ward. Actually, there are always patients in wards. If you moved them you would spread the infection."

Tim Loughton: I am mystified, because one of the main criticisms of the Secretary of State is always that hospital-acquired infection rates were apparently not collected under the last Government, so how is the Minister using these figures against us, when apparently we did not collect them?

Miss Johnson: We are using figures produced by the Government's chief scientist. *[Interruption.]* We will come back to the retrospective bit in a minute. I am very happy to go over some of the past with the hon. Gentleman, because I think that he will find that it is other than as he said.

The Leader of the Opposition also had the opportunity in the press conference to comment on the revealing statement by his colleague, the absent shadow Secretary of State for Health, the hon. Member for South Cambridgeshire (Mr. Lansley), when last June he said:

"I don't believe the NHS statistics. Occasionally I bend them when they are helpful."

Perhaps the fact that he is not here means that he dare not show his face and respond. *[Interruption.]* I am happy to see the hon. Member for East Worthing and Shoreham (Tim Loughton) defending his hon. Friend.

Tim Loughton: My hon. Friend the Member for South Cambridgeshire (Mr. Lansley) is busy visiting hospitals today, as it is right that he should. Unlike the Minister's team, the Opposition's health team are multi-talented and multi-tasked. It does not require the shadow Secretary of State to make this case. This case is overwhelming.

Miss Johnson: It is dangerous for a Member of the male-dominated—exclusively, bar one—Opposition Benches to talk about multi-tasking when those of both genders on the Labour Benches are talented and have so many more women who are so good at multi-tasking. I shall respond to the hon. Member for West Chelmsford (Mr. Burns) who is waving at me in a moment, but first I want to deal with another matter.

The hon. Member for Westbury (Dr. Murrison) is a member of the Opposition Front-Bench health team, and this is what he said about his local hospital in the *Wiltshire Gazette and Herald*:

"it is easy to cut and paste giving the impression that an institution is generally bad and filthy when it is not."

That summarises the Tory approach to MRSA.

The hon. Member for West Chelmsford said:

"I certainly accept that that problem"—

the growing problem of MRSA in our hospitals—

"cannot and will not be eradicated overnight".

However, that is what his party is calling for. He continued:

"efforts naturally have to be made to ensure that more is done to minimise and reduce the incidence of the problem, and I believe that cleanliness in our hospitals is a key factor in achieving that."—[*Official Report*, 8 September 2004; Vol. 424, c. 810.]

I shall return to cleanliness in a moment.

The remarks by the hon. Member for Westbury about his local hospital are also true of the NHS. I would be delighted to take an intervention if he wants to defend himself.

Dr. Murrison: Will the Minister take this opportunity to condemn the "Horizon" programme, to which I think that she is referring, for cutting and pasting? I hope that we achieve a good overview of cleanliness in our NHS, which is what this debate is about, and I am sorry that she has chosen to quote selectively, which does her no credit.

Miss Johnson: What the hon. Gentleman has said about his local hospital is also true of the NHS. It is easy for the Leader of the Opposition to give the impression that the NHS is generally filthy, when it is not.

The hon. Member for East Worthing and Shoreham could have commented on the issues or outlined his policy, but he attacked the NHS with a soundbite. Instead of soundbites, let us examine the real improvements. Reducing infections is a top priority for the NHS, because hospital-acquired infections, including MRSA, cause illness, pain, anxiety, longer stays in hospital and sometimes, regrettably, death. Since her appointment last October, our new chief nursing officer, Christine Beasley, has led a wide-ranging programme to improve both infection control and hospital cleanliness, which should reduce infection rates.

Let us move beyond the Opposition's soundbites to how such infections, which come from a wide variety of micro-organisms, are caused. By the way, the figure of 5,000 deaths mentioned by the hon. Member for East Worthing and Shoreham relates not to MRSA, but to hospital-acquired infections, which cover a wide range of infections, including bacteria from our own bodies. Unfortunately, not all hospital-acquired infections are preventable.

Many factors contribute to the problem, including the treatment of more susceptible patients, such as those with severe or chronic diseases, than ever before. At the same time, advances in treatment that improve patients' survival chances, such as chemotherapy, can leave them more vulnerable to infections. Other factors, such as increased antibiotic resistance, are also important. No single, simple solution exists to that complex and multi-faceted problem, but the risk of contracting those infections can in part be reduced by simple and effective infection control measures.

Health care-acquired infections are a problem in not only the UK, but internationally. In the United States, Australasia and most European countries, including the UK, the number of patients who experience a hospital-acquired infection ranges between 4 and 10 per cent., which is a remarkably consistent set of statistics. Hospital-acquired infections are not a new phenomenon. Although medical practices change and different micro-organisms are involved, estimates that about 9 per cent. of in-patients in England acquire an infection have not changed since at least 1980.

The attack with which the hon. Member for East Worthing and Shoreham concluded his gross distortion of the facts in opening the debate actually showed that nothing has changed since 1980. Health care-acquired infections have remained consistently at the same sort of rate across the piece.

Tim Loughton: Is the Minister seriously saying that the number of people who are dying from hospital-acquired infections in 2005 is the same as the number who died in 1980?

Miss Johnson: I am saying that the rate of infection is the same, and has consistently remained about the same, over the past 25 years. As my hon. Friend the Member for Thurrock (Andrew Mackinlay) rightly said, we were the first Government to introduce mandatory surveillance for MRSA bloodstream infections. That was initiated in 2001 and has since been extended to other infections. More data should be available later this year. The Conservatives were so unconcerned about this when they were in power that they did not even begin to count the number of infections. The hon. Member for East Worthing and Shoreham attempted to pin it on the then Labour Opposition, but we must have done something right, as we have been in government since 1997. He ignored the work done by my right hon. Friend the Member for Sheffield, Brightside (Mr. Blunkett) and my hon. Friend the Member for Thurrock in raising this

[Miss Johnson]

issue in the past. When Conservative Members were in government they did not raise the matter at all—they did not worry about it and did nothing to counter it.

Dr. Julian Lewis (New Forest, East) (Con): Does the Minister believe that the Opposition are raising the issue because of statistics published by the Government or because of the experience of constituents, who report to us time and again that they and their loved ones have been infected, sometimes fatally? She seems to be in denial about the fact that there is a problem. Let her go on denying it—it may enable her to score debating points in this Chamber, but it will not wash with the public out there.

Miss Johnson: The reason why the Opposition keep raising this matter has nothing to do with the issuing of statistics, nor with its having been raised with them by members of the public—many issues are raised with us—and everything to do with denigrating the NHS and providing a setting in which they can undermine public confidence in it in order to remove £2 billion—*[Interruption.]*

Madam Deputy Speaker (Sylvia Heal): Order. The House must come to order.

Miss Johnson: The truth of the matter is that the Opposition do it to try to get into government so that they can remove £2 billion to prop up those choosing private health care at the expense of the vast majority of patients using the NHS.

Mr. Crispin Blunt (Reigate) (Con): Perhaps I could share my experience of visiting my local hospital last Friday night and early Saturday morning. It is a 466-bed hospital, but only 12 beds were vacant in the entire place, and the bed managers told me that that was a particularly good situation. Seven of those beds happened to be in gynaecology. In order for the A and E department to meet the targets imposed on it by the Government, patients are shipped around from one bed to another, taking infection with them, until they eventually get to the right place. That is one of the causes of the problem, and it is the direct responsibility of the Government and their targets.

Miss Johnson: The reason why we are tackling these issues is that we were left with an NHS starved of investment—*[Interruption.]* That is a well-known fact, frankly. We inherited an NHS where many people were waiting more than 18 months; now, we have got waiting times down so that nobody waits more than nine months, and most people wait four or five months—

Mr. Blunt: Will the Minister give way?

Miss Johnson: No, I will not.

Soon, people will wait only 18 weeks from start to finish.

Mr. Blunt *rose—*

Madam Deputy Speaker: Order. The Minister has indicated that, at this point, she is not willing to give way.

Miss Johnson: To make progress, I should like to move on to consider the information that we have. It shows a slight but not dramatic increase in MRSA in the past three years. However, we are not alone in experiencing such an increase—the same problem has occurred in Austria, Belgium, Germany and Ireland since 1999. We estimate that MRSA affects approximately 0.3 per cent. of patients or three in every 1,000. Of course, that is three too many in every 1,000 and we need to reduce that figure. However, the Opposition should be careful, in their delight in attacking the NHS, not to exaggerate a serious problem to the extent of unduly alarming patients and making them afraid to go into hospital to seek the treatment that they need.

Dr. Starkey: Is not my hon. Friend the Minister worried about Conservative Members' level of scientific understanding? They cannot understand the difference between hospital-acquired infections as a group and MRSA. That led to their suggesting that the figure that you—[HON. MEMBERS: "You?"] Pardon me, Madam Deputy Speaker. They suggested that the figure that my hon. Friend gave for the prevalence of MRSA in hospital patients was different from that that the hon. Member for East Worthing and Shoreham (Tim Loughton) cited for the total number of hospital-acquired infections. Obviously, the figures are different because they apply to different things. How can one have confidence in Conservative Members' arguments when they demonstrate that they have not the faintest understanding of what they are talking about?

Miss Johnson: As usual, my hon. Friend makes her point eloquently. We should be worried—I am sure that the country is concerned—about the prospect of such an Opposition ever becoming a Government.

We know that the infections can be prevented, we are acting on that important safety issue and we are committed to being completely open with the public about it.

Tim Loughton: Ha!

Miss Johnson: We have published the extent of MRSA infections in every NHS trust since 2001 on the Department of Health website. The Opposition never published such figures when they were in power. I do not know what the hon. Member for East Worthing and Shoreham finds laughable.

Mr. Ivan Henderson (Harwich) (Lab): My hon. Friend mentions openness. Conservative Members have cited what people in the NHS said, but does she remember that, in the old days, when the Tories were in control, they gagged people and prevented them from revealing problems? Whistleblowers were disciplined for speaking out. Is not it a good thing that they can say what they think under this Government?

Miss Johnson: Indeed. My hon. Friend brings me to an important part of what I wish to say in response to the hon. Member for East Worthing and Shoreham. He made several comments about the National Audit Office survey and the results of the infection control team survey.

The NAO survey was conducted in July 2003. It asked teams to report on a period that stretched back to 2000. Even over three years, the figures showed that almost

nine out of 10 teams reported that they encountered none of the problems of having their recommendations rejected or discouraged by chief executives. I shall consider the rest of the findings shortly because I have some interesting facts, which I am sure that the hon. Gentleman will not like to hear.

In addition, a similar proportion of trusts reported that they had closed parts of hospitals to deal with outbreaks. None of the detailed returns from the 12 per cent. that reported that they had raised the issue but not closed wards mentioned MRSA. Not a single one mentioned it. Most outbreaks were of diarrhoea and vomiting and other similar, admittedly serious, infectious conditions. They were not MRSA. The Opposition's entire case is predicated on one report and finding. It is absolutely wrong.

Kali Mountford: I confirm to hon. Members the facts of my hon. Friend's case. When an outbreak of vomiting and diarrhoea recently occurred in Huddersfield royal infirmary, it was simple for people to report to the chief executive, who acted swiftly and kept me informed. Wards were closed when appropriate, and patients were treated quickly when necessary and sent home to avoid further infecting vulnerable patients. In other words, the tools needed to do the job were in place. Is not it important to continue that approach and ignore Opposition giggling?

Miss Johnson: My hon. Friend is so right. Of course, the Opposition complain if any operation is cancelled for whatever reason. They are trying, as usual, to have their cake and eat it.

Our plans to reduce infection rates were set out in "Winning Ways", which was published in December 2003, before any of the work that we have done, and that is now being used, albeit it did not mention MRSA in a single case. "Towards cleaner hospitals and lower rates of infection" was published last July. We are actively implementing those programmes and building on the work already under way.

Mr. Bailey: The proposals to combat hospital-acquired infections are very necessary, but when I consulted a local doctor in an acute trust, he told me that the most effective way to combat MRSA in future would be with more nurses, more doctors, and better and newer hospitals with single-bed rooms. Investment is crucial to reducing infections. Does my hon. Friend agree, therefore, that proposals to take £2 billion out of the NHS could have devastating consequences for MRSA?

Miss Johnson: Absolutely. That would be devastating for many of our achievements. We have put £570 million extra into cancer treatment, for example, and anyone who considers the £2 billion that would come out can see the scale of the damage that would be done. *[Interruption.]*

Mr. Simon Burns (West Chelmsford) (Con): The boss is leaving.

Mr. Blunt: Will the Minister give way?

Miss Johnson: Although I am happy to go on taking interventions, I would like to make some progress first.

As part of updating and improving the NHS, we are creating the extra capacity needed to ensure better patient care. Some £135 billion for the NHS was announced by my right hon. Friend the Secretary of State last month. Compared with 1997, there are 77,500 more nurses and more than 19,000 more doctors working in the NHS. The hard work of NHS staff will help us to reduce health care-associated infections. A major new initiative has been the introduction of a target to halve MRSA bloodstream infections.

Tim Loughton: A target!

Miss Johnson: I am delighted to have the opportunity to talk about targets. This problem is challenging, but we know that having a target ensures that an issue is given priority in the NHS. We believe that the new target will raise the profile of infection control and ensure that effective action is taken. Opposition Members have disagreed with national targets, repeatedly arguing against them in the Chamber and elsewhere. Their manifesto contains a commitment to oppose targets. They believe that the magic of the market will in some way make everything better. That is clearly nonsense. We have achieved a lot through having targets. In the case of infections, no one on the Opposition Benches would even know what was happening if we were not publishing the figures. Nor would they know what progress we were making if we were not measuring ourselves against a target.

Jim Dowd: Will my hon. Friend give way?

Miss Johnson: I want to make a little progress first, and I will then be happy to give way some more.

Mr. Burns: You are on your own now.

Miss Johnson: That has nothing to do with whether I give way.

Hand hygiene is an important part of inspection control. Last September we launched what we believe to be the first ever national hand hygiene campaign. The clean your hands campaign was based on a thorough, successful pilot study undertaken by the National Patient Safety Agency. That evidence-based campaign is tackling what has been an intractable problem for health care systems worldwide, and its impact on infection rates will be evaluated.

We are also taking a proactive approach to research in that area. We hosted a science summit in December and issued a call for proposals on health care-associated infections in February.

Rob Marris (Wolverhampton, South-West) (Lab): I am grateful for what the Government are doing on this serious issue. To be prosaic, I get complaints from constituents, whose concerns I share, that some hospital staff do not take off their uniforms when they leave the hospital; they can be seen in supermarkets and so on in their uniforms. Back in the 1950s, the rule that staff should not go off site or travel to work in their uniforms was strictly enforced. Is that part of the Government's strategy to address the issue?

Miss Johnson: It is up to local trusts to decide on their policy. Some operate the policy of providing and cleaning uniforms on site, while others allow staff to take uniforms home and clean them there.

[Miss Johnson]

I should like to make some more rapid progress, but I want to deal with a couple of important matters raised by the hon. Member for East Worthing and Shoreham. He raised the question of MRSA and neonatal units. The figures relating to the parliamentary question that he mentioned are about reported bacteraemias only. Some of the figures in the Patients Association survey, which I think he was quoting, are for colonised patients—carriers—and not those who are infectious. That is an important set of distinctions, and we stand by our numbers: in 2003, there were only 71 reported MRSA blood isolates in England in children aged under five years. We expect that the provisional figure for 2004 will be lower.

Mr. John Hayes (South Holland and The Deepings) (Con) *rose—*

Jim Dowd *rose—*

Miss Johnson: I would like to make some progress. I am conscious of time, and this is a shortened debate.

We have been actively supporting NHS staff in achieving the changes that we want. Our programme is one in which local action is crucial. The requirement in "Winning Ways" for each trust to designate a director of infection prevention and control is helping to change the culture so that infection control is everyone's business. The directors report directly to the chief executive and the board. The hon. Member for East Worthing and Shoreham asked who was responsible for this matter; of course, at the end of the day it will be the chief executive and the board. That is only right and proper; I cannot see how the hon. Gentleman can possibly disagree. In coming months, the directors will be producing publicly available annual reports on their local situation.

Mr. Hayes: Now that the Minister is moving beyond the knockabout politics that seemed to preoccupy her in most of the opening of her speech, will she specifically address the issues identified in "Winning Ways" with regard to the experiences of other countries? The document makes it clear that several policies have been adopted by other countries. I am sure that she is aware of them. Which of those recommendations has she taken on board in her policy for reducing the incidence of MRSA?

Miss Johnson: We have looked at a number of things. I am sure that the detail involved would require me to write to the hon. Gentleman, and I am very happy to do that. I can say that the suggestion that we should operate a destroy strategy, which has been canvassed today, would not be one of those options. We have looked at the policy and the rates of infection in the Netherlands. Indeed, a Dutch expert came recently to a national conference to talk with our experts. That expert said that such an approach would be inappropriate here. The search and destroy strategy is appropriate for the Netherlands because the country has a much lower rate of MRSA in the population as a whole. It has nothing to do with anything else; the approach is practically feasible in the Netherlands in a way that it is not here.

Jim Dowd: Will my hon. Friend give way?

Miss Johnson: I must make some progress, or I will have the Whips on my back. I hope that hon. Members will be patient.

Cleanliness is improving, as is demonstrated by the PEAT—patient environment action team—visits. Notification of such visits will in future be made no earlier than the afternoon before the visit, and PEATs will not nominate areas for inspection until the inspection day. The results from PEAT inspections are very encouraging, but it is important that the public know that the inspectors are genuinely looking at hospitals as they are, not doing so after a notice period in which the place can be cleaned up.

I mentioned the launch of the matron's charter last October by Chris Beasley, our chief nursing officer. It is a clear document that sets out clear high standards and a new management system that will be evaluated in several sites to provide a means whereby matrons can control directly the use of cleaning resources at their disposal.

Jim Dowd: Will my hon. Friend give way?

Miss Johnson: Yes, I will.

Jim Dowd: Hallelujah! I thank my hon. Friend for giving way. She will be aware that Lewisham hospital has been at the forefront of the initiatives on infection control, and that it has reduced its infection rates by almost 30 per cent since 2001. My hon. Friend the Member for Lewisham, Deptford (Joan Ruddock) and I visited the hospital a couple of months ago, not only to see what steps it was taking but to see a ward that had been closed specifically to deal with infection. In a 450-bed unit, the decision to close that ward would have been a very difficult one to take. In support of what my hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey) said earlier on the nature of MRSA, I must point out that the hospital is also undertaking screening of people presenting at the accident and emergency department. Of the 5 per cent. or so who come from nursing homes—all of which are privately owned in Lewisham—more than 40 per cent. have MRSA on admission.

Miss Johnson: This is obviously an issue for the NHS. It is also a problem because elderly people are especially vulnerable to infection, as are the very young; the figures on the rates of infection reflect that. My hon. Friend makes a useful point.

It has been suggested that our success in treating patients more quickly has impacted on our ability to control infection rates. The NHS runs at high bed-occupancy rates because it is treating more patients and cutting waiting lists. Increasing activity means that we have to work even harder to reduce the risk of infection, and that is just what the NHS is doing. There are examples of hospitals with high bed occupancy and low infection rates. Sheffield, for example, has an MRSA

rate of 0.16 per 1,000 bed days, and an 88.7 per cent. bed occupancy rate. However, neither the Government nor the NHS is complacent about the attack on infection.

The Opposition need to understand that their silence on health policy is not good enough for the British people. Their policy on health is one soundbite: tackling MRSA is important, but it is not a health policy for a political party that wants to have custody of the NHS—

Mr. Burns: Awful!

Miss Johnson: The hon. Gentleman says that it is awful, and he is quite right. It is awful. The Tories' policy is an absolute nightmare. What do they have to say about how they would improve results on cancer care or coronary heart disease, for example? What do they have to say about waiting lists and waiting times? What do they have to say, other than that they are going to take £2 billion from the NHS to subsidise the few who can already afford private health care? If they want to convince the British people that they can be trusted with the NHS, they will have to set out a health policy that will convince people they deserve that trust. The reason that will not happen is that their policy is to destroy the founding principle of the NHS by introducing charges for basic operations—

Mr. Burns: Will the Minister give way?

Miss Johnson: I will not.

The Tories' spin doctors have told them how unpopular that policy would be. Tory health policy is the policy that dare not speak its name—

Mr. Burns *rose*—

Madam Deputy Speaker: Order. The Minister has made it clear that she is not prepared to give way. I will not tolerate this kind of behaviour in the Chamber.

Miss Johnson: Cash flowing out of the health service to subsidise operations for the few would result in under-investment, longer waiting times and, ultimately, the destruction of the NHS. That is the Tories' real agenda here. The crucial divide in health care is between the Labour party, which believes in an NHS that is free at the point of use, and the Conservative party, which would place a patient's ability to pay above their clinical need. I have set out the facts for the House, and I believe that they speak clearly for themselves. I trust that Members will oppose the Opposition motion when the time comes.

6.8 pm

Mr. Paul Burstow (Sutton and Cheam) (LD): Hospital infections such as MRSA are not new—they were not conjured into existence in 1997. No matter how convenient that idea might be for the narrative of the Conservatives' general election campaign, it simply is not the case. The prevention, control and containment of superbugs has been a long-standing issue for the NHS and other health care organisations, both in this country and overseas. What is new is that, since the National Audit Office report of 2000, there has been a gradual and growing realisation of the scale of the challenge posed by superbugs, of the £1 billion cost of dealing with the consequences of infection that the report identified and of the annual toll of 5,000 preventable deaths.

First and foremost, the National Audit Office's message to the Government and the national health service in 2000 was, "Get a grip." Better management and clinical information were key to having an impact on the problem. To be fair, the Government instituted a system of mandatory reporting of MRSA bloodstream infection rates in 2001. Until that point, there was no clear measure of the scale of the problem. In 18 years in power, the Conservatives were content to rely on a voluntary reporting system that under-reported the problem—dramatically in parts of the country, but significantly across the country. That allowed MRSA rates and those for other superbugs to get out of control.

I must say to those on the Opposition Front Bench that it is not a sufficient argument to say that the Conservatives in government were not to blame because Labour in opposition did not ask the questions. That is an inexcusable rationale for saying that the Conservatives are not to blame. Indeed, Conservative Government policy on MRSA fell into three parts: say nothing about MRSA, learn nothing about MRSA, do nothing about MRSA. Nothing new there then.

Mandatory reporting helps only if it is smart mandatory reporting—if it helps organisations and clinicians to learn and change the way they work—but the system introduced back in 2001 fails that test. Collecting hospital MRSA rates might help headline writers to scare patients, but it fails to give front-line staff and management the information they need to fight infection.

According to the most recent NAO survey of infection control teams, when asked about the practical impact of collection of hospital MRSA rates, 27 per cent. of teams said it had no obvious effect. That is hardly a ringing endorsement from the experts on the ground.

In 2000, the NAO recommended that specialty level surveillance of hospital-acquired infections should be introduced. In the follow-up report last July, it said that

"there is still a lack of robust information on the majority of infections at both the local and national level. As a result it is still not possible to say whether there has been any tangible measurable progress."

It went on to say that information available from trusts suggested that the improvement had been small. Why? The NAO argued:

"The lack of ownership of surveillance data by clinicians is likely to be one of the main reasons."

More worrying still was the NAO finding that one in five infection control teams were not carrying out any surveillance activity other than mandatory MRSA bloodstream surveillance. Failure to set in place mandatory specialty-specific surveillance of infections has hamstrung the efforts of front-line infection control staff and let patients down.

Patients should have access to reliable and comparable information on infection rates, not just in the NHS, but in the private sector. For patients, doctors and nurses, a critical element in the quality control feedback loop is missing as a result of what the Government have so far failed to do. Putting it in place should be a priority.

[Mr. Paul Burstow]

The motion refers to the 955 deaths attributed to MRSA in 2003. That figure is based on data from death certificates, but it is clear that that is just the tip of the iceberg. In fact, no one knows precisely how many people die as a consequence of MRSA. The only way to get a true picture of the extent to which MRSA contributes to deaths in hospitals requires, according to the national statistician, Len Cook, special epidemiological research. It is time that more research in that area was commissioned. I hope that the Minister gives us some idea of whether such research will be carried out to achieve a proper fix on the number of deaths from MRSA and other hospital-acquired infections.

In opening the debate, the hon. Member for East Worthing and Shoreham (Tim Loughton) rightly said that front-line staff should have the authority to close wards to control infections, but that should be done by front-line staff with expertise working in collaboration with ward staff—not only matrons, but infection control teams. I agree with Beverly Malone, general secretary of the Royal College of Nursing, who said recently:

"The truth is matrons need to work in collaboration with other health professionals and managers to ensure the system works best for patients."

There should be no question of political targets getting in the way of such critical clinical judgment calls.

The leader of the Conservative party recently called for the return of matron, but why did successive Conservative Health Ministers fail to bring back matron between 1979 and 1997? How was the authority of front-line nursing staff over cleaning, hygiene and housekeeping undermined in the first place? I believe that the pressure to hit waiting time targets has made matters worse. As the NAO report showed, waiting time targets conflict with the prevention and control of infection.

I do not believe that targets can ever capture the complexity of delivering high-quality health care in this country. Targets inevitably miss the point. Last November, Dr. Andrew Bamji, a senior doctor at Queen Mary's Sidcup Trust, said that pressure to meet A and E waiting targets was undermining measures to tackle hospital infections. While Dr. Bamji was on holiday, two patients were admitted to his rehabilitation unit without being screened for MRSA, despite the protests of senior nurses. One of the patients later turned out to be infected with MRSA. Because of the target, a unit that had maintained a more or less MRSA-free record for more than two years became infected.

In December last year Annette Jeanes, lead nurse in infection control at Lewisham hospital—mentioned by the hon. Member for Lewisham, West (Jim Dowd)—said of the four-hour wait target in A and E

"You have people waiting in A and E and you physically do not have the beds to put them in. When a bed becomes available, there is not time to wash the beds and allow them to dry."

Preventing, controlling and containing hospital infections should never come second to political targets.

The rise of the hospital superbugs may have been fuelled by the Government's obsession with targets, but it did not start with that. Day-to-day control of everything that goes on in a hospital ward was first shattered back in the 1980s when a Conservative Government ordered hospitals to contract out their cleaning. Price and price alone became king—quality of service certainly did not. That generated the fragmentation of responsibility on the ward from which we undoubtedly still suffer today.

In 2000, the Department of Health issued a circular setting out a programme of action for the NHS on management and control of hospital infection. There has been no national audit of compliance with that circular and Health Ministers have made it clear that the Government have no plans to undertake such an audit. When "Winning Ways" was published in December 2003, the chief medical officer gave one of the reasons why an audit had not yet been conducted. He said:

"Despite the extent of the guidance issued to the NHS, such data as are available show that the degree of improvement has been small."

Ensuring compliance with guidance should be a priority.

There is no single quick-fix solution to the problem of hospital infections, but it is clear that concerted efforts involving, for instance, screening, hand washing and isolation can reduce the spread of superbugs. Good ventilation systems in wards, theatres and isolation rooms are vital to the combating of infectious diseases. According to the NAO, however, only one in three infection control teams felt that their hospital had appropriate isolation facilities.

The Department's 2000 circular required trusts to undertake risk assessments to determine appropriate provision of isolation facilities in each trust, but according to the NAO's report last year more than 70 trusts still had not done so. Of those who had, just 25 had obtained the necessary isolation facilities. There is no timetable for action on the results of risk assessment and there appears to be no sense of urgency either at the top, in the Department, or on the ground in NHS trusts.

It is a scandal that Ministers do not know how many isolation rooms there are in the NHS. How can the Government's contingency planning to tackle the threat of flu and other pandemics be acceptable and ring true if we do not have such basic information? There should be an urgent audit of current provision and future plans for isolation rooms.

If infection control is to make a difference, everyone who works in health and care must take it seriously. It is not just a problem in hospitals—it is a problem in other care settings as well. The role of infection control nurses and doctors in leading the cultural change is crucial. It must be cause for concern that, four years after the NAO published its first report on hospital-acquired infections, its follow-up report concluded that the budgets of one in four infection control teams had been cut—not increased, but cut. How on earth can they be expected to do their job?

Cutting infection is not rocket science. It is about relearning some of the lessons that Florence Nightingale taught more than 100 years ago. Fighting infection is a task for everyone who works in the NHS. What is needed may not be search and destroy, but it is certainly a zero-tolerance approach to infections in our hospitals.

The Liberal Democrats will vote for the motion, because it sets out the case for urgent action to fight infection. We will not support the Government's amendment, because it is far too long-winded and self-congratulatory. We do not need congratulations tonight. We need definitive action to deal with the problems of superbugs in our hospitals and to ensure that people do not become sicker when they went into hospital to be cured.

Several hon. Members *rose—*

Madam Deputy Speaker: Order. Several Members are hoping to catch my eye and the time for debate is limited. If brief contributions are made, perhaps more Members will be successful.

6.20 pm

Shona McIsaac (Cleethorpes) (Lab): I was dismayed to hear the contribution of the hon. Member for East Worthing and Shoreham (Tim Loughton). He is oversimplifying what is a very complex issue and ignoring much of the associated science. The Conservatives talk about methicillin-resistant Staphylococcus aureus as if it were a single homogenous phenomenon, but it is not: 17 strains of MRSA have some resistance to penicillin treatment. Clones 15 and 16 have become much more dominant in recent years in the UK, which is why we have witnessed an increase in such cases in our hospitals. In fact, clone 16 accounts for about half of all cases of MRSA in the UK.

If Tory Front Benchers want to check that information, they should read the 25 February edition of *The Daily Telegraph*, in which Dr. Mark Enright of Bath university states:

"These clones appear to be highly transmissible compared to other MRSA clones, allowing them to easily spread from patient to patient . . . They are still quite uncommon in most other countries".

That point is pertinent to today's debate and to the comments of Tory Front Benchers. They say that we should use some of the best practice in other countries, which has had an effect on MRSA, but in many cases we are not dealing with the same strains, so the techniques used in those countries might not be appropriate here. We are dealing with the most resistant and most transmissible strains, particularly MRSA 16.

The genome for the MRSA 16 strain has recently been cracked and the toughness of that clone has become apparent: for example, it is very resistant to high temperature. There has been talk today of the need to wash nurses' uniforms and so on, but if we are to tackle this problem we need to bear it in mind that this strain can survive high temperatures.

Tory Front Benchers have also ignored the fact that Staphylococcus aureus is very common. Many of us carry it and, indeed, some 30 per cent. of the UK population are probably carrying it on their skin or in their noses and throats, so a third of those of us who enter the Division Lobby tonight will be carrying it. Some people also carry the resistant strains 15 and 16. We are dealing with something that is very common among the general public, but which will not have much of an effect on them. However, clone 16, which is causing most of the problems in the UK, does affect those with weakened immune systems and those who gather with many others in a single place—such as hospitals—because of its highly transmissible nature.

It has been argued that the problem has suddenly arisen because of cleaning contracts. Although that is an important subject, I am not convinced that that is where the blame lies. We need to consider why Staphylococcus aureus has become so resistant, and much of the explanation lies in its very nature. It mutates constantly. What was happening—we need to go back to the 1960s and 70s—is that antibiotics were prescribed when they were not, strictly speaking, necessary. The weakest strains died off and now we are seeing the prevalence of the resistant strains. That is why it is vital that everyone who is prescribed an antibiotic even now takes the full course. People may feel better after a few days, but if they do not complete the course, the resistant clones may become more dominant.

How do we tackle the problem? We need to reflect on the prescribing of antibiotics. Many primary care trusts and hospitals are considering that aspect and it is also vital to ensure cleanliness in hospitals, as the virus is likely to be transmitted through hand-to-hand contact.

Dr. Starkey: Does my hon. Friend accept that, although there is not enough evidence to demonstrate that the contracting out of cleaning services per se was directly associated with the increase in MRSA, there remains something to be said about the downward cost pressure, which reduced the amount of money being spent on cleaning—whether in-house or contracted out—and did partly contribute to falling standards within hospitals? Where the overall health budget was very constrained in the past, the additional cost pressures were even greater. Thankfully, under the present Government, it is no longer quite such a problem.

Shona McIsaac: My hon. Friend makes some very fair points. I was trying to emphasise that dealing with the problem of MRSA is not simply a matter of cleaning. Cleaning is one factor and good hand washing is important. We need to reduce skin-to-skin contact, which can transmit the virus.

My local trust has pioneered some of the important work that needs to be done. It is another reason why I feel that the Tories portrayed the problem in a way that is most unfair on hospital staff, particularly those working in the Northern Lincolnshire and Goole Hospitals NHS Trust. It has been one of the pilots for the clean your hands initiative. I mentioned on 2 February that the MRSA rate was on the decline. In the period from April 2001 to March 2003, there were 36 MRSA cases, 34 in the following year and then it went down to 28. Those 28 reports of MRSA equate to a rate of 0.09 per 1,000 bed days. It is clearly declining in my trust, which has also won national awards for cleanliness, so it is despicable for Conservative Members to go around portraying every hospital in the country as filthy. Excellent work is going on and I believe that the staff in my trust should be praised for their work in leading the national initiative through this programme.

6.29 pm

Mr. John Hayes (South Holland and The Deepings) (Con): It is right to view much of our debate as beyond, or one might say above, party politics. It is important to debate the issues in those terms, but I must tell the Minister that the suggestion that the problem has not worsened since 1980 does no favours to her, to the House or to the quality of our debate, because that is clearly not the case, as the statistics reveal. I shall deal with them in some detail in a few moments.

Dr. Starkey: Will the hon. Gentleman give way?

Mr. Hayes: I have only just started. All right, I will give way because I am such a nice chap.

Dr. Starkey: I am exceptionally grateful to the hon. Gentleman—and I stress that last word. My understanding of what my hon. Friend the Minister said was that the total rate of hospital-acquired infections was not worse. Everybody accepts, however, that the proportion of those infections that are caused by MRSA has increased.

Mr. Hayes: The hon. Lady makes an interesting point, and it perhaps reveals that if Ministers do not make themselves clear, it is likely to lead to a misunderstanding of what they mean. The Minister was clearly making a partisan point. I hoped to move on from that by making a speech that is largely non-partisan.

In that spirit, it is of course true to say that MRSA is more common now for a variety of reasons, not all of which are the result of public policy. The reasons include the ageing population, the survival of more sick people, and the likelihood of transmission in a more mobile population. But the fact that MRSA organisms are often associated with patients in hospital—because they are, implicitly, sick, usually weak and often old—means that we must face certain public policy imperatives. We need a holistic approach to the problem. I am tempted to add phrases such as "sustainable", "involving stakeholders" and "joined-up thinking", as well as other new Labour-speak, but I shall move on.

The holistic approach needed begins with an acceptance of some of the facts and figures. For that purpose, we should be clear about the National Audit Office report. As my right hon. Friend the Member for Haltemprice and Howden (David Davis) said, the report says that at least 5,000 patients a year die from MRSA; that such infections cost the NHS as much as £1 billion a year; and that at any one time at least 9 per cent. of patients have an infection acquired during their hospital stay. The effect of those infections varies, from relatively minor to death.

Mr. Mark Simmonds (Boston and Skegness) (Con): Is my hon. Friend aware that the NAO said in its latest report, published in 2004, that had the Government implemented the recommendations in its previous report in 2000, up to 750 lives a year could have been saved? Some of his constituents use the same hospital in Boston as many of mine—Pilgrim hospital—and the issue causes them immense worry and concern, but it is not an attack on the hard-working staff of the NHS in our area to say so.

Mr. Hayes: I am delighted to take my hon. Friend's advice on the latest statistics. He is renowned in Lincolnshire as a champion of the interests of the people of Boston and the surrounding area in respect of health and many other issues, and he is right to say that the NHS staff there and elsewhere do a first-class job. I am sorry to say that one of the smears that has emerged from this debate from Labour Members is the suggestion that Conservatives do not believe in the NHS. Let us put that to bed immediately. My two sons were born in Pilgrim hospital in Boston on the NHS, and I have never had private health treatment in my life. Neither have many other Conservative Members. We believe in the NHS no less than Labour Members. We want an NHS that is effective, that spends money properly and that deals with problems in the best way possible. That is true for MRSA as it is true for many other aspects of health provision.

Let us be straightforward about other facts that the Government challenged—they may be in denial—including the statistics showing that the problem has increased. Reports of bloodstream infections caused by MRSA have increased from 7,384 in 2002–03 to 7,647 in 2003–04 on the latest figures. That is a 3.6 per cent. increase, and we have no reason to believe that the rate of increase has fallen recently.

In the first three years of mandatory surveillance, the number of infections—both methicillin-sensitive and methicillin-resistant—increased, and the number of bloodstream infections caused by the methicillin-sensitive strains increased by 9.2 per cent. in 2002–03. The proportion of blood isolates resistant to methicillin is 44 per cent. in the United Kingdom. It is only 1 per cent. in Denmark; 1 per cent. in the Netherlands; 11 per cent. in Austria; and 23 per cent. in Spain. Only Greece matches the UK figure.

Shona McIsaac: Has the hon. Gentleman also noticed the rates in Japan and the USA? In fact, their rates are higher than the UK's. No one would associate either of those countries with poor hygiene conditions. Again, the picture is complex, which relates to different strains of MRSA.

Mr. Hayes: I know virtually nothing about the health service in the USA or Japan, and it would be entirely inappropriate for me to respond to that intervention in any less honest way.

This is an increasing problem. That fact needs to be recognised, and I hope that the Government will accept that—in raising it from the Opposition Benches in the very bold and comprehensive way that my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) did in his splendid opening remarks—we are not just illustrating a profound concern among Conservative Members but reflecting a profound concern among those people whom we represent. It is not good enough to say that we are scaremongering. My constituents raise the issue with me—I will not say every day, but certainly with alarming regularity. This is a real problem felt by the British people, and it deserves proper scrutiny by the House and an adequate response from the Government.

The Minister said that dealing with hospital cleanliness and MRSA was not a sufficient health policy. Perhaps she is right; this issue obliges us to look at some of the fundamentals about health, and in looking at

them in preparing for the debate. I was alarmed at what I found. For example, it is sometimes claimed that the UK enjoys a similar quality of health care to that of other developed countries, but although indices such as life expectancy are similar, they are affected by many factors other than health care.

A recent study that measured the contribution of the national health care system to health outcomes placed the UK 18th out of the 19 developed countries studied. Similarly, a lot is of made of the Government's achievements in waiting times. It is true that the longest waiting times have fallen, but average waiting times have been little affected by Government policy. On one measure—the average waiting time of people on the list—average waiting times have only just started to fall significantly. On another—the waiting times of patients actually treated in any year—waiting times have actually increased.

Similarly, the Minister accused us of having no policy on mortality from major diseases, such as cancer and heart disease. It is true that deaths from cancer and heart disease have fallen steadily since 1999, but the Office for National Statistics has shown that the falling trend began in 1980 and has been sustained by improvements in lifestyle, particularly the reduction in smoking, improved diet and so on, rather than the extra funding of the past five years.

In summary, the OECD judged the Government's policy on health and concluded that the extra spending had made little difference to the mortality trend. It said:

"In the health sector there are few indicators showing unambiguous improvements in outcomes over and above trend improvements that were already apparent before the surge in spending."

So although the Minister said that we have no interest in those matters, that we have no policy on waiting lists or waiting times, that we are not interested in oncology and that we take no broader view of health, she should now acknowledge that not only is that not so, but when a broader view is taken, the Government's record is rather less rosy than she might suppose or want to suggest.

Miss Melanie Johnson: The hon. Gentleman still has not said anything about his health policy.

Mr. Hayes: Well, the hon. Lady says that from a sedentary position, but she has accused us—as *Hansard* will show—of not having policies on anything other than clean hospitals. We are interested in such matters and we have policies on them. I mentioned those issues, which are relevant to the motion, because she did.

Miss Johnson: My remarks simply highlighted the fact that the Conservatives have no policies on those various matters. The hon. Gentleman made points about cancer and coronary heart disease, but he gave no indication of what their policies on such matters would be.

Mr. Hayes: The hon. Lady attempts to divert me from the main message that I want to deliver, which is that she needs to take the motion, the subject and the concern of Opposition Members and the British people a little more seriously.

One of my constituents, a woman in her 30s, went into a local hospital for a hysterectomy. Unfortunately, she acquired MRSA, but it was not diagnosed until after she had left hospital. She died eight weeks later. That is the reality of the situation that her family and friends must face, and it explains why the debate must not be taken lightly. We need to step beyond some of the party political knockabout, which I am sorry to say preoccupied the Minister for too much of her speech.

What can be done? We need preventative measures, including a culture change in the attitudes of all those involved in training and managing staff. We need better risk analysis and clean hospitals. When the disease occurs, we need proper responses to it, which means rapid identification, effective isolation, and the most appropriate drugs treatment in terms of both quantities and regime. We also need proper research and science.

An uncourageous attitude to the problem will not make a difference, and not making a difference will cost more lives like that of my constituent. I am not prepared to pay that price and do not think that any hon. Member should be—the Conservative Front Bench certainly is not. I wonder whether the Minister is prepared to pay that price.

6.42 pm

Andrew Mackinlay (Thurrock) (Lab): I am pleased that I have been called to speak, because I have been somewhat frustrated and angry. For several I, like several hon. Members, have drawn attention to the problem of hospital-acquired infections and MRSA, but we have not been listened to appropriately by either Conservative or Labour Ministers. However, for the record, I wish to draw a distinction between Ministers in the early years of the Labour Government and the present Health team. This problem was not addressed at a sufficiently early stage by successive Ministers.

Reference has been made to the causes of MRSA, of which there are many. There can be no doubt that the success of the national health service in having a greater throughput of patients is a contributing factor. One can also cite the slack regime of many medical staff, especially doctors, who should know better. They obviously do not like wearing white coats at present, and although I do not want to emphasise that point, it is indicative of the problem. Further factors are the minimal cleaning of ambulances, because they are used extensively, and the lack of destruction of bed linen and instruments, because of the serious cost implications of doing so.

The Conservative motion invites us to compare the Labour Government's stewardship of the matter with the previous situation. I hope that I am saying this objectively, but I do not think that that can be done. Part of the problem was that no statistics were available under the Conservative Government, which was also the case in the early years of the Labour Government. I draw a distinction between previous Health Ministers and the current ministerial team, because the latter have addressed that problem, albeit late. They have given themselves a presentational problem, because now that we have more accurate reporting, people are saying, "All this is out of hand."

The problem was always there, but it was deliberately suppressed, not so much by Ministers, whether Labour or Tory, but by the people who run the NHS. There was

[Andrew Mackinlay]

a conspiracy of silence, which still exists, partly because hospitals and individual practitioners in the health service were worried about litigation. Given the competitive nonsense of star-rated hospitals, naturally people are worried about admitting the extent of infection. There are resource implications. If wards or facilities are closed, that has an impact on waiting lists and so on.

Mr. Simmonds: Will the hon. Gentleman give way?

Andrew Mackinlay: I am afraid that I will not. The hon. Gentleman will share my frustration that the speeches of the Tory and Labour Front-Bench spokesmen lasted until eight minutes past six. This is supposed to be a debate, which means that we should all have a go, so if he will forgive me, I will not give way to him.

Fair comparisons cannot be made between the situation now and in the past. There has been too much partisan politics this afternoon. In *The Independent* on 8 March 1997, Anthony Bevins and Paul Routledge reported:

"John Horam, Health Minister said in a Commons reply that the total numbers of cases of . . . MRSA . . . was not 'collected centrally', and the ministry had no idea of the number of cases in which the bug 'contributed to or caused death'."

That was part of the problem, but officials running the NHS were also to blame. Ultimately, of course, Ministers must take the blame. As recently as February 2000, Sir Alan Langlands, former chief executive of the NHS and part of the magic circle that runs the country, whether under a Labour or a Tory Government, was asked whether hospitals would be given targets for curbing infections. He said:

"I don't think I want to pin myself to a target at the moment, simply because we need to have a proper surveillance system that gives us baseline numbers against which we can set targets."

Sir Alan did not recognise the extent of the problem. Like many others, he did not want to admit the scale of the issue. He adopted a laid-back approach.

The hon. Member for East Worthing and Shoreham (Tim Loughton) said that I had raised the subject on a number of occasions in the House, and I am grateful to him for acknowledging that. However, he also blamed Labour for not pressing harder on the issue when in opposition. I was a member of that Opposition. I was not a Front Bencher—I never will be, thank God—but I was one of a number of Members who raised the issue. I double-checked my figures, and at least five peers raised it in the other place before 1997, including my colleague Lord Fitt of Belfast, whose moving speech I commend to hon. Members. I believe that Baroness Cumberlege replied to him, and she was working from the same brief that the hon. Member for Orpington (Mr. Horam) used in his reply to my Adjournment debate. The thrust of their argument was that we were exaggerating the scale of the problem. We were Back Benchers, so they did not have to take any notice of us. They kept their heads down and spoke from their brief in the belief that there was nothing to worry about.

My hon. Friend the Member for Newport, West (Paul Flynn) also secured a debate on the issue, as did my hon. Friend the Member for Huddersfield (Mr. Sheerman). In fact, about 15 Back Benchers raised the issue in the closing stages of the last Tory Government, but it was ignored. We therefore depended very much on voluntary reporting. The Whip has raised his finger, but I wish to make one more point.

In his reply to my Adjournment debate, the hon. Member for Orpington said:

"Mostly, the type of infection will be trivial, but for patients who are in hospital, it can sometimes be serious, as the hon. Gentleman has noted . . . The infections are no worse than those caused by the ordinary bacterium."—[*Official Report*, 19 March 1997; Vol. 292, c. 859.]

He counselled me that it was important to get the matter in perspective and said that I was

"ill advised to introduce party politics"

into such matters. I am guilty of many sins, but I did not do that then, and I have not done it today. Both sides are to blame to some extent, and we should urgently address the problem by homing in on poor managers in the NHS, particularly senior ones who have suppressed the truth.

The Minister is guilty of many sins, but when she was a Treasury Minister she was the first person to see to it that there were no longer fibs on death certificates. She ensured that the cause of death was properly recorded. Previously, pneumonia and septicaemia might be put down as the cause of death, when the truth was that the death was MRSA-related. My hon. Friend remedied that. However, now that there is accurate reporting, she faces a problem. She is being chastised by the Opposition.

6.49 pm

Chris Grayling (Epsom and Ewell) (Con): In today's Britain, our lives are in greater danger when we are in hospital than when we are driving a car. What an extraordinary position to be in. MRSA and other hospital-acquired infections are ripping people's lives apart. Children have lost parents, parents have lost children and families have been torn apart.

It is not just that our lives are in danger; it is that our long-term health and well-being are also in danger. I know of cases of people losing limbs after catching MRSA in our hospitals; children who have been left partially handicapped after catching MRSA in our hospitals; and people who have been left housebound for months because of hospital-acquired infections. It is nothing short of a national disgrace, and, as my hon. Friend the Member for South Holland and The Deepings (Mr. Hayes) put it, it is a profound concern.

It is an absurd protestation from the Minister, in what I am sure will be her last speech in the House, that the problem has not changed in 25 years. Let me give her a direct example of why she is wrong. Pressure from the Government is making things worse. In my constituency, Epsom hospital is under great pressure. The neighbouring accident and emergency department at Crawley has been closed. The hospital is swamped with work and has a huge overflow of patients as a result of that closure. But the Government are demanding that it meet the four-hour waiting time target in accident and emergency, even with the extra patients. They are not just demanding; they are threatening managers if they fail to meet that target.

Dr. Starkey: Will the hon. Gentleman give way?

Chris Grayling: No, I have only five minutes.

Direct and unpleasant pressure is being put on the management team. Operations are being cancelled and elderly patients are being moved into a store room that has been converted at the neighbouring hospital, which was once a ward. As a member of staff who came to see me recently, too scared initially to give her name, said:

"Infection control guidelines have gone out of the window."

Epsom is not an isolated case. Throughout the NHS, doctors, nurses and hospital managers are coming under the most intense pressure to meet the requirements of Ministers. Some have even resorted to falsifying the figures, and infection control goes out of the window. Is it any wonder that the MRSA problem is getting worse and worse?

Is it not astonishing and alarming that 100,000 people a year catch a hospital-acquired infection? Surely Ministers have learnt from the experience of their own constituents how bad the problem is. The problem is one of rising disease, rising infection and appalling hygiene standards in many of our hospitals.

My right hon. Friend the Member for Wokingham (Mr. Redwood) referred to one of his constituents who also wrote to me about the state of the toilets in that hospital. He said:

"I decided to try the other toilet; this doubles as a store room and at the time of my visit ¾ of the floor space was taken up with wheelchairs and large cardboard boxes . . . Bear in mind that all these boxes had come off the back of a lorry . . . Having used the lavatory, in order to get to the . . . wash basin it was necessary to move 2 or 3 wheelchairs thereby possibly contaminating the wheelchair."

That description is from a hospital that gets a green light on hygiene from the Government—another meaningless statistic from the Government that bears no relation whatever to the real experience of patients. All of this is happening today in hospitals around the country as we debate in this place.

The Government seek to pass the blame on to the last Conservative Government. They want the country to believe that the problem is down to contracting out cleaning services, but their own studies show that there is no correlation between contracting out and hospital-acquired infections. I have not noticed Ministers rushing to bring cleaning contracts back in-house. If a cleaning company is not doing its job properly, perhaps it is time to change the cleaning company.

Is it not about time that we addressed the problem in the real way that is necessary? Is it not about time that we had nurses properly in charge of their wards—a new generation of matrons with the power to withhold money from cleaning companies and if necessary to close a ward to ensure that it can be properly cleaned?

The Government have palpably failed to tackle the problem of MRSA, and their clumsy attempts to micro-manage the NHS from Whitehall are just making matters worse. In Britain today people are scared to go to hospital. What a damning indictment of eight years of Labour rule. What a disgrace in a country such as ours. It is time to do something about it, and after 5 May the next Conservative Government will do something about it.

6.54 pm

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): In common with many Conservative Members, the hon. Member for Epsom and Ewell (Chris Grayling) has told us that he believes in the national health service, but his speech was designed to denigrate the NHS and the people who work in it. He did not have one word of praise for the hard work of NHS employees or one whisper about the improvements to the NHS or the attempts to improve the problems that he highlighted.

No one—certainly no Labour Member—doubts the seriousness of MRSA or tries to minimise its importance. However, it is one thing to emote, to frighten people and to pass anecdotes in this House, and it is another to tackle the issue. The hon. Gentleman did not mention that the NHS treats 1 million people every 36 hours. Given the scale of the NHS, certain challenges must be faced, but he did not say one serious word about how to face them.

We are all politicians, and we all do a bit of point scoring, with which I have no problem. However, it was stomach-churningly unpleasant to listen to scientific illiteracy on a massive scale from Conservative Members, whose comments did not include a word of science. They failed to understand that we must examine the evidence and the science, and base our policies on that examination, in order to deal with MRSA.

The hon. Member for East Worthing and Shoreham (Tim Loughton) seemed to think that MRSA and hospital-acquired infections are synonymous, and he did not seem to understand the distinction. When my hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey) pointed out that the proportion of MRSA in the general population might be an important factor, the hon. Gentleman did not understand. My hon. Friend the Member for Cleethorpes (Shona McIsaac) understood that point and grasped some of the science, which is more than I can say of any Conservative Member.

Mr. Hayes: The Minister disappoints me, because I made the specific point that MRSA could exist in the wider population, and I identified those groups in the population who might be susceptible to it. That is not a cop-out for him, and he should not pretend that it is.

Dr. Ladyman: In a brilliantly succinct point, my hon. Friend the Member for Milton Keynes, South-West explained the significance of the higher proportion of MRSA in the general population in a way in which children watching "Blue Peter" could have understood. The higher proportion of MRSA in the general population is important because MRSA is passed from person to person, and the important strains in our population are passed in that way. That explanation went a mile over the hon. Gentleman's head and he did not have the slightest clue what she was talking about. Conservative Members did not seem to understand that that factor is important and that we must base our policies on the science.

At least the hon. Member for Sutton and Cheam (Mr. Burstow) recognised that MRSA was not invented in 1997. He described the Tory policy as, "Say nothing, do nothing and learn nothing", and for once I agree with him—that description of Tory policy is so nice and simple that I will almost certainly steal it at some point in the future. The hon. Gentleman discussed single rooms and isolation facilities, but he ignored the fact that the latest NHS building projects include about 50 per cent. single rooms.

[Dr. Ladyman]

Hon. Members must ask themselves this question: which party is more likely to build an NHS that can tackle the problem? Is it the party that spent £33 billion on the NHS in 1997 and said that that was more than enough, or is it the party that has already doubled that expenditure?

Mr. Peter Luff (Mid-Worcestershire) (Con) *rose in his place and claimed to move*, That the Question be now put.

Question, That the Question be now put, *put and agreed to.*

Question put accordingly, That the original words stand part of the Question:—

The House divided: Ayes 168, Noes 281.

Division No. 111] **[6.59 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cameron, David
Carmichael, Alistair
Cash, William
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Cran, James *(Beverley)*
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Matthew *(Ludlow)*
Grieve, Dominic
Hammond, Philip
Hancock, Mike
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Ayes:
Gregory Barker and
Mr. Peter Atkinson

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blears, Ms Hazel
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Burden, Richard
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Corbyn, Jeremy
Corston, rh Jean
Cousins, Jim
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Dawson, Hilton
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank

Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Killoyle, Peter
King, Andy *(Rugby)*
Ladyman, Dr. Stephen
Lammy, David
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pound, Stephen
Prentice, Gordon *(Pendle)*
Prescott, rh John
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, John *(Glamorgan)*
Smith, Llew *(Blaenau Gwent)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Mr. John Heppell and Paul Clark

Question accordingly negatived.

Question, That the proposed words be there added, *put forthwith, pursuant to Standing Order No. 31 (Questions on amendments)*:—

The House divided: Ayes 268, Noes 156.

Division No. 112] [7.12 pm

AYES

Adams, Irene *(Paisley N)*
Anger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blears, Ms Hazel
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Burden, Richard
Cairns, David
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Challen, Colin
Chaytor, David
Clapham, Michael
Clark, Mrs Helen *(Peterborough)*
Clark, Paul *(Gillingham)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cranston, Ross

Crausby, David
Cruddas, Jon
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Denham, rh John
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Donohoe, Brian H.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howells, Dr. Kim
Hughes, rh Beverley *(Stretford & Urmston)*
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kilfoyle, Peter
King, Andy *(Rugby)*
Ladyman, Dr. Stephen
Lazarowicz, Mark
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNamara, Kevin
McNulty, Tony
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mahon, Mrs Alice
Mallaber, Judy
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Brien, Bill *(Normanton)*
Olner, Bill
O'Neill, Martin
Osborne, Sandra *(Ayr)*
Owen, Albert
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Prentice, Gordon *(Pendle)*
Prescott, rh John
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Tynan, Bill *(Hamilton S)*
Vis, Dr. Rudi
Ward, Claire
Wareing, Robert N.
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Gillian Merron and Mr. John Heppell

NOES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Blunt, Crispin
Boswell, Tim
Brake, Tom *(Carshalton)*
Brazier, Julian
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cameron, David
Carmichael, Alistair
Cash, William
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Hammond, Philip
Hancock, Mike
Harvey, Nick
Hawkins, Nick

Hayes, John *(S Holland)*
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lilley, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Selous, Andrew
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Steen, Anthony
Swayne, Desmond
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Viggers, Peter
Waterson, Nigel
Watkinson, Angela
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Willetts, David
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Mr. Peter Atkinson and Gregory Barker

Question accordingly agreed to.

MADAM DEPUTY SPEAKER *forthwith declared the main Question, as amended, to be agreed to.*

Resolved,

That this House welcomes the Government's commitment to tackle hospital-acquired infections with a robust programme for improving standards in infection control; congratulates the Government on its action plan for reducing infection rates, "Towards cleaner hospitals and lower rates of infection", and the introduction of the new target to halve the rate of MRSA in the first instance, and the appointment of local directors of infection prevention and control to cut cross-infection locally; supports the Chief Medical Officer's action plan "Winning Ways"; recognises that MRSA is a longstanding problem that became endemic in the National Health Service between 1993 and 1997 and believes that this Government is to be congratulated on introducing a system of mandatory surveillance for MRSA to establish its full extent; notes that the Government is working with experts from home and abroad to identify the actions and best practice which will make a difference, including a matron's charter, a national hand hygiene campaign, improved standards and better inspection of hospital cleanliness; and therefore congratulates the Government on its comprehensive programme of investment and reform that has equipped the NHS to deliver improvements in patient safety, and to reduce hospital acquired infections.

DELEGATED LEGISLATION

Madam Deputy Speaker (Sylvia Heal): I propose to put together the Questions on the two motions.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

NORTHERN IRELAND

That the draft Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005, which was laid before this House on 7th February, be approved.

EMPLOYMENT

That the draft Gangmasters (Licensing Authority) Regulations 2005, which were laid before this House on 26th January, be approved.—*[Mr. Ainger.]*

Question agreed to.

PETITION

Planning Law

7.25 pm

Mr. James Gray (North Wiltshire) (Con): I have the honour to present a petition on behalf of the people of Minety in my constituency, whose pleasant rural village was invaded some 18 months ago by 57 Gypsy caravans over one weekend. The legal nightmare has continued ever since in a desperate attempt to remove these illegal campers.

The petition states:

To the House of Commons

The Petition of the residents and friends of the village of Minety, Wiltshire

Declares that there have been blatant breaches of Planning Law by Gypsies and travellers developing land for use as caravan sites without permission.

The Petitioners therefore request that the House of Commons reaffirm that Planning Law applies equally to all sections of the community and provides those who apply the Law the necessary powers for prompt and effective enforcement.

And the Petitioners remain, etc.

To lie upon the Table.

Mechanised Wheelchairs

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Ainger.]*

7.26 pm

Bob Russell (Colchester) (LD): I welcome the Under-Secretary of State for Health, the hon. Member for South Thanet (Dr. Ladyman), who has responsibility for community care. He is a Minister for whom I have a lot of respect—but I believe that he is not the appropriate Minister to respond to the debate. His presence confirms the muddled situation in respect of mechanised wheelchairs and the urgent need for the Government to introduce joined-up thinking on a matter of considerable and growing concern as to who should have responsibility.

While it is appropriate for the Department of Health to have an interest, the Department for Transport perhaps should be the lead Department. Indeed, that Department is engaged in a consultation exercise on this very subject.

Several constituents have contacted me to express concern as to the general safety not only of those who use mechanised wheelchairs, but of others who come into contact—literally in some instances—with such vehicles on the pavement or elsewhere. There are also concerns over insurance, maintenance of the vehicles and the worrying fact that users are not required to demonstrate that they are competent to drive them. This is a very serious issue, and there have been numerous accidents, including fatalities.

I am most grateful to Mr. Richard Boyd, chief executive of the Essex Disabled People's Association, who has given me considerable background information for the case I am putting this evening. Mr. Boyd is a former chairman of the Essex police authority and a former council leader. He is also a fellow of the Chartered Institute of Logistics and Transport. His record of public service, coupled with his current post, makes him a formidable champion for those with disabilities—that involves the need to improve matters in all respects with regard to mechanised wheelchairs and their users.

I would also like to place on record my appreciation of Colchester Shopmobility, which provides a wonderful service for those with disabilities who wish to come to the town centre and who use a range of mechanised wheelchairs. Colchester Shopmobility is an example of best practice that many other towns would do well to emulate. It is regrettable, therefore, that the borough council not only cut the funding in recent years, but has now drawn up plans to demolish Shopmobility's headquarters without as yet having found an equally suitable location and facility.

I have referred to the Department for Transport consultation, which ran from 10 November to 14 January. An outcome is awaited. It is regrettable, however, that the consultation was so short and that it embraced Christmas and new year, which made it very difficult for the voluntary sector to give this important matter the detailed consideration it deserves.

Pavement and road scooters are, and have been, a boon for elderly, frail, chronically sick and disabled people. The use of these vehicles has grown rapidly, especially in the past 10 years. Clearly, their purpose is to empower individuals and to open up the mainstream physical environment. Accordingly, they and their users interact with the wider public, be they pedestrians on the footway or road vehicle users on the highway.

It is self-evident that the scooters and their users are more vulnerable than other road users. Conversely, they present a potential danger to pedestrians. The legal and regulatory regime for scooters—or invalid carriages, as they are quaintly described in law—is at best unclear and at worst a muddle. There appear to be no accurate statistics on how many scooters are in use. The sale of these products is effectively uncontrolled and unmeasured. No benefit is gained from a heavy-handed regulatory system, but I believe that, given a partnership with the voluntary sector, an improvement in—and clarity about—support for users and purchasers can be achieved.

Who in Government has a stake in good governance for the safe use and supply of scooters? I have sought advice from colleagues in the voluntary sector. It appears that there are five main players, each convinced that someone else has a larger role to play. The Department of Health, along with its Medicines and Healthcare products Regulatory Agency, has a remit: it appears that scooters are medical devices. The Department for Transport also admits to an involvement, saying that "invalid carriages" are products that provide mobility for older and disabled people. It has focused on highway safety. In November 2004 it commissioned research on scooters for disabled people, as well as two-wheeled petrol or electrically powered scooters, off-road scooters and powered buggies. The collective term that I am using tonight is "mechanised wheelchairs".

The Department for Work and Pensions, through the office of the Under-Secretary of State for Work and Pensions, the hon. Member for Liverpool, Garston (Maria Eagle), who is the Minister with responsibility for disabled people, admits to an interest as well. One would assume its focus to be on disabled people and the statutory, commercial and voluntary sectors that serve and support scooter users.

There is a fourth category: local authorities, which, through their trading standards function, must have a duty to enforce—and an interest in enforcing—safety legislation for new or second-hand wheelchairs. And the police must have an interest, if only in dealing with inappropriate use or conflict between scooter users and other footway or road users. They were clearly involved in the investigation of a fatality last year, in which a scooter user in Essex was killed.

All those arms of authority admit to some responsibility, but it appears that at the end of each arm is a hand, with a finger that points to the next in line as being the main player. Three gaps, addressed by none of them, cause me concern. First, there is user safety, which encompasses operating skills and product suitability assessment, with regular reassessment of both. Wheelchairs must be fit for the purpose: machine must be matched to user. Secondly, there is mandatory public liability insurance to protect the user and the wider public from the repercussions of accident or damage. Thirdly, there is product safety, which includes a regime for routine maintenance and safety checks. That

protects the user from poorly adjusted or poorly maintained vehicles, but also deals with the unscrupulous seller of second-hand equipment.

The authorities need to get a grip, join up their thinking and not dilute their concentration by focusing entirely on the highways use of a wide range of powered and unpowered wheelchairs, scooters, buggies or off-road machines. As a mechanical product, a pavement or road scooter has an anticipated life span of between 10 and 20 years. Given the age and physical, sensory or cognitive condition of most users, it can be assumed that such products may have up to five users during their operation life span. The machines outlive the users. Substantial anecdotal evidence from the voluntary sector suggests that soon—if it has not already happened—more scooters and wheelchairs will be sold or handled on the second-hand market than are sold as new.

The voluntary sector, often in partnership with the local authorities, is involved in Shopmobility schemes—there is one in Colchester—disability resource centres, centres for independent living and disability advice. Many major supermarkets and shopping mall operators lend or hire footway scooters to their clientele. The second-hand market can be observed at boot sales, in the "for sale" columns in the local press and at retail outlets in most towns. Specialist distributors are often based at factory sites close to other out-of-town retail outlets. Those pools of activity form a wide reservoir of knowledge and experience of footway and road scooter use.

Who is actually looking at the situation? Who is plumbing that reservoir of expertise? Surely not just the Department for Transport, through its transport and travel specialist contractor. Most wheelchair users use the class 2 footway types of scooter, and should not go on to the highway. Why was the voluntary sector not instructed to act as the lead research focus? There are many examples of high-quality research undertaken by the sector, in which front-line information has been obtained rapidly. Why did the Department for Transport pay a commercial organisation, which has to get the real-life data from the voluntary sector anyway? Was not consideration given to the possibility that the same amount, or even less, paid directly to the voluntary sector would encourage development of that sector?

When mechanised wheelchairs first came on to the market in a big way in the 1980s, sales were mainly through specialist dealerships. Mr. Boyd told me:

"Twenty years ago scooters would be 'matched' to the needs of the user, either by occupational therapists employed by social services, or health providers. Users would receive instruction on driving and manoeuvring in or near pedestrian or vehicular traffic."

Such support is not available from many of the outlets that today sell mechanised wheelchairs, nor from the rapidly expanding, and unregulated second-hand market. Let us consider the not untypical case of the well-intentioned person buying a second-hand or new scooter for a needy relative. Currently in Essex, according to Mr Boyd, there is a waiting time of between 11 and 21 weeks for advice from social care. He told me:

"Usually, trying to get something quickly and as cheaply as possible, the product is second-hand. No handbook, no operating instructions, no service history, and probably the most rudimentary driving instructions. How can issues such as manual dexterity for sensitive speed controls, eye-sight and hearing be objectively assessed by the concerned relative?"

Although my debate is about mechanised wheelchairs, Members might wish to know that the Department for Transport sub-divides "invalid carriages" into three classes. Class 1 consists of unpowered wheelchairs, self-propelled or pushed by a third party. Class 2 consists of powered, generally small vehicles that are for indoor or outdoor use, such as scooters used on the footway. They have three or four wheels, their travel distance is limited and they should not be driven at above 4 mph. Class 3 consists of powered wheelchairs or scooters, for use outdoors on footways and roads. They have a road speed of 8 mph, but should not be driven above 4 mph on footways.

I am told that currently, more than 60 models of class-2 scooters and wheelchairs, and 30 of class 3, are available on the market. The price of a new class-2 vehicle varies between £1,500 and £2,500; that of a class-3 vehicle varies between £2,000 and £4,000. A class-3 road scooter can weigh as much as 2 cwt. At a speed of 4 mph—let alone of an illegal 8 mph—a 15-stone user hitting a child or elderly pedestrian would cause injury or even kill them. I ask the Minister to say whether a person driving a mechanised wheelchair on the road needs to have a driving licence. Does the vehicle have to be registered and display a number plate, and is third-party insurance a legal requirement?

The British Healthcare Trades Association brochure entitled "Get Wise: Highway Code for Electric Scooter and Wheelchair Users"—I must admit that I do not have that publication by my bedside—could form the basis of a minimum requirement of competence that anyone wishing to drive a mechanised wheelchair would need. Mr. Boyd tells me:

"The advice from Trading Standards in Essex has been consistent, that they share the concerns about safety, insurance and suitability of product to user, but feel that these issues have to be addressed by new legislation."

I hope that this evening I have conveyed sufficient concern to cause the Government to give serious consideration to the action that needs to be taken to ensure that safety is of the utmost importance to those who use mechanised wheelchairs, and to others who could be harmed by users who are not competent to operate such vehicles. I further urge the Government to engage the voluntary sector, in order to provide the expertise that experienced organisations such as the Essex Disabled People's Association and Colchester Shopmobility can offer.

7.38 pm

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): I am grateful to the hon. Member for Colchester (Bob Russell) for raising the topic of the safety of powered wheelchairs and scooters. The Government take the safety of those products as seriously as he does and I am glad to have the opportunity to debate the matter this evening.

It is not often at the start of an Adjournment debate that I, as a mere Under-Secretary, can say something that ought to satisfy the Member initiating the debate 100 per cent., but I am going to take the chance tonight. I am the Minister for wheelchairs. Until the Prime Minister tells me differently, I lead on wheelchairs.

[Dr. Stephen Ladyman]

Of course, in so far as wheelchairs are classed as vehicles and therefore go on the highways, my ministerial colleagues in the Department for Transport will have some very serious involvement in these matters, and I will defer to them and always take their guidance on certain issues. But if the hon. Gentleman or his constituents ever wish to know which Government Department and which Minister is leading on this matter, it is the Department of Health and me.

Before I respond to the main issues raised, I will provide some background to the relevant legislation and explain why I am fairly confident in saying that this is primarily a matter for the Department of Health, with the interest of the Department for Transport duly noted.

Non-powered and powered wheelchairs, including scooters, are generally regarded as class 1 medical devices. As such, they are covered in England by the Medical Devices (Amendment) Regulations 2003, SI 2003 No. 1697. I am sure that the hon. Gentleman will want to obtain that document straight after the debate. It amended the earlier 2002 regulations, so when he is in the Library, he will also need to acquire, if he wants to obtain the full picture, SI 2002 No. 618. Those regulations include essential requirements covering the risk management, design, production, labelling and user instructions of all devices. He will also want to acquire the European medical devices directive, Council directive 93/42/EEC, as the regulations bring it and its later amendments into UK legislation.

Powered wheelchairs and powered scooters, designed to provide essential independent mobility for disabled people, are also defined—I acknowledge the hon. Gentleman's point that this is where the confusion arises—as "invalid carriages" under the Use of Invalid Carriages on Highways Regulations 1988. If any disabled people watching our proceedings tonight are offended by use of the term "invalid carriages", I apologise—I am sure that the hon. Gentleman would, too—but the term was in general usage back in 1988, so we have to use it when we refer to that legislation.

As the hon. Gentleman said, the 1988 regulations divided these machines into three classes. Class 1 covers manual wheelchairs. Class 2 applies to machines designed for use on the footway, travelling at speeds of up to 4 mph. Incidentally, that is generally regarded as walking pace, albeit reasonably brisk. They may also be used on the road to cross from one footway to another or where no footway is available. Finally, class 3 covers machines that can be used both on the footway—where, like class 2 vehicles, they are limited to 4 mph—and on the road, where they can travel at up to 8 mph. From my experience in my constituency, I wonder whether all my law-abiding constituents, men and women, are limiting their vehicles to 4 mph when they are on the pavement. All classes of those vehicles may be used legally only by one person: it must be a disabled person or someone involved in the sale or maintenance of the vehicle or the training of the user.

Powered wheelchairs and scooters should not be seen as an alternative to a private car. They were introduced to provide local outdoor mobility for disabled people who might otherwise be confined to their home. Indeed, for the purposes of road traffic legislation, these vehicles are defined as

"not being a motor vehicle".

Powered wheelchairs or scooters do not need to meet the same construction standards as a motor vehicle and nor do their users need to meet the same fitness standards as those required of a driver. The level of control has generally been regarded as reasonable, given the speed restrictions and other limitations set in regulations covering their construction and use.

My understanding is that the police have powers to check the speed of these vehicles on the pavement and on the highway, which paints a picture of policemen hiding behind trees with radar guns in order to leap out and catch "hell's grannies" as they perambulate through our constituencies.

The Department for Transport has, as the hon. Gentleman said, recently engaged a research company to carry out a review of the invalid carriage regulations. The review will incorporate input from a wide selection of stakeholders, including the Department of Health and the Medicines and Healthcare products Regulatory Agency, the MHRA. Many of the manufacturers and suppliers are members of the British Healthcare Trades Association, the main trade association for wheelchair manufacturers and distributors. That organisation lays down standards for its members on the quality of products sold and the requirements for the ethical conduct of business.

On behalf of the Secretary of State for Health, the MHRA—an agency of the Department of Health—performs the role of the competent authority for the regulations, ensuring that medical devices placed on the market in England meet all the relevant essential requirements of the regulations. The MHRA has a specialist team based at its wheeled mobility and seating centre in Blackpool, Lancashire, which has specific responsibility to oversee all safety-related issues concerning wheelchairs.

The MHRA has links with all major stakeholders, such as the National Forum of Wheelchair User Groups, the National Wheelchair Managers Forum, the Foundation for Assistive Technology, the NHS Purchasing and Supply Agency, the BHTA, local Trading Standards, the British Standards Institute, the Department for Transport and relevant NHS professional groups and training bodies. The MHRA investigates all reports of safety-related issues, including via its adverse incident reporting system, especially when injury or death has occurred. The reporting system is accessible to users, professional carers, manufacturers and distributors. It received and investigated 1,142 adverse incident reports relating to all types of wheelchairs in 2004. Of those, eight reports involved the fatality of the wheelchair user. As a direct result of the investigations during 2004, manufacturers have updated designs, testing processes and user information for their products.

The MHRA issued a guidance document in 2004 specifically aimed at wheelchair users and two medical device alerts in January 2005 to raise specific action points for all concerned with the provision, prescription, repair and maintenance, and use of wheelchairs, seating and accessories. The guidance and the alerts have been distributed widely both in the NHS and to other interested stakeholders.

As a result of previous investigations and feedback from stakeholders, the MHRA submitted, via the BSI UK experts group, various recommendations to update the content of the European standards for powered and non-powered wheelchairs. As both of those standards are harmonised to the European medical devices directive, manufacturers throughout Europe use them to show how they have met the essential requirements of the directive and, hence, how they meet the UK regulations.

Recommendations covered improved requirements for braking systems and the contents and format of the user information provided with each wheelchair, in addition to many other detailed improvements. The BSI experts group supported those recommendations, which were submitted to the European standards expert group for consideration. As recently as last week, the European experts group accepted the main recommendations submitted. The amendments will now be included in the revision of both standards, which are due to be issued for final member country vote later this year.

Bob Russell: I welcome the big improvements for new machines for first-time purchasers, but problems often arise in the second-hand market, with the lack of maintenance and insurance, and questions about the competence of drivers.

Dr. Ladyman: The hon. Gentleman raises a valid point and I shall refer to one or two aspects of that in a moment. The second-hand market is a big concern and must be addressed.

The MHRA will continue to provide advice and guidance, and will recommend changes to the relevant standards based on the experience gained from the adverse incident reports received. The number of wheelchair users in England is estimated to be about 1.2 million, of which some 800,000 have been supplied on long-term loan by NHS wheelchair services, which maintains its own prescription and supply systems based on local criteria. The largest age group of wheelchair users is over 65 years old, and is female. That user group is expected to increase in number as life expectancy increases.

In line with Government policy, the long-term health needs of the population will be met by locally based services to allow people to remain independent in their own homes, so there will be an increased need for the provision of personal mobility equipment. All users of powered wheelchairs and scooters should receive adequate training when they are supplied with the equipment, either by the NHS or through the supplier of a private purchase. The NHS always assesses the competence of a user before issuing a powered wheelchair. Private sales, however, do not have any mandatory, structured assessment of competence before supply. However, the BHTA recently launched a code of practice for its members, which addressed, among other matters, the provision of adequate training for purchasers of wheelchairs.

The speed restrictions and other limitations set in regulations covering powered wheelchairs are generally regarded as sufficient for class 2 or 4 mph powered wheelchairs, and class 3 or 8 mph wheelchairs. Many of the users may have been, or still are, car drivers and they will have experience of the highway code. To regulate the use of mechanised wheelchairs further would impose unnecessary restrictions on their availability to an increasing section of the population who are dependent on such equipment to provide them with an improved quality of life, when faced with limited mobility due to a disability.

The control of the sale of second-hand mechanised wheelchairs, particularly when sold privately, is not an easy matter on which to legislate—I accept the hon. Gentleman's concerns—but the BHTA's recently introduced code of practice is a welcome sign that the trade associations are taking the issue seriously. Of course that only applies when someone buys second hand from a trader. Obviously, there will be a failure to follow that sort of guidance when someone buys second hand from another private person.

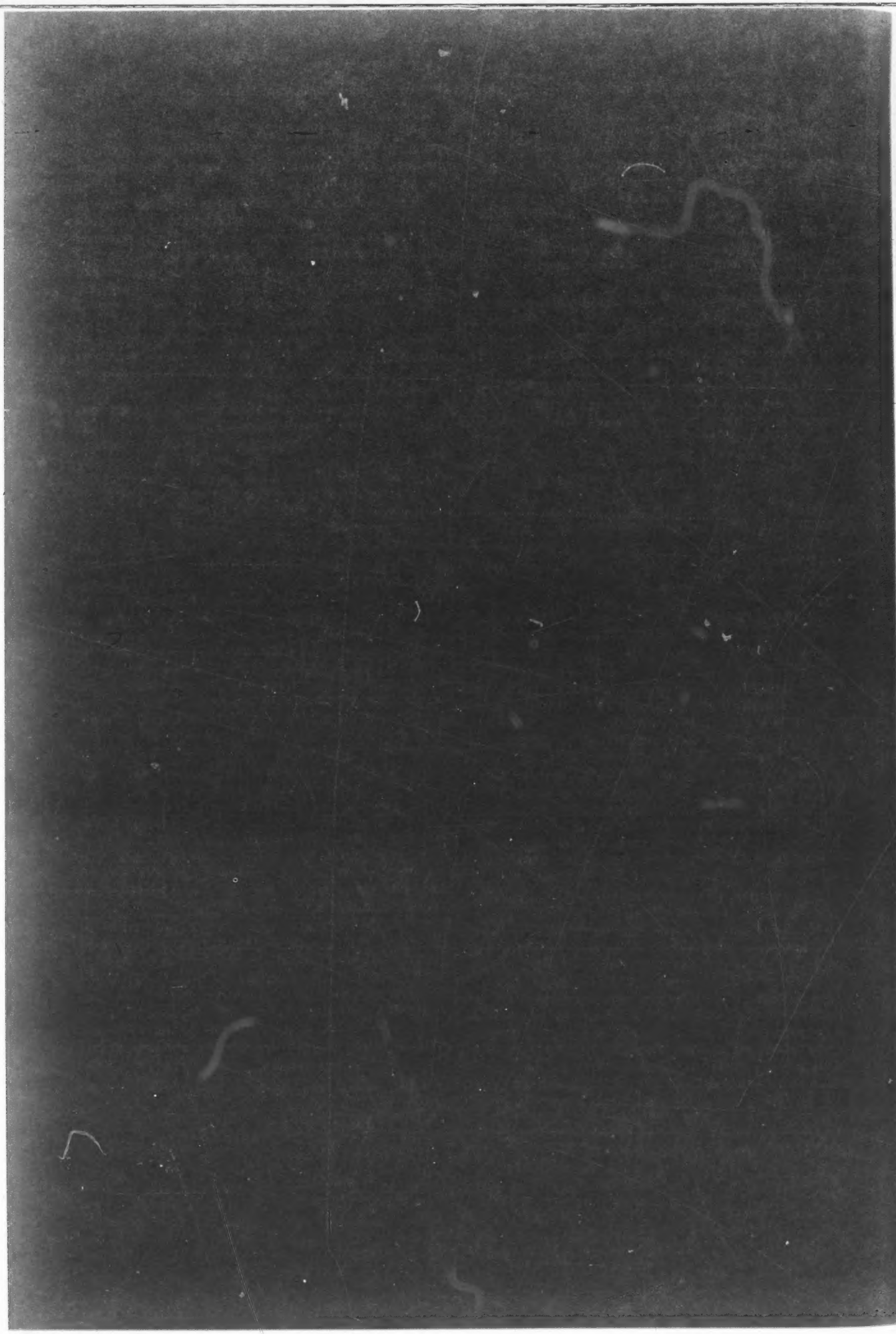
Insurance is not compulsory for powered wheelchairs. The Department of Health recommends that the users of class 3 powered wheelchairs should have third-party insurance. The Department for Transport also issues a code of practice and recommends that users check their domestic policies to find out whether they are covered and, if not, to take out separate cover. Previous consultations on the subject have shown that some disability groups opposed compulsory insurance, but the Department for Transport is seeking views on that issue as part of its review of the 1988 regulations.

The MHRA continues to raise the need for regular maintenance by NHS wheelchair services and has recently issued a medical device alert that includes recommended action points to stress that adequate maintenance, in line with the manufacturers' instructions, is essential for all wheelchairs. Members of the BHTA also try to ensure that the purchasers of all wheelchairs are aware of the need to carry out regular maintenance of those products, in line with the manufacturers' instructions.

To conclude, these wheelchairs are important tools that help people to maintain their independence, but we need to work hard to ensure that they are safe and safely used. I encourage anyone interested in this issue to make their views known to the Department for Transport while the review of regulations is under way, and I will ensure that the official record of this debate is brought to the attention of those who are conducting the review.

Question put and agreed to.

Adjourned accordingly at nine minutes to Eight o'clock.



House of Commons

Thursday 3 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

TRADE AND INDUSTRY

The Secretary of State was asked—

Manufacturing

2. **Paul Flynn** (Newport, West) (Lab): What plans she has for increasing the use of environmentally friendly manufacturing processes. [219463]

The Minister for Industry and the Regions (Jacqui Smith): The Government's Envirowise programme promotes the cost-benefits of improved environmental performance. Companies using the programme are saving more than £220 million each year. Many of them have done so using more environmentally friendly manufacturing processes. Furthermore, £50 million has been allocated under the DTI technology programme to support collaborative research and development projects in waste management and minimisation.

Paul Flynn: Newport has become a major centre of recycling where 750,000 fridges are degassed cleanly and efficiently every year, and 450 end-of-life vehicles are dealt with every hour. The weakness is in finding secondary uses for all the glass, steel and plastics created by the recycling process. When can we organise our plans to ensure that we no longer export plastics to China and, possibly, batteries to France for recycling? We should be working on the secondary uses of recycled materials in order to build an environmentally benign green dawn for British manufacturing.

Jacqui Smith: Well, I know that my hon. Friend is a very able advocate not only for Newport, but in respect of this issue more widely. He has raised the matter with me before at Trade and Industry questions. I recognise the case that he makes for Newport, which has led the way in developing sustainable manufacturing. My hon. Friend identified facilities for capturing CFCs from recycled fridges and for shredding end-of-life vehicles. It is precisely because of the development of such facilities that the UK has sufficient capacity to meet the needs of the end-of-life directive and the waste electrical and electronic equipment directive, which will come into force in the next couple of years. My hon. Friend makes an important point about what subsequently happens to that waste. I reiterate the Government's support through the technology programme, which could cover innovative uses of such waste. The Department is also working on the national industrial symbiosis programme—a business-led programme that brings together businesses to turn waste into resources. With that sort of Government support and the innovations developed by the industries in my hon. Friend's constituency and elsewhere, we should be able to make important progress in this sphere.

Mr. Julian Brazier (Canterbury) (Con): Following on from the Minister's point about the end-of-life directive for vehicles, how confident is she that the extra costs involved will not simply result in the dumping of more vehicles in the countryside, as happens extensively in my constituency, rather than in a more environmentally friendly approach to manufacturing, as was the original intent?

Jacqui Smith: It is precisely to avoid such effects that the directive is being put in place. I am sure that the hon. Gentleman would welcome the fact that the end-of-life vehicles (producer responsibility) regulations laid before the House in February are due to come into force today. They take into consideration what is known as the "own mark" approach, whereby companies take back the vehicles that they have produced. That restricts the sort of dumping that the hon. Gentleman mentioned and enables the recycling of vehicles to take place. I believe that it will be good for the environment, good for our communities and good for the customers of those vehicles, because they will know where they should be returned to.

Mr. Tam Dalyell (Linlithgow) (Lab): In respect of environmental manufacturing, what is more environmentally friendly in the production of power than nuclear power stations? Some of us believe that the sooner we get on with building another power station at Hinckley, another at Sizewell and another at Hunstanton, the better for all concerned.

Jacqui Smith: I hear my hon. Friend's concerns. He will know that the Government's position, spelled out in the energy White Paper, is to keep that option open. It is also important to invest in the sort of opportunities provided through renewable energy—investment that would, of course, be cut by the Conservatives if they had the opportunity.

Angus Robertson (Moray) (SNP): Does the Minister acknowledge the importance of environmentally friendly disposal and recycling such as rubber tyre shredding and re-use? What are the Government doing to support and promote that important sector?

Jacqui Smith: I know that that sort of activity is important, as my hon. Friend the Member for Newport, West (Paul Flynn) outlined. Important developments in a range of sectors involve recycling and, in some cases, reuse of materials. I identified in my initial answer the considerable investment that the Government are making through the technology programme to examine the whole area of waste minimisation and waste use, particularly encouraging companies to work together

with scientific establishments to develop the sort of innovative processes that will enable us to achieve business and environmental benefits in the future.

Deep Coal Industry

3. **Paddy Tipping** (Sherwood) (Lab): When she last met trade union representatives from the coal industry to discuss the future of the deep coal industry. [219464]

The Minister for Energy and E-Commerce (Mr. Mike O'Brien): I last met trade union representatives on 24 February 2005.

Paddy Tipping: I am grateful to my hon. Friend for meeting representatives from Welbeck colliery just last week and for previously meeting representatives from Ellington colliery. These are the most efficient miners in Europe: they are prepared to work flexibly. The Government are prepared to back their efforts with coal investment aid. What pressure can the Government put on the major coal owner, UK Coal, to give the industry a long-term future in our energy plans?

Mr. O'Brien: It is enormously important that the coal industry should have a long-term future, not least because the profitable colliery of Dawmill is in my constituency. We want to ensure that pits like Welbeck continue. Obviously, at Ellington, there were issues to do with geology and flooding. We engaged in discussions with UK Coal and sought further drainage at Ellington. UK Coal was unwilling to undertake such work. It is a privatised industry and that is a decision that it is entitled to take. We are continuing to work to keep open Welbeck. We are looking at applications for funding and we believe that once we have studied the details of the proposals from UK Coal, it is highly likely that we will continue to provide some funding.

Mr. Laurence Robertson (Tewkesbury) (Con): Given that in a debate in Westminster Hall on 19 January the Minister said:

"gas supplies might be tight if demand rises to high levels in the coming winter or the one after that."—[*Official Report*, 19 January 2005; Vol. 429, c. 265WH.]

is it not important to halt the decline in the mining industry? I am thinking particularly about pit closures—*[Interruption.]* I am talking about today and the future of energy supplies. The Government may not want to be concerned about the future of energy supplies, but we are. As the Minister has admitted that gas supplies might be tight in the coming winter or the one after that, is it not important that we consider how we might help the coal industry through clean coal technology, rather than just bury our heads in the sand?

Mr. O'Brien: It is almost as if I could not imagine a Conservative spokesman having the brass neck to stand up in the House of Commons and suggest that the actions of this Government, who have put so much into supporting the coal industry, could in any way be compared with the destruction of the coal industry under the Conservative Government. It is beyond belief that any Conservative Front-Bench spokesman could have the brass neck to do that. We have put substantial amounts of coal aid—£57 million worth—into the coal industry.

Mr. Stephen O'Brien (Eddisbury) (Con): That is just words.

Mr. O'Brien: No, it is not just words; taxpayers' money is supporting the coal industry to ensure that our coal industry has a long-term future. We are also providing to the cleaner coal technologies project further funding—some £4 million—in support of new technology, and we are in the process of developing a further carbon abatement technology strategy, which we hope will be announced later this year. The Government are making significant investments, unlike the destruction that the Tories wrought.

Mr. Martin O'Neill (Ochil) (Lab): While agreeing with my hon. Friend that there is often more rejoicing in Heaven when one sinner repents, what we have just heard stretches the imagination a bit far. Does he recognise that it is all very well to talk about successive technologies, but we have coal-fired power stations capable of being switched on in far shorter periods than virtually any other technology? It is in that way that the gap can be filled. If we are to be committed to coal, we must recognise that it will nevertheless be dirty and that there will be a need for balancing technologies, such as those provided by nuclear.

Mr. O'Brien: Certainly we have to ensure that any new carbon abatement technology for fossil fuel power generation—we hope to publish that strategy shortly—will need to consider the need to reduce carbon dioxide emissions. A key way of doing that in the long term is by developing sequestration and carbon capture. The research into that, both in the private sector and with Government support, is something that the coal industry can look to for the long term. Of course, we want to see diversity in our energy supplies and in the coming decades that will include not only coal, but nuclear power.

Mr. Dennis Skinner (Bolsover) (Lab): Does my hon. Friend the Minister recall that on this day, 3 March, 20 years ago, the miners' strike ended? At that time, we had 170 pits, a clean coal technology plant in the offing in the south Yorkshire coalfield, and the coal industry was publicly owned. By 1997, when the Tories were kicked out, all those had gone and only 17 pits remained. If we want to sustain the tiny remains of our coalfield, we need to get rid of the major producer, UK Coal, because it is interested only in the development of its 49,000 acres of land. It is a property company in disguise, and we should do what we did with rail—intervene and put someone else in charge. Then we could save the remaining pits and introduce the new clean coal technology that the Tories got rid of. Then we would be doing something right.

Mr. O'Brien: My hon. Friend is right to draw attention to the past and the way in which the Conservatives destroyed the coal industry. When I was first selected to stand for Parliament, my constituency had four pits: it now has one, and we want to maintain it.

As for UK Coal, it has taken advantage of the support offered by investment aid and is also investing £150 million between 2004 and 2006 to access reserves and maintain employment in viable mines. I have met recently with the bosses of UK Coal and made it clear that we are looking to them to ensure that we have a long-term coal industry in this country and to keep the investment flowing.

Trade (United States)

4. **Mr. Bernard Jenkin** (North Essex) (Con): What recent representations she has received from United Kingdom companies concerning trade with the United States. [219465]

The Secretary of State for Trade and Industry (Ms Patricia Hewitt): My Department and I are in regular contact with British companies on trade issues, including in relation to the US. Recent subjects covered include closer EU-US economic co-operation, the Boeing-Airbus trade dispute and technology transfer.

Mr. Jenkin: Well, I am glad that the Secretary of State mentioned technology transfer, but I am surprised that she did not mention the representations that she will have received from British Aerospace and other defence contractors about the disastrous effects of lifting the EU embargo on arms to China. Is she aware that Richard Lugar and Joseph Biden, the Senate leaders from both parties, have made it clear that defence technology transfers from the other side of the Atlantic to our defence industries will be banned if the arms embargo to China is lifted? Which is more important—selling arms to a corrupt regime in China with an appalling human rights record or sticking up for the British defence industry and Anglo-US relations?

Ms Hewitt: The hon. Gentleman will be aware that we have pressed the Administration and Congress to lift long-standing and unjustified restraints on technology transfer to British defence companies. As for the arms embargo on China, my right hon. Friend the Foreign Secretary has spelled out not only our position on that, but the reasons for it. Let me reassure the hon. Gentleman, as my right hon. Friend did, that we already have in place some of the strictest controls on the export of arms and dual-use technology in the world and they will continue to apply to China, as they do to every other country.

Hugh Bayley (City of York) (Lab): Will my right hon. Friend remind the House of just how important our trade relationship with the US is? It is by far our biggest trade partner. Since Labour came to power, our policies have hugely increased our trade balance with the US, from less than £500 million under the Conservatives to £14,500 million. The longer we keep our strong trade relationship with the US, the better. Nit-picking at the corners, as the Tories do, does not help one little bit.

Ms Hewitt: My hon. Friend is absolutely right. The performance of British exporters in the American and other world markets has been absolutely superb, helped of course by the fact that we have a strong economic policy here in Britain, and also by the unprecedented investment that we are making in science and innovation, which of course is what will keep British business competitive in the United States and in the rest of the global economy. That investment in our science base, in technology and in innovation would all be put at risk by the public spending cuts that the Conservative party is promising.

Malcolm Bruce (Gordon) (LD): Is not the Secretary of State concerned that BAE Systems is withdrawing from its European investments in Scandinavia? It has done so, and the report is that it will sell its stake in Airbus, shedding thousands of jobs in the UK in order to increase its presence in the United States, on the basis that this is the only way that it can secure defence contracts. Is not that a pretty poor return for being America's closest ally?

On arms control, can the Secretary of State comment on reports that her Department is considering privatising the export control organisation? What signal would that give for tighter control and accountability, not just to the United States but also in the middle east and the far east and countries such as Indonesia?

Ms Hewitt: Well, the hon. Gentleman mentioned Airbus. Let me say that that is one of the most successful companies that we have in Britain; British Aerospace understands that very well. We have recently seen, of course, the launch of the A380, which would not have been possible if it had not been for the commitment of the British Government to launch an enormously successful programme—one that the Conservative party would wish to scrap.

On the issue of the Export Credits Guarantee Department, I have not seen the reports that the hon. Gentleman refers to, but let me say that there are no plans to privatise that organisation; indeed, we are strengthening it and have just put in new management.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): Does my right hon. Friend agree that there is an enormous export market in the United States, but that the United Kingdom is rapidly becoming a country of small and medium enterprises—not very large enterprises—and that it is those enterprises that need to access the American market? Does she agree that there are some very big hurdles and barriers for small and mediums? What is this partnership that was much vaunted between the Foreign Office and the Department of Trade and Industry that was supposed to be so helpful to small businesses? Is the Duke of York still employed there, and what is he doing?

Ms Hewitt: Let me reassure my hon. Friend that UK Trade and Investment, which is the agency jointly funded and sponsored by the Foreign Office and my Department, is enormously successful, particularly in relation to small and medium-sized companies. Through UKTI, we are helping unprecedented numbers of smaller companies to break into export markets—many of them, I am delighted to say, through passport to export, are now succeeding in entering and selling in the United States market. I am sure that my hon. Friend and everyone else, at least on the Government side of the

House, would welcome UKTI's success and deplore the proposal from the Conservative party, which would effectively do away with UKTI.

Several hon. Members *rose—*

Mr. Speaker: Order. Now that we have had a few propaganda statements, may we just have questions and answers?

Mr. James Arbuthnot (North-East Hampshire) (Con): Why is it that the United States' export credit agency is so much more effective and internationally competitive than our own ECGD? Could it be because we have wasted hundreds of thousands of pounds on losing court cases? Does not the Secretary of State think that it would be right to issue an apology to the Treasury, or indeed to the taxpayer, for the court case she has just lost?

Ms Hewitt: I am astonished that the right hon. Gentleman should seek to attack our export credits agency by comparison with the United States. If there is any difference in the support provided, it is only because a larger subsidy is given in the United States.

As for the recent court case, we did not lose it; we settled it. *[Interruption.]* We settled it because, although I believe that the ECGD made the right changes to its procedures last December, I accept that it would be helpful to consult more widely on those changes in the interests of our exporters, as well as transparency in the system. That consultation is now under way, and I am sure that the right hon. Gentleman will contribute to it.

Data Protection Scams

6. **Mr. Siôn Simon** (Birmingham, Erdington) (Lab): What steps the Department is taking to tackle data protection scams. [219467]

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): The Department for Constitutional Affairs has policy responsibility for the Data Protection Act 1998 and the Information Commissioner is responsible for administering and enforcing the DPA.

I believe that the question actually relates to fake invitations for people to renew their internet domain names. I should like to thank my hon. Friend for giving me the opportunity to warn members of the public about that kind of dishonesty. If in doubt, people should consult their internet service provider, their domain name registration company or their trading standards department before responding to any invitation to part with their money.

Mr. Simon: My constituent, Mr. Ray Woods, runs one of many small businesses in Erdington that have recently had intimidating letters telling them that to comply with new data protection regulations, with which they are apparently failing to comply, they need only send a relatively modest cheque to a strangely anonymous address and everything will be sorted out. It is obviously a fraud and a rip-off. What will the Minister do to track those people down and put a stop to it, and what may be done about some stiffer penalties to make it less worth while?

Mr. Sutcliffe: We have given greater powers to the Office of Fair Trading through stop now orders, but I agree with my hon. Friend that we must educate the public about the vast range of scams of this kind, which cost the British economy millions of pounds. There are sanctions, but it is no good just looking at the enforcement side. I am pleased about the number of campaigns that are taking place either through the Office of Fair Trading national scams campaign or through the media, which I want to praise for highlighting many scams. There are penalties for fraud, but we need to educate people not to part with their money unless they are certain of the information that they are given.

Sir Sydney Chapman (Chipping Barnet) (Con): Further to the point made by the hon. Member for Birmingham, Erdington (Mr. Simon), will the Minister confirm that more and more scams are now being perpetrated against small businesses, and that, since those cannot be dealt with by stop now orders issued by the Office of Fair Trading, it is necessary to rely on the Control of Misleading Advertisements Regulations 1988? Is not it time now for more comprehensive and decisive legislation to deal with scams?

Mr. Sutcliffe: We always keep under review the need for more regulation, if that is appropriate, but clearly, we do not want to put burdens on business. However, organisations such as Nominet already have powers and pursue complaints and prosecutions against companies that perpetrate such acts. We shall continue to review this, because the number of scams, and the number of types of scam, are increasing. We want to try to remain ahead of the game, but we always keep such matters under review.

Solar Photovoltaics Programme

7. **Mr. David Chaytor** (Bury, North) (Lab): What steps she is taking to implement the Government's opportunities for all and energy White Paper commitments to a 2002-12 solar photovoltaics programme; and if she will make a statement. [219468]

The Minister for Energy and E-Commerce (Mr. Mike O'Brien): The Government are committed to supporting the development of the photovoltaic sector and other small-scale renewables. I announced a £6 million extension to the major PV demonstration programme last September. The programme is expected to continue until March 2006, with spending taking place on projects until March 2007. It is intended that a low-carbon buildings programme should supersede those two initatives.

Mr. Chaytor: Does my hon. Friend accept that other countries—particularly, Germany, Japan and the United States—have moved much further and faster than the United Kingdom in the development of solar photovoltaics? Does he also accept that continuity of support is essential if that embryonic industry is to grow

strong in the United Kingdom? Is he still committed to the original target of between 70,000 and 100,000 solar photovoltaic roofs to be constructed by 2012?

Mr. O'Brien: We have long-term commitments that we seek to maintain. Also, the budget for major PV programmes increased from £25 million to £31 million last September, and the budget for the clear skies programme increased from £10 million to £12.5 million, showing the Government's continued commitment. My hon. Friend is right to say that the industry needs long-term commitments because of the stage that it is at. We are prepared to make those commitments, but we need to review the way in which the funding is directed, and ensure that it is directed to the maximum benefit.

Miss Julie Kirkbride (Bromsgrove) (Con): The simple fact is that no matter how exciting some of the new technologies for renewables are, they are still embryonic. The United Kingdom faces an energy crisis in the next 10 to 15 years, when the nuclear reactors are closed down and the 20 per cent. of UK energy that they supply is not made up in renewables. What is the Minister going to do to tackle the UK's energy problems without recommissioning nuclear reactors?

Mr. O'Brien: There is certainly substantial investment in developing alternative energy sources; companies such as e.on and others are looking at improving and expanding their power stations; and the rest of the industry is considering developing new power stations. The Government have an open mind on whether we need to move towards a nuclear future. As we set out in the 2003 White Paper, we will look at the issues if and when a proposal comes forward. Today, there is no proposal on the table for any nuclear power station from any private sector source. If one comes forward, we will look at it. It is currently probably uneconomic, and there is also the issue of waste, which needs to be resolved. Until we have some clarity on those matters from the private sector and a serious proposal is made, it is difficult to see that there will be such a programme.

Ann Clwyd (Cynon Valley) (Lab): The Minister will know that Tower colliery in my constituency supplies local power stations and that this year it is celebrating 10 years as a workers' co-operative. It is a major employer in my constituency despite the best efforts of the Conservatives to close it down; they argued that it was uneconomic and had geological faults. Will my hon. Friend confirm that the colliery has a future, and an important one, in supplying energy sources in this country and overseas?

Mr. O'Brien: Consulting mining engineers have just completed their assessment of Tower's revised coal investment aid application, and my officials are carrying out their own assessment. I hope to be able to give a decision to my hon. Friend shortly. The Margam project may not however qualify for support under EU regulations, but we are prepared to explore the possibility of state aid with the European Commission. Indeed, I am meeting the Energy Commissioner, Andreas Piebalgs, this afternoon and I hope to refer the matter to him.

Mr. Nigel Evans (Ribble Valley) (Con): The Government talk about investment in renewables, but they seem to be obsessed for some reason with wind turbines. The Minister knows that wind turbines work only to a third of their capacity and that when it is too windy they have to be switched off. Is it not about time that he looked more comprehensively at the energy suppliers in this country, and considered solar power as one of the more exciting possibilities, taking some of the subsidies away from wind turbines and putting them into solar power in order to secure a better future for everyone in this country?

Mr. O'Brien: As I understand it, the Conservative party says that it too is committed to a future with renewables and to the sort of targets that we have set. Unfortunately, while the Government have a clear strategy for hitting those targets, the Conservative party has a big gap in its strategy—indeed, it does not have a strategy and just wants to play the opportunist game as usual.

We are investing £117 million in capital grants for offshore wind farms, approximately £66 million in biomass capital grants, £31 million in solar, £12.5 million in the clear skies programme, £50 million in marine renewables, £19 million in industry-led research and development, and £4 million in research under the Engineering and Physical Sciences Research Council's Supergen project. We are investing in renewables; when the Conservatives were in government, they did nothing.

Clear Skies Initiative

8. **Mr. Colin Challen** (Morley and Rothwell) (Lab): What the take-up of the clear skies initiative has been since the start of the initiative. [219469]

The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths): The clear skies programme to promote renewable energies was launched in 2003. The target was to achieve 2,800 projects for individuals and households and 275 community-based projects by 31 March 2006. However, the scheme has already benefited 4,767 households or individuals—more than 70 per cent. above our target, with 13 months and two rounds of funding of the scheme to go—and 274 community projects, which is one short of our target.

Mr. Challen: I am grateful for that reply, which shows that the Government are seriously committed to supporting micro-renewables. The clear skies website shows more than 300 products now accredited under the programme. Given that the programme has just over a year left to run, is my hon. Friend satisfied that new companies bringing to the market new products for which they seek accreditation will be able to benefit from clear skies?

Nigel Griffiths: Yes, I am. Yesterday, I spoke to a pioneering manufacturing company that was full of praise for the DTI's staff and contractors, who helped it to overcome the technical and safety issues that are common in new technologies. With application forms for consumers who want to take advantage of the programme being two pages long and those for contractors, manufacturers and producers eight pages

long, I think that we have done everything we can to ensure that those who have bright technological ideas can benefit from that fantastic programme.

Engineering (West Midlands)

9. **Mr. Peter Luff** (Mid-Worcestershire) (Con): what assessment she has made of the prospects for the engineering sector in the west midlands. [219470]

The Minister for Industry and the Regions (Jacqui Smith): Engineering is central to the strength of our manufacturers and the Government are committed to a strong and vibrant engineering and manufacturing economy. Advantage West Midlands predicts that, by 2010, west midlands manufacturing will contribute 24 per cent. of the region's gross value added compared with 17 per cent. nationally. The west midlands regional economic strategy identifies the strength of the engineering sector as an opportunity, particularly in the exploitation of environmental technologies.

Mr. Luff: Is the Minister aware that companies feel that the west midlands engineering sector's successes, of which there are many—a fact that we should celebrate—are achieved despite the Department of Trade and Industry, not because of it? Apart from the manufacturing advisory service and aspects of export promotion, they can identify nothing of any value that the DTI does. They believe that the Department now exists to put obstacles in front of enterprise, not to support it as it should. What is she going to do about that?

Jacqui Smith: I agree with the hon. Gentleman about the success of the west midlands engineering sector, which we should celebrate, but I strongly disagree with him about the views of engineering and manufacturing companies. At a recent event on manufacturing organised by a west midlands chamber of commerce, I was pleased to hear about manufacturers' support not only for services such as the manufacturing advisory service, which he mentioned, but for grants supporting innovation, which the Conservatives would cut, and about companies that have benefited from regional selective assistance, now selective finance for investment, which the Conservatives would cut. Of course there are challenges for our—

Mr. Speaker: Order. I have given an instruction to Ministers on how to conduct themselves at the Dispatch Box. They will not defy the Chair.

Mr. Ken Purchase (Wolverhampton, North-East) (Lab/Co-op): I know that the Minister will endorse my congratulations to west midlands manufacturers on the massive productivity gains that they have made in recent years, but in the Department's otherwise admirable efforts to civilise our working conditions, especially through family-friendly policies, will she remain acutely aware of the disproportionate impact on smaller companies of maternity leave and other important measures and the need to keep those measures under constant review?

Jacqui Smith: My hon. Friend is right not only about the support that has been provided, but about the impact on small and medium-sized companies of the important changes that have been made—often by the companies themselves in recognition of the importance of retaining high-quality workers, particularly women while they have families. That is why the consultation document that we issued on Monday makes it clear that we will consult business and that we need to look for ways to bring more certainty into the system for small and medium-sized enterprises.

Mr. Stephen O'Brien (Eddisbury) (Con): Last week, the Secretary of State admitted that, under the Labour Government,

"one of the biggest frustrations for everyone running a business today is the amount of regulation coming out of Europe."

We all agree, therefore, that European regulation is a crushing threat, impeding the prospects of the engineering sector in the west midlands and of all parts of British business. Will the Minister now confess what proportion of the £8.9 billion-worth of extra regulation heaped on British business last year came directly from Europe, how much came from Ministers and officials gold-plating EU requirements, and how much was dreamt up by the Labour Government themselves?

Jacqui Smith: We go out of our way to ensure that we do not gold-plate European legislation and we have argued strongly for better competitiveness impact tests in Europe. We have done so with great effect with respect to the chemicals directive and billions of pounds-worth of burdens have been reduced because, while the Government are willing to engage in Europe and to recognise the benefits, we are also prepared to make the arguments for competitiveness. It is only by being willing to engage in that way that we can secure the benefits that we have secured.

Mr. O'Brien: The complacency of that response cannot disguise the fact that more EU directives have been implemented under the Labour Government than was the case in the preceding quarter century of our membership. Engineers and manufacturers know exactly who is to blame for the ballooning burden of regulation, which is now heading towards a staggering £40 billion.

Another key concern of west midlands engineers is skills. The most recent study by the Engineering Employers Federation on manufacturing productivity compares the UK with France and Germany, and shows that only UK managers rated the skills available to them as having a negative impact on their attempts to improve productivity. What urgent measures are the Government taking to abolish the inefficient Learning and Skills Council and to create a scheme of vocational grants, with funding following the students so that young people in the west midlands and the rest of the United Kingdom receive the skills training that employers demand and which the Conservatives have promised?

Jacqui Smith: I recently had dinner with people representing business leaders and skills providers in the west midlands and we looked at what we can do through the regional skills partnerships to make sure that, as the

Government have promised, employers' voices are central to the delivery of skills. I would also point to initiatives such as the automotive academy, which received funds of £15 million following the report by the automotive innovation and growth team. It is based in the west midlands and is making a genuine difference in developing the necessary skills to ensure the continued success of our automotive industry. Those practical initiatives, backed by investment, will make a difference to skills in the west midlands and to support for our engineering and manufacturing companies.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): May I draw the Minister's attention to a problem that has emerged among some small and medium metal forming companies in my constituency? It appears that the steel supplier is demanding unusually restrictive credit terms, so they have cashflow problem because they have to pass those restrictions on to their customers. In the past, the Department has always said that big suppliers and companies must treat their customers fairly and equitably. Can the Minister do anything to reinforce that message?

Jacqui Smith: My hon. Friend takes very seriously the concerns of metal forming companies in his constituency and I was pleased to meet a delegation that he recently brought to see me. His concern is fair, given the fact that the steel industry was in difficulties for several years but is now in a much more profitable and successful position. I would certainly expect major steel companies to look at the pressures that they are exerting on their customers and to make sure that their success is passed down through the chain. If there are specific examples that my hon. Friend would like to raise with me, I would be interested to hear them. However, the current success of the steel industry puts a responsibility on the supplier to deal fairly with the important companies in my hon. Friend's constituency.

Work-life Balance

10. **Tony Lloyd** (Manchester, Central) (Lab): What plans she has to improve work-life balance for older people. [219471]

The Secretary of State for Trade and Industry (Ms Patricia Hewitt): Many employers offer flexible working to all their employees, including older workers, because they know that work-life balance policies are good for their business as well as for the employees. Earlier this week, I launched a consultation on our proposals to extend the scope of the existing flexible working law to carers of sick and disabled relatives.

Tony Lloyd: I welcome my right hon. Friend's initiative, certainly with respect to carers. As there is a disproportionately high number of carers among older workers, should we not consider extending to them the same kind of flexibilities that we have accepted are necessary for younger families to enable them to have a proper and functioning family life? I hope that my right hon. Friend will pursue that and not listen to those who seek to divert her, because this is a part of the working population that really does need such assistance.

Ms Hewitt: I welcome my hon. Friend's comments. He is absolutely right. The law that we introduced nearly two years ago for parents of young children has already had a dramatic effect. Nearly 1 million parents changed their working hours in the first 12 months of that law coming into effect, and the vast majority of employers say that they have no difficulty in accommodating those requests for a change in working hours. My strong view is that carers of elderly and sick and disabled people, who are doing a wonderful job for the whole community and whose efforts deserve even greater recognition, should be a priority in any extension of that successful law.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Given the unique contribution that people of maturity can bring to the workplace, not least here in this very House of Commons, is the Secretary of State looking positively at what can be done to make it easier for older people to continue to work and make a contribution, given our undoubted skill shortages and the desire of older people to work on and to make that contribution? Will she consider this in a comprehensive way and satisfy herself that everything is being done that can be done to make it as easy as possible for older people who want to continue to work to do so?

Ms Hewitt: Speaking as a 56-year-old, perhaps I can declare a personal interest in the subject. I welcome the right hon. Gentleman's support for the steps that we are taking, such as the age discrimination law that will come into effect next year, and the accompanying measure that spells out that retirement enforced by an employer before someone reaches the age of 65 will no longer be lawful unless it can be justified on objective grounds, such as health and safety reasons. For people over the age of 65 who want to carry on working, we will be extending the right to request flexible working, which, as I said, has already been so successful in the context of parents and young children. I look forward to his support for those new regulations that will help business and older workers alike.

Mr. Brian Jenkins (Tamworth) (Lab): My right hon. Friend knows that now we consider older workers to be those aged over 65. When do we intend to extend employee rights to post-65s in employment?

Ms Hewitt: That is exactly the issue that we have been considering in the context of the age discrimination law that we will bring into effect next year. After much consultation, we reached the view that, as I have just said, it makes sense to keep a default retirement age, but only at 65, which we will review after five years, and we will introduce the flexible working laws for workers above the age of 65. As my right hon. Friend the Secretary of State for Work and Pensions recently said, we will also ensure that, if someone over the age of 65 is made redundant, their service beyond 65 will also count towards the calculation of their redundancy payment.

Software Patents

11. **Mr. Desmond Swayne** (New Forest, West) (Con): If she will make a statement on her policy with regard to European legislation on software patents. [219472]

The Minister for Trade and Investment (Mr. Douglas Alexander): The Government believe that it is important to permit the patenting of certain types of software-related inventions that are vital to many high-tech industries, but at the same time we are also concerned to prevent a drift towards widening the scope of patentability. The current draft text of the computer implemented inventions directive achieves that balance.

Mr. Swayne: Does not the fact that those who are crying foul about the directive's text are among the small software developers in our constituencies, and those who are enthusiastic for it are the monopolists and oligopolists, give the Minister some unease and pause for thought?

Mr. Alexander: Of course patents can be of great assistance to small and medium-sized enterprises when taking on larger businesses, although I know that the matter is of concern to the hon. Gentleman and, in particular to one of his constituents. That is why there have been discussions with the Patent Office and my noble Friend Lord Sainsbury, and why we have facilitated a series of workshops on the nature of the harmonisation. Invitations to participate in those workshops have been extended to approximately 540 individuals and organisations. If it would be of assistance to either the hon. Gentleman or his constituent to attend one of the workshops in the weeks and months to come, I can ensure that an invitation is forthcoming.

MINISTER FOR WOMEN

The Minister for Women was asked—

Apprenticeships

20. **Mrs. Claire Curtis-Thomas** (Crosby) (Lab): What opportunities are available for women to undertake apprenticeships in science, engineering and technology-related subjects. [219482]

The Deputy Minister for Women and Equality (Jacqui Smith): Apprenticeship opportunities are open to all candidates, regardless of gender or ethnicity. However, the Government recognise that women and girls have traditionally not taken up apprenticeships in those subjects in significant numbers. We are working across Government to tackle the barriers that hinder female participation in science, engineering and technology, including through apprenticeships. For example, through our work in the manufacturing forum, we have established a sub-group on the image of manufacturing to look at promoting the sector to key audiences, including women.

Mrs. Curtis-Thomas: I congratulate my right hon. Friend on the publication of the Equality Bill yesterday, with the intention to establish an equality and human rights commission. That is a marvellous step and I am proud to be associated with it.

My right hon. Friend will know that I am a fitter by trade and had a wonderful career in the engineering profession. Many people in this country could enjoy a career in that profession, but we have a perennial problem attracting women, so I am delighted with the initiatives that the Government are taking. How will we use the women's resource centre that is being established to get at the statistics that will allow us to determine whether we are being successful and to target our resources appropriately, supporting young and old women who wish to go into engineering, which will lead to a productive and rewarding career?

Jacqui Smith: My hon. Friend is a good role model and advocate for women in that respect. She points to the Government initiative to establish the UK resource centre for women in science, engineering and technology, which was formally launched on 16 September last year, and to which I think she will contribute in the near future. She is right that an important function of the centre is to maintain, collect and disseminate statistics on women's involvement in the sector. However, another function is to ensure that we promote good practice among employers and advise them about the sorts of things that they should do to encourage women into the sector and to keep them there.

That, along with a range of other activities, can make a practical difference to ensuring not only that women have opportunities in science, engineering and technology, but that those opportunities help employers to deal with the skills shortages that they undoubtedly face. Those employers would be helped in that if they recruited from the whole pool of talent in the country, as they would be doing if they focused on women and girls.

Sir Nicholas Winterton (Macclesfield) (Con): In supporting what the hon. Member for Crosby (Mrs. Curtis-Thomas) said about the importance of attracting more young women, let alone young men, into engineering, technology and allied subjects, does the Minister accept that the way to do that would be to put greater emphasis not on higher education but on vocational education, both post-16 and even earlier, in secondary schools? That would enable young people—young men and women—to develop a skill that they could put to good use in their adult lives, to the betterment of the prospects of engineering and technology in this country.

Jacqui Smith: The hon. Gentleman is absolutely right, which is why I am sure he joins me in welcoming the announcements that my right hon. Friend the Secretary of State for Education and Skills made in response to the Tomlinson review. I refer in particular to the proposals for a new 14 to 19 diploma framework, to the greater emphasis on vocational education while also ensuring that young people have the basic literacy and numeracy skills that are so important, and to the work on developing new ways of offering apprenticeships, which may well include the opportunity of doing an apprenticeship and then studying for a foundation degree. Higher education and vocational education are therefore not in conflict with each other. Some people can take advantage of both routes and the reforms being introduced by the Government will ensure that they have equal value and the support that they deserve.

Parental Needs

21. **Mr. Win Griffiths** (Bridgend) (Lab): What representative groups she has met in the past three months to discuss the needs of parents. [219483]

The Minister for Women and Equality (Ms Patricia Hewitt): I regularly meet a wide range of representative organisations to discuss the needs of parents.

Mr. Griffiths: I thank my right hon. Friend for the work that she does in this field, but has she had an opportunity to look at the report from the Relationships Foundation entitled "Keeping Time for Children", which was compiled by the National Centre for Social Research? It shows that parents now have to spend much more time at work, and therefore away from home. Will she meet foundation representatives to discuss the report and find ways to lessen the pressure on parents to work extra hours to make ends meet?

Ms Hewitt: My hon. Friend makes an extremely important point. I have not had an opportunity to have a look at that report, but I shall do so with interest, and of course I should be delighted to meet representatives from the foundation to which he referred. I completely agree that we must do even more to make it easier for parents to manage the stress incurred by making a living and bringing up children. Many people have to care for elderly parents as well. That is exactly why the consultation that I launched on Monday is looking at how we can improve maternity leave by, for example, extending paid leave by another three months and making it possible for that leave to be transferred to the father. Another of our aims is to extend flexible working hours. I am glad to say that the Government's implementation of the flexible working hours legislation and the working time directive means that Britain's long working hours, which rose inexorably for over a decade, have fallen over the past three or four years.

Mrs. Eleanor Laing (Epping Forest) (Con): I welcome the Secretary of State's action: after eight years of this Government, she has announced yet another consultation process, but at least she is going in the right direction. Does she agree that parents—and especially mothers—do not need to be patronised by central Government and told what they have to do to look after their children and balance the difficulties of a working life and parenthood? Many women in Britain today in effect do two jobs. Does she agree that those women should be thanked, supported and given the flexibility demanded by the fact that every family is different? Should not they be able to choose their own arrangements for child care and the care of elderly relatives?

Ms Hewitt: It is precisely because we want to help parents give their children what they see to be the best start in life that this Government have doubled maternity pay since 1997, raising it from £55 to £104. We have also doubled paid maternity leave, which lasted for three months when we were elected but is now six months. We intend to increase that to nine months by 2007 and to 12 months over the next five years. That is also why we introduced the law on flexible working, although I regret that some Opposition Members said that that was just another burden on business and did not recognise how crucial it was for parents. It is why we have also extended nursery provision. Parents can now ensure that their three and four-year-old children have nursery education. Those are the sorts of practical measures that give parents choice and support. At least on this side of the House, we believe in action not words.

Chris Bryant (Rhondda) (Lab): Many of the poorest families in my constituency find that they have two main needs. First of all, they need a few extra hours in the day, but I know that my right hon. Friend can do nothing about that. However, their second need is a decent income, so that they can look after their children properly. The recent increase in the national minimum wage will make a dramatic difference for many of my constituents, but how can we make sure that the other forms of support available for poorer families get through to them?

Ms Hewitt: My hon. Friend is right about the minimum wage and I am delighted, as I know he is, that, thanks to our strong economy, we were able to announce last Friday that it will indeed rise to over £5 an hour this October. That will be a huge help to hard-working families and we both know that, alongside the working tax credit and the child tax credit, the minimum wage is delivering enormous practical help to low-income families in our constituencies and across the country.

Equal Pay

22. **Tony Lloyd** (Manchester, Central) (Lab): What steps she plans to take towards closing the differential in pay between men and women. [219484]

The Deputy Minister for Women and Equality (Jacqui Smith): We set up the women and work commission to recommend action to tackle the causes of the gender pay gap, and I look forward to its interim report later this month. But the Government have led by example and I am proud of the fact that all 88 Government Departments and agencies have completed equal pay reviews.

Tony Lloyd: My right hon. Friend will be aware that the chair of the women and work commission, Margaret Prosser, recently talked forthrightly about the undervaluing of the work that women do. This is an issue in both the private and public sectors, the latter having real implications for the Government. None of us expects the problem to be resolved overnight, but are the Government prepared to commit themselves to ensuring that we put the necessary resources into achieving a narrowing in the gender pay gap?

Jacqui Smith: Absolutely, and my hon. Friend is right: we need to address not just occupational segregation but the value that we place on jobs that have traditionally been done by women. Of course, we have already taken action in the public sector, such as the national health service's "Agenda for Change" initiative. Instead of depending on traditional views of work and the associated pay, we have taken a proper look at what such work involves and remunerated it accordingly. In doing so, we have of course put considerable investment into the health service—indeed, we have a responsibility to do that across the public services—and I give my hon. Friend a commitment that that will continue to happen.

Business of the House

12.32 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): Will the Leader of the House please give the business for next week?

The Leader of the House of Commons (Mr. Peter Hain): The business of the House for next week is as follows:

Monday 7 March—Proceedings on the Income Tax (Trading and Other Income) Bill, followed by motion to take note of various European documents relating to future European Union finances, followed by motions relating to the House of Commons Members' Fund.

Tuesday 8 March—Remaining stages of the Road Safety Bill.

Wednesday 9 March—Estimates [2nd allotted day] (1st part). There will be a debate on the future of the BBC, followed by consideration of Lords Amendments.

Thursday 10 March—Proceedings on the Consolidated Fund (Appropriation Bill) followed by, if necessary, consideration of Lords Amendments.

Followed by a motion to suspend support for Members who have chosen not to take their seats, followed by, if necessary, consideration of Lords Amendments.

Friday 11 March—The House will not be sitting.

The provisional business for the following week will be:

Monday 14 March—Second Reading of the Education Bill *[Lords]*.

Tuesday 15 March—Second Reading of the Inquiries Bill *[Lords]*.

Wednesday 16 March—My right hon. Friend the Chancellor of the Exchequer will open his Budget statement.

Thursday 17 March—Continuation of the Budget debate.

Friday 18 March—Private Members' Bills.

Mr. Heald: I thank the Leader of the House for the business. Is there now no prospect before the Easter recess of a debate on foreign affairs, so that we can discuss the situation in the middle east and Africa? Will he remind the Chancellor ahead of his Budget of the tax changes promised when the Civil Partnership Bill was debated? Can he confirm that those promises will be honoured?

Will Monday's European debate provide an opportunity to take stock of the Lisbon strategy and of the growth and stability pact, both of which appear to be in trouble if the latest news from Germany is true? If not, could we have a statement on those issues?

When can we debate today's damning Education and Skills Select Committee report on the so-called UK e-university? It shows that only 900 students have taken part in this £50 million project—a whopping £40,000 per student. It also finds that there was inadequate research, a skewed focus and a failure to work successfully with the private sector. So what did Ministers do? They paid bonuses to the senior executives. Should not Ministers have done their homework before throwing vast sums of public money at a project that nobody wanted? Is that not yet another piece of Government incompetence to rank with the millennium dome, the Child Support Agency computer and the tax credits administrative fiasco? The two computer projects that I have mentioned were the work of EDS, to which the Government have this week given a £4 billion contract to supply defence computers. Can we have a debate on the rewards of failure, so that we can seek serious assurances about that massive contract?

After yesterday's Appeal Court ruling about religious clothing in schools, can we expect a statement about the full effect of the ruling and the guidance that will now be given to schools?

Mr. Hain: I will certainly bear in mind the hon. Gentleman's remarks about religious clothing in schools.

I can promise the hon. Gentleman a debate in Westminster Hall on foreign affairs before the end of March. He has repeatedly raised that point, which we are anxious to do something about, and I am happy to agree to a debate.

On the tax arrangements relating to the Civil Partnership Act 2004, I will certainly make sure that the Chancellor of the Exchequer and those who are responsible for the legislation are aware of the points raised by the hon. Gentleman.

There will be an opportunity to raise a number of European Union issues. The Lisbon reform programme is about making the EU much more competitive, particularly in relation to the competitive threat from east Asia. It is an important British agenda and it must be accelerated. The Government are trying to accelerate it, and our presidency will provide an opportunity to do so. There will be a chance to debate how the growth and stability pact should be progressed, reformed and implemented.

The hon. Gentleman described the report on the UK e-university as "damning", and the Secretary of State will want to take close account of that matter. He also mentioned Government incompetence, but there is no greater example of Government incompetence than the poll tax, for which the Conservatives were responsible. I am surprised that the hon. Gentleman has the temerity to raise the issue of Government incompetence.

On computer contracts, the reliability of IT contracts to Government Departments—and, indeed, to the private sector—is a problem right across the world, and we are having some success in addressing that issue.

David Hamilton (Midlothian) (Lab): Earlier today, one of my hon. Friends mentioned that it is the 20th anniversary of the miners' decision to return to work. I was unfortunate enough not to return to work, because I was sacked along with just fewer than 1,000 people. On Monday, the BBC showed a good and fair programme about the miners in the face of great opposition from Conservative Members. At the end of that programme, the Iron Maiden—[HON. MEMBERS: "Hear, hear"]—the then Prime Minister, referred to "the enemy within",

when she was talking about miners and their families. Do you, Minister, think that she should apologise to those miners and their families?

Mr. Hain: I certainly do—I represent a mining community. *[Interruption.]* Well, I am not astonished by the growl of approval from the Conservative Members about bringing back Thatcher.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Yes.

Mr. Hain: I am not surprised, given the dreadful leadership provided by the leader of the Conservative party. I join my hon. Friend the Member for Midlothian (David Hamilton), who is a former miner, in acknowledging the suffering that miners' families experienced and their appalling treatment by the Thatcher Government. When Mrs. Thatcher was Prime Minister, lots of ordinary families suffered from her oppressive treatment, which would make an excellent subject for debate. The BBC programme is an excellent example of pointing out the truth, not least about the behaviour of the then Government.

Mr. Speaker: Order. I hope that we can return to the business for next week.

Mr. Paul Tyler (North Cornwall) (LD): On the business for next week, Mr. Speaker, can the Leader of the House confirm that he recognises that his primary responsibility is to this House, not to the Government, for the orderly arrangement of parliamentary business? Will he make a statement on the primacy of the House? As he knows, the Prime Minister and other Ministers constantly object to cross-party plans for reform of the composition of the House of Lords on the grounds that it could undermine the predominance of the House of Commons. Yet the Home Secretary has apparently decreed that the Lords should be the place where substantive amendments to his legislation on house arrest are discussed, having failed to provide a real opportunity for this House to debate them. He has apparently decided that compromise can be achieved only at the other end of the building rather than here. That is where the discussions will take place, and that is where the substantive debate will take place.

Will the Leader of the House confirm that he stands by his statements on many occasions that the predominant role in the business of Parliament lies here? Will he confirm that elected MPs should take decisions rather than, in his own phrase, unelected peers? How can he defend the contempt that other members of the Government seem to show for the House when compromise and consideration seem to be the rule only for the other place? He announced a few moments ago that we will have very few hours in this place to discuss amendments to an important Bill while considerable time is being devoted to it in the other place.

Ministers frequently say that the legitimacy of the Lords is, in some way, not complete. Will the Leader of the House indicate the Government's attitude towards cross-party proposals for the improvement of the legitimacy of the other place? Has he had an opportunity to study the Bill that I presented to this House with the support of the right hon. Member for Livingston (Mr. Cook), the right hon. and learned Member for Rushcliffe (Mr. Clarke), the hon. Member for Cannock Chase (Tony Wright) and the right hon. Member for North-West Hampshire (Sir George Young)? Will he indicate that the House will have an opportunity to debate those matters, and will he tell us the Government's attitude on them?

Last Thursday, the Leader of the House gave me an undertaking that the Chancellor would look urgently at the question of tax credits, which are causing much misery to our constituents. He may have seen that *The Daily Mirror* has taken up the issue and has referred to the fiasco that has left tens of thousands of families in financial crisis. When will I get an answer from the Chancellor, which the Leader of the House promised me last week? Much more importantly, when will all those who have been affected by the appalling fiasco get an answer?

Mr. Hain: Obviously, the Chancellor is as anxious to make sure that those issues are addressed as the hon. Gentleman is in, quite rightly, raising them with me. The overall point is that we are delivering more support for low-income families and those on benefit, especially hard-pressed low-income pensioners, than ever before. That is the important point. Some things have gone wrong in the system, and they are being addressed, but I hope that the hon. Gentleman will applaud the Government for giving billions of pounds to the very poorest pensioners and those on low incomes, and for encouraging people into work by supporting hard-working families and making work pay.

On the hon. Gentleman's first point, about the primacy of the House of Commons, I am happy to repeat my often-stated view that the House is the prime body and the sovereign body, above the House of Lords in Parliament. Of course it is.

On timing, the hon. Gentleman made a perfectly fair point, but he will recall that consultations were held only the previous Friday with the leader of the Liberal Democrats and the leader of the Conservative party. It was not possible to hold them earlier than that, although it would have been desirable to do so. It was, therefore, in response in part to requests from the Leader of the Opposition and the leader of the Liberal Democrats to see whether consensus could be found that the Home Secretary reflected and came back to the House at the earliest opportunity. He circulated the letter, and I know that there was some concern about who saw what and at what time, but there was an honest intention to circulate it to the House. The Home Secretary, indeed, apologised if Members had taken offence, because he did not intend that.

It was not possible suddenly to table amendments and it was much better to take the mood of the House and listen to the debate, as we continue to do. Then, we could place amendments in the Lords, which, by the way, will come back to us. In whatever way the Bill is treated in the Lords, it will come back to us, giving a further opportunity to scrutinise it, hold us to account and perhaps consider other amendments, possibly even Government amendments, depending on the situation in the Lords.

Mr. Forth: Oh! A concession.

Mr. Hain: I am just stating the obvious. I am not saying that that will happen, but simply stating that the Government are dealing with a very difficult situation—

Mr. Heald: Of their own making.

Mr. Hain: No, not of their own making. It is almost a situation of the House's making, because the House passed legislation in the aftermath of the September 11 attack, but one aspect of it has been deemed unlawful in its application by the Law Lords. We are having to deal with that.

By the way, there is no question but that the Bill has been given adequate scrutiny. It will have been given at least 17 hours of scrutiny in the Commons. I know that it raises important issues about which hon. Members feel strongly, but I have looked into this matter, so I know that for an 11-clause Bill to receive 17 hours of scrutiny in the House of Commons is quite in line with other emergency legislation. Indeed, in some respects it will have more time—

Mr. Forth: This is not an emergency.

Mr. Hain: I hear what is said from the Conservative Benches, but in that case, let me ask what the Government should be doing. The Law Lords have made a ruling. If we ignored that ruling, the individuals who are currently detained in Belmarsh without trial could simply walk out, yet we would have no control orders in place to deal with that. We now know that the Conservatives, along with the Liberal Democrats, will go into the next election saying that terrorist suspects can walk free without making any attempt to place control orders on them. We now know that that is the officially recognised position of the Conservatives and the Liberal Democrats.

Mr. Peter Pike (Burnley) (Lab): Is my right hon. Friend able to say where the site of the new visitor centre will be? Is he able to give us any indication of what major work will take place in the Westminster Hall area during the next 12 months? What implications would that have for the use of that part of the building by the House?

Mr. Hain: Like my hon. Friend, I am very keen for the project for a proper reception facility for visitors to be implemented as soon as possible. It would provide secure and much more civilised arrangements to allow visitors to come in through Westminster Hall than those that exist at the moment. Thereafter, I hope that the House and the House of Lords will endorse a proper visitor facilty on a different site that will enable members of the public to come and enjoy the rich democracy that we have in the House of Commons and find out the way in which it works.

Sir Nicholas Winterton (Macclesfield) (Con): Will the Leader of the House indicate more precisely when critical international issues regarding the middle east and Africa—not least the problems in Sudan and Darfur, and the situation in Zimbabwe, with the continuing dictatorship of the leader of that country—might be debated on the Floor of the House? The House should become involved in discussing such matters.

The Leader of the House announced that the Chancellor will deliver his Budget statement on 16 March. Can he indicate when the Second Reading of the Finance Bill will take place so that those of us who might subsequently be involved are able to plan our diaries between now and whenever?

Mr. Hain: I have already outlined the progress of the Budget. The hon. Gentleman raises an important point about foreign affairs, especially regarding Africa and the middle east. All those conflicts and problems should be at the forefront of hon. Members' attention. He will know that the Foreign Secretary made a written ministerial statement yesterday about the hugely successful peace conference on the Palestinian-Israeli conflict, which will enable real momentum to be given to the middle east peace process. As I said, there will at least be an opportunity for a foreign affairs debate in Westminster Hall—I am sorry that I cannot promise that there will be one on Floor of the House—and I have responded to points made by hon. Members, including the shadow Leader of the House.

Chris Ruane (Vale of Clwyd) (Lab): Will the Leader of the House ensure that we make rapid progress on the Clean Neighbourhoods and Environment Bill? Will he further ensure that we have an early debate on that important subject so that we can find out whether the Opposition would let the Bill through in the event of an early Dissolution?

Mr. Hain: My hon. Friend raises an interesting point. The Bill has completed all its stages in this place and is now with the Lords. I hope that there will be unanimous support for the Bill, were an early election and early Dissolution required. It deserves such support because it addresses things that most, if not all, of our constituents feel very strongly about, including fly-tipping, antisocial behaviour, graffiti and noise pollution. It is the Labour Government who are on the side of the ordinary citizen and their neighbourhood, and I hope that the Opposition will join us.

Sandra Gidley (Romsey) (LD): The date of 8 March is international women's day, and in recent years the Government have generously given a significant amount of time to have a debate on women's issues. That has not happened this year, which I find strange in the light of the apparent wooing of the women's vote. Why has no Government time been devoted to this important subject this year?

Mr. Hain: I accept that we have not been able to provide time for a debate. The hon. Lady is right to point to that discrepancy. The truth is that we have a very busy legislative programme, including, in the week in which such a debate would fall, consideration of the terrorism legislation. I am providing more time than was originally considered for that legislation in response to requests made by right hon. and hon. Members. However, if we consider what the Government are doing in providing wrap-around child care, more opportunities for women, more support for families and more opportunities for women to work, the hon. Lady will recognise that we are addressing precisely the

agenda of equal opportunities on which international women's day has quite rightly commanded our attention.

Mr. Tam Dalyell (Linlithgow) (Lab): Further to the reply to the question of the hon. Member for Macclesfield (Sir Nicholas Winterton), it is not good enough to say that major matters of foreign affairs, with great issues in Syria and in relation to Iran, should be transferred to Westminster Hall. This is not proper treatment of the House, it really is not.

Mr. Hain: I understand my Friend's point, but I hope that he will accept that I have responded to requests for a debate in Westminster Hall. Indeed, Westminster Hall has some of the finest debates that take place in the House these days.

Mr. John Bercow (Buckingham) (Con): They get too little attention.

Mr. Hain: Perhaps they do receive too little attention, in which case we should work on members of the Press Gallery to attend Westminster Hall much more often. The issues to which my hon. Friend refers, including what has happened in Lebanon recently and the read-across to Syria, the huge change in the middle east and the prospects of democratic pressure running right through the middle east as a result of the successful elections in Iraq, will be debated in due course.

Mr. Andrew Hunter (Basingstoke) (DUP): Can the Leader of the House give an assurance that on Thursday there will be sufficient time for a full and meaningful debate on the issue of Sinn Fein allowances, that amendments may be tabled and selected and that the debate will not be truncated by other business?

Mr. Hain: As I have already announced, there is other business in the House on that day. The situation will be rather dependent on what comes back from the Lords. If there is any ping-pong on the Bill, we shall have to see. There is plenty of opportunity for debate on this important item, so I can give the hon. Gentleman that assurance.

I apologise to the hon. Member for North Cornwall (Mr. Tyler). One of the issues that I did not address was his point about the House of Lords report by a number of eminent Members of this place. It is an impressive report and we shall consider it seriously.

Mr. Mohammad Sarwar (Glasgow, Govan) (Lab): Can my right hon. Friend ensure that we make progress on the Equality Bill which bans religious discrimination in the provision of goods and services, putting discrimination against Muslims on the same footing as racial discrimination? Can we have an early debate on this subject so that we can learn whether the Opposition would let the Bill through in the event of an early Dissolution?

Mr. Hain: My hon. Friend makes an important point. As he knows, the Equality Bill will be given its First Reading today. That legislation is a clear signal of the Government's intention to ensure that Muslims throughout Britain can enjoy protection from religious discrimination and, through the Serious Organised Crime and Police Bill, can enjoy protection from incitement to religious hatred. That has been a protection that Muslims have not enjoyed up to now, almost exclusively, compared with other faiths and groups in our society.

I hope that the Liberal Democrats and the Conservatives will do a U-turn on their policy of opposition, according to which they are not defending Muslim communities, and should be, whereas this Labour Government are standing shoulder to shoulder with Muslim communities and providing extra support and protection.

Mr. John Bercow (Buckingham) (Con): Given that Dr. Than Nyein, U Saw Naing Naing and U Soe Han, three long-standing democratic political opponents of Burma's military dictatorship, have been incarcerated in appalling conditions, having been denied fair trials and medical treatment alike, would the Leader of the House agree that it would now be proper for the Foreign Secretary to make a statement about the treatment of those individuals? Would he not further acknowledge that it would be the most fitting imaginable tribute to that truly great man, Peter Benenson, the founder of Amnesty International, who died last week, if, following the making of a statement, the Government were to make the strongest possible representations within the United Nations about the bestial behaviour of this rogue state?

Mr. Hain: I am grateful to the hon. Gentleman for giving me the opportunity, and I am sure the whole House, to put on record our acknowledgement that Peter Benenson, in founding Amnesty, lit a torch for freedom that has continued to burn brightly and has held every Government in the world, including our own, accountable for any potential human rights abuses.

As for Burma, I agree with the hon. Gentleman that it is an odious junta. The sooner that it can be brought down and replaced by a democratic, civilised Government, the better for the Burmese people. The treatment of the three individuals to whom the hon. Gentleman refers is completely intolerable, but unfortunately in line with the junta's behaviour. As well their treatment, we are aware of the long-standing oppression of Aung San Suu Kyi, who should in my opinion, subject to the views of the Burmese people, be the true leader of Burma.

Julie Morgan (Cardiff, North) (Lab): May I add my regret about the loss of the international women's day debate? Is my right hon. Friend aware that on Tuesday, which was 1 March, St. David's day, representatives of the British Medical Association in Wales presented a petition containing thousands of signatures to my right hon. Friend the Prime Minister at No. 10 Downing street, plus a bunch of daffodils, in support of a ban on smoking in enclosed public spaces in Wales, and in support of my private Member's Bill on 18 March? Does my right hon. Friend agree that one of the best gifts that Wales could have on St. David's day would be smoke-free air in public spaces, especially in view of the report this week that stated that 30 people die every day from passive smoking? What efforts will the Government make to ensure that this happens?

Mr. Hain: I applaud my hon. Friend for bringing forward her Bill to seek to restrict smoking in public places. It will encourage the policy that the Government have announced, and which my right hon. Friend the Secretary of State for Health has promoted through the public health White Paper, of ensuring that passive smoking does not lead to the injury, ill health and death that it currently causes, and that smoking is restricted in public places. We are not able to support my hon. Friend's Bill for various reasons, but in terms of the thrust of the policy that it contains she will find that we are with her in spirit. She will also be encouraged by subsequent legislation that we intend to introduce, which will give Wales the opportunity to implement policies in the way in which the National Assembly choose.

Mr. Roy Beggs (East Antrim) (UUP): Will the Leader of the House arrange a debate as soon as possible to enable the House to end the perceived discrimination by Government against parents in Northern Ireland who wish to have their children educated in grammar schools, by enabling those parents to exercise the same rights as parents enjoy in England, who by local referendum can choose to retain their local grammar school, and also by enabling the House to prevent discrimination against the state sector—mainly Protestant children in our schools—in the form of proposals recently, which the Government admit will reduce funding to the state sector by £3 per pupil annually and increase funding to maintained sector children—who are mainly Roman Catholic—by £5 per pupil annually? Surely the Leader of the House and the House would uphold the need for abandoning and preventing discrimination at all levels.

Mr. Hain: Of course no Labour Government—certainly not this one—would want to see discrimination anywhere in Northern Ireland or, for that matter, on the British mainland. I acknowledge—I ask that the hon. Gentleman does so as well—that notwithstanding the points that he has made, which have been noted by my right hon. Friend the Secretary of State for Northern Ireland, there is now record investment in schools in Northern Ireland and that education standards are rising. I am glad that the hon. Gentleman acknowledges that with a nod to me. The children of Northern Ireland and their parents—indeed, the whole community—are now much better off than they were under the dreadful policies of the last Conservative Government.

Mr. Patrick Hall (Bedford) (Lab): When my right hon. Friend visited Bedford recently, he saw the bust of Archbishop Trevor Huddleston, who was born in Bedford and later lived and worked in South Africa. He went on to found the anti-apartheid movement. On Monday 21 March, I will join constituents at the Trevor Huddleston sculpture to help to publicise the campaign to make poverty history—a cause of which Trevor Huddleston would certainly have approved. Will my right hon. Friend try to find time for the House to debate the aims of Make Poverty History and the crucial role that the Government are playing in it?

Mr. Hain: I would certainly like to find an opportunity to debate Make Poverty History. I am absolutely certain that, as my hon. Friend said, Archbishop Trevor Huddleston would have backed it enthusiastically. He was an inspirational figure in the freedom struggle throughout the world, particularly in South Africa, where he played a crucial role. Make Poverty History is also supported by Nelson Mandela, who has exerted major pressure on the G7 leaders, and the Chancellor and Prime Minister have played a leading role in that global campaign.

Sir Sydney Chapman (Chipping Barnet) (Con): Will the Leader of the House confirm that the Government have no intention of proceeding any further with the European Union Bill, which had its Second Reading nearly a month ago? Will he also confirm whether the Government intend to have the Identity Cards Bill, currently being debated in the other place, placed on the statute book in the next five weeks?

Mr. Hain: It is our intention to have the Identity Cards Bill on the statute book as soon as we can. That will depend on the Opposition's response. It remains to be seen whether the Conservatives will back this commonsense measure, which is widely supported by about 80 per cent. of the population. That applies to the Liberal Democrats as well. Will they seek to block the Bill? It will be an interesting challenge for the Opposition, and members of the public will be watching very closely to see who is on their side in the fight against terrorism and illegal immigration and in favour of improving the security of legitimate British citizens.

On the European Union Bill, we want to proceed as soon as an opportunity arises. We want to get it through and we will proceed when we can.

Andrew Mackinlay (Thurrock) (Lab): Can we have a debate on the monarchy? Under the smokescreen of a general election, Prince Charles is altering the constitution a la carte. The fact is that he is entitled to marry whomever he likes, but the custodians of the constitution are here in the House, and this matter raises questions about morganatic marriage. Stanley Baldwin said that the constitution made no provision for such marriage, so perhaps we should legislate to change that. If not, Camilla may become Queen. Questions are also raised about the male primogeniture rule, which is currently discriminatory, and the religious faith of the monarch. Those issues cannot be handled by stealth. There should be a conscious discussion in this place about all these matters. It is wrong for Prince Charles to be able to alter the constitution by this gradualist approach without consulting Parliament. These are matters for which the House has a responsibility, and whether our politics are left, right or centre we should not abdicate that responsibility.

Mr. Hain: I have to disappoint my hon. Friend, because I cannot promise him a debate. In fact, I have absolutely no intention of having a debate on this subject. As he knows, the Secretary of State for Constitutional Affairs made a statement in which he explained the Government's position on these matters. As to the accusation of proceeding by stealth, we need to acknowledge that this wedding, which will take place on 8 April, has a public profile. It is anything but stealth; it is in the full glare of publicity. I am sure that my hon.

Friend would want to join me in wishing Prince Charles and Camilla Parker Bowles a successful wedding and a happy marriage.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Did the Leader of the House notice in yesterday's PMPs—

Dr. Julian Lewis (New Forest, East) (Con): PMPs?

Mr. Forth: Prime Minister's porkies.

Did the Leader of the House notice that the Prime Minister said how delighted he would be if we spent "the next few months" arguing about the national health service? Did the Leader of the House take that as a hint, or even a definitive statement, from the Prime Minister that there is no general election in the offing and that we will still be here debating these important matters? Does the right hon. Gentleman have the Prime Minister's confidence, or does he read into the Prime Minister's words, as I do, that we can all go off for our Easter break in a relaxed mood?

Mr. Hain: I would not want the right hon. Gentleman to go off in a relaxed mood at any time, though I have considerable affection for him as a parliamentary performer and, actually, not a bad bloke, despite his dodgy views on the European Union—and just about everything else, for that matter.

Since the right hon. Gentleman asks about health, it gives me the opportunity—*[Interruption.]* No, I cannot help him on the general election. I am always delighted to debate health, as it gives me an opportunity to point out that under this Government the number of elective admissions for operations has increased by 750,000. The proportion of cancelled operations has remained roughly the same, but the fact that the actual number of operations is so many hundreds of thousands higher means that we are doing much better with the NHS than the Tories did in the past or could do now.

Mr. Stephen McCabe (Birmingham, Hall Green) (Lab): Will my right hon. Friend consider having an early debate on matters associated with the shocking case of the convicted paedophile, Rupert Massey, which is highlighted in the *Daily Mirror* today? As I understand it, he has been awarded £5,500 by judges in Strasbourg because of the stress that he claims he suffered due to delays in his trial. Surely this is human rights gone mad. Should we not be thinking of finding ways to claw back that money and repay it to the Criminal Injuries Compensation Authority, which has already had to compensate Massey's victims for the stress they suffered on account of his evil deeds?

Mr. Hain: I find it absolutely extraordinary that a convicted paedophile could have secured compensation for stress when the stress caused to his victims was incomparably greater. I find it incredible, and I am sure that many people on both sides of the House and throughout the country will simply not understand it.

Adam Price (East Carmarthen and Dinefwr) (PC): The annual Welsh day debate was meant to have been held on St. David's day this week, but was sadly postponed. Will the Leader of the House provide us either with the date on which it will be held or, if Wales is no longer a priority for him, will he at least offer my party its Opposition day debate before the next election?

Mr. Hain: I reassure the hon. Gentleman that Wales remains an absolute priority for me, as he well knows. I am looking for an opportunity to have a Welsh day debate and I acknowledge the considerable disappointment—and perhaps, in some quarters, anger—that would follow if we did not have such a debate. I am actively looking for an opportunity, as I regret the fact that the passage of the terrorism and emergency provisions legislation that we have had to introduce made it necessary to postpone the Welsh day debate.

Paul Flynn (Newport, West) (Lab): Ten years ago, only a quarter of first-time home buyers were required to pay stamp duty, but now it is three quarters. When can we have a debate on the "raise the roof" campaign, which is being conducted by the West Bromwich building society and the company Mortgage Watchdog and is supported by an early-day motion signed by members of all parties? The aim is to raise the tax threshold from £60,000 to £150,000, thereby giving real help to home buyers of modest means.

Mr. Hain: I understand my hon. Friend's point, but he has to explain how the shortfall in revenue would be met if we were to continue to fund the excellent public provision in education, health and so many other respects—for which the Government have been responsible. I know that my hon. Friend enthusiastically backs such provision. Tax matters are for the Chancellor, not for me.

Mr. John Hayes (South Holland and The Deepings) (Con): The Leader of the House knows that, under your watchful gaze, Mr. Speaker, he is a guardian of the traditions and civilities of this House. Will he therefore make a statement about the growing practice of Members tabling questions solely for the purpose of electoral gain? [HON. MEMBERS: "No!"] Shocking though it is, that is happening. Members are seeking to gain information solely in order to use it against their political opponents in their constituencies. The worst practice is tabling questions about other Members' constituencies, as happened in respect of the Leader of the Opposition, the shadow Chancellor, the shadow Home Secretary and others. That is a breach of the civilities and courtesies of the House. If the Leader of the House does not make a statement, no doubt you, Mr. Speaker, will have to intervene to maintain those courtesies, and I hope that he will make a statement before you have to act.

Mr. Hain: Of course it is my duty, and it is especially your duty, Mr. Speaker, to maintain the courtesies and civilities of the House. There must be cross-party understanding that we all need to respect those civilities, and I do not think that the hon. Gentleman's accusation is fair because of the one-sided way in which he made it. We could look at all sorts of pre-election fever in the House and various behaviours and accusations that are an inevitable product of that.

Mr. Wayne David (Caerphilly) (Lab): Earlier this week it was announced that air tankers' wings are to be

[Mr. Wayne David]

built at the Airbus facility in north-east Wales. Yesterday it was announced that the Atlas Consortium is to have the third bidder status for a major IT contract, which will help south-east Wales. Does my right hon. Friend agree that this week has been an excellent one for Wales and Welsh jobs?

Mr. Hain: It has been a fantastic week for Wales and Welsh jobs. If there is an opportunity for a Welsh day debate, we will be able to put on the record that north and south Wales are benefiting from the best investment in high technology areas. Wales is on a roll now—on the rugby field, in business, in manufacturing and right across the board. Wales is leading in a world-class drive to make sure that we are in a strong competitive position, and my hon. Friend's point is a good example of our success.

Bob Spink (Castle Point) (Con): May we have a debate before the House rises for Easter to establish that although inclusion is good for some children, moderate and severe learning difficulty schools are essential for many of our special needs children, and we should follow no policy that puts them at risk of closure? In such a debate we can thank and pay tribute to all the staff and teachers who work in those schools, which do a wonderful job.

Mr. Hain: I endorse what the hon. Gentleman says. Teachers do one of the most important jobs in the world—more important, I hesitate to say, than that of politicians. For the very reason that he gives, I hope that he will support the Government's policy of recruiting. Since we came to power, we have recruited 29,000 new teachers and 100,000 classroom assistants, with numbers continuing to rise. Many of them are in special needs teaching, which is one of the most difficult jobs in the profession.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Will my right hon. Friend reflect on the speculation about the possibility of an early Dissolution and, in particular, provide information on the likely progress of the Gambling Bill? In my constituency two casino developers, MGM and Sun International, have expressed interest in developing regional casinos which would be at the heart of major regeneration plans for the old industrial areas of the Lower Don valley. Can he reassure us that the Gambling Bill will not be lost? That would significantly delay that major regeneration, which has widespread public support in my constituency.

Mr. Hain: As my hon. Friend knows, the Bill has completed all its Commons stages and has already had its Second Reading in the Lords. We hope that it will pass through as soon as possible. It is an important Bill, not least for the reasons that he gives. Equally important—some might think more important—is the fact that it will clamp down on all sorts of abuses of gambling, particularly internet gambling, in which children and some of the most vulnerable are exposed and put at risk. We want to stop that.

Mr. Andrew Mackay (Bracknell) (Con): Does the Leader of the House accept the urgent need for a ministerial statement on the European Union decision to lift the China arms embargo, not least because it will put great strain on our special relationship with the United States of America? There is a real possibility of a large number of jobs being lost in this country as a consequence.

Mr. Hain: I do not accept that there is a possibility of a large number of jobs being lost. *[Interruption.]* Well, there have been discussions with the Americans on a number of issues, including this one, and there is now greater understanding, particularly as a result of the recent visit by President Bush to Brussels when this matter was discussed, of the American position and concerns and, equally, of the European position. The right hon. Gentleman will, I am sure, applaud the fact that it was this Government who brought in a strict code on the export of arms so that it cannot be undertaken from Britain or indeed, as a result of our initiatives, from anywhere in the European Union if the arms are to be used for aggressive purposes externally or oppression internally. We abide by that code, and any arms exports will be made in accordance with it.

Jim Sheridan (West Renfrewshire) (Lab): May I draw my right hon. Friend's attention to a circular sent to every member of staff of the Alliance and Leicester building society under the heading, "Money-laundering and Politically Exposed Persons"? Clearly identified as a politically exposed person is a member of this House or their close relatives. Staff are advised:

"If any member of staff identifies a PEP when opening a new account or administrating an existing account, they must notify the Money Laundering team".

Will my right hon. Friend use his good offices to have the position clarified with the Fees Office, so that Members know exactly what is going on when they are treated as financial terrorists by organisations such as Alliance and Leicester?

Mr. Hain: My hon. Friend has performed a valuable service in drawing that problem to the attention of the House. The relevant Minister will want to pay close attention to what he said. If my hon. Friend has an opportunity to apply for a debate to raise the matter, I am sure that he will.

Rev. Martin Smyth (Belfast, South) (UUP): The Leader of the House paid tribute to teachers. Does he recognise the growing concern among teachers about the possibility of extending their retirement age from 60 to 65 and the penalties that will be imposed, bearing it in mind that many of them live under strain? May I impress on him the need for a debate in the House on foreign issues, bearing it in mind that Nathan Scharansky has played such an important role to date partly because some of us in this House fought for the release of Soviet refuseniks?

Mr. Hain: Indeed, and those who fought for the release of Soviet refuseniks under the repressive communist regime deserve to be applauded and acknowledged. I will make sure that the relevant Minister is aware of the hon. Gentleman's earlier points.

Mr. John Smith (Vale of Glamorgan) (Lab): As this week saw the start of the DVT awareness month in the USA and more than 32,000 people in this country die unnecessarily from deep vein thrombosis—more than the numbers of those who die from breast cancer, AIDS and road traffic accidents put together—will my right hon. Friend find time for this House to explore ways of supporting a similar initiative in this country? Next Tuesday the Health Committee will report that far fewer people die of the condition in the USA than here and something needs to be done.

Mr. Hain: Certainly the Secretary of State for Health will want to pay close attention to my hon. Friend's comments. Notwithstanding that, my hon. Friend will acknowledge that in many other respects we are making considerable progress in cancer treatment and so on as a result of our huge investment, much of which would be at risk under the Opposition's policies.

Mr. Colin Breed (South-East Cornwall) (LD): Will the Leader of the House make time for a debate on the serious issue of our defence industries, particularly our naval dockyards which, because of Government policy, are suffering from a paucity of refit work? That will have a huge effect on the continuation of skills which are vital for the future.

Mr. Hain: There is a reconfiguration of defence spending in line with modern military realities, but the defence budget continues to rise in real terms and will continue to do so. The hon. Gentleman will recognise that, because of new threats and new operational necessities on the ground—for example, in Iraq and other theatres of conflict—we have to tailor our defence forces to meet those realities. I do not accept that there is any shortage of skills provision as a result of this investment. The investment will continue to rise and would be put at risk by the Opposition policy of cutting public spending.

Mr. David Chaytor (Bury, North) (Lab): May we have a debate about the future of the neighbourhood renewal fund? As my right hon. Friend knows, the Government are consulting on four options for the distribution of those important regeneration funds. Does he agree that it is critical when making the judgment that the Government use the most recent information provided by the new index of multiple deprivation? Does he accept that that is crucial for local authorities that stand to gain from the new index of multiple deprivation, because access to the neighbourhood renewal fund triggers access to a wide range of other Government funding streams and funding from the regional development agencies? Can my right hon. Friend find time for a debate on that important subject?

Mr. Hain: I shall certainly consider that, but I am not optimistic that I can find time in the next few weeks, at least.

I remind my hon. Friend that, notwithstanding his important points, which will be borne in mind by the Deputy Prime Minister, the Government have invested nearly £1.9 billion in the 88 most deprived areas of the country in the period 2001–06, with a further £1 billion a few years after that. All that would be at risk under the Conservative party's plans for £35 billion of public spending cuts.

Mr. Crispin Blunt (Reigate) (Con): Once the Leader of the House has put right the shocking deficit of debate on the Prevention of Terrorism Bill in the Chamber, which his proposals in the business statement do not adequately address, can time be found to address deficits in NHS funding? We could then understand why the East Surrey primary care trust has had to instruct the Surrey and Sussex Healthcare NHS trust not to carry out any elective surgery unless patients are about to breach the nine-month target. Will the right hon. Gentleman also explain why the Mid Yorkshire Hospitals NHS trust, which serves the constituency of the Chairman of the Health Committee, received a £30 million bung to sort out its deficit when, in Surrey and Sussex, the blame is falling entirely on the managers, who, as I said back in 2001, have to manage an impossible situation?

Mr. Hain: It is not unusual for the health service to be reporting deficits at this stage of the financial year. Past experience shows that the overall position improves by the year end, and the health service has achieved an overall financial balance for the last four successive financial years. The real deficits, as the hon. Gentleman knows, happened before we came to power in 1997, since when the health budget has doubled with record investment, all of which would be at risk under the Conservatives' plans for £35 billion of cuts. He supports the plans for £1 billion to be taken out of the health service and put into private hospitals.

The hon. Gentlemen referred to a shortage of time to discuss the legislation on terrorism. As I said, 17 hours are available next week, but we do not know whether that will need to be extended because we do not know what will come back from the House of Lords. I will pay attention to hon. Members' requests.

Huw Irranca-Davies (Ogmore) (Lab): As we look around the desperately tired and flagging faces in the Chamber today, how concerned is my right hon. Friend about the startling report that MPs are getting less sleep than any other profession in the UK? Given that Churchill, who is generally well regarded and was an effective leader of the country, slept famously long hours, but other Prime Ministers and Leaders of the Opposition had very different nocturnal habits, how worried should we be?

Mr. Hain: Given my restricted sleeping hours and the pressures of my job, I am not sure that I am a good advertisement. Perhaps the public expect their Members of Parliament to work hard for them, and we do. I think the public may prefer politicians who have something of the day about them.

Mr. Nigel Evans (Ribble Valley) (Con): I thank the Leader of the House and the Government for the success of the Welsh rugby team. I am sure that they could not have achieved it without them. Diolch yn fawr.

Cyber-theft is silently stealing millions of pounds from our constituents. One wrote to me last week to say that a bill that was usually between £25 and £30 is now

[Mr. Nigel Evans]

more than £170. Will the right hon. Gentleman arrange for a Minister to come to the Dispatch Box to spell out the strategy to deal with the rising problem of preventing and protecting our constituents from being bled dry?

Mr. Hain: The Cabinet is split on the excellent performance of the Welsh rugby team. It is united on everything else, but there are serious divisions concerning the performance of the Welsh rugby team versus the Scots, Irish and English rugby teams. I cannot offer the hon. Gentleman any support or claim any credit.

The hon. Gentleman's point about cyber-theft is important, and it was valuable to have it drawn to our attention. The relevant Minister will want to pay close attention to it and may be in touch with the hon. Gentleman.

Mark Tami (Alyn and Deeside) (Lab): Can we have an early debate on engaging younger people in the political process? During the next few weeks, two school groups from Elfed high school in Buckley and Connahs Quay high school will visit the House. The Welsh Assembly provides financial assistance for the transport of schoolchildren to visit the Assembly from outside a radius of 25 miles. We provide none. Why?

Mr. Hain: That is a matter for the National Assembly. I am sure that the First Minister will want to take note of my hon. Friend's point.

My hon. Friend will know that the School Transport Bill is before the House and I hope that all Opposition parties will support it in the event of an early dissolution because it will make the problem of school transport easier to solve.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): Can I take the Leader of the House back to his comments on the Prevention of Terrorism Bill and his remarkable assertion that the time allowed so far in this place has been adequate because the Bill has only 11 clauses? I remind him that on Monday at the conclusion of the debate, during which at least as much time was taken for contributions from Labour Members as from Opposition Members, the House had not even concluded consideration of clause 1. With 10 of the 11 clauses and the schedule unconsidered, how can he say that we have had sufficient opportunity to consider the Bill? As the Government got the timetabling so disastrously wrong on Monday, what is the bare minimum of time that they will provide for consideration of Lords amendments?

Mr. Hain: Well, until I know what Lords amendments there are, it is not possible to benchmark them against the time available, but I shall bear in mind any representations on the necessity for proper scrutiny. However, at least 17 hours will be available and we will continue to monitor the situation. I am anxious to have proper scrutiny of the Bill and to make available extensive time consistent with the need to get the Bill through before 14 March. Otherwise, we will be unable to deal with the problem of suicide bombing and other forms of terrorism threatening the country. That is the issue that divides us. Of course there is need for proper scrutiny and I shall continue to ensure that the House's views are protected.

Ian Lucas (Wrexham) (Lab): May we have an early debate on the renewable energy manufacturing industry? When Sharp Electronics (UK) set up photovoltaic cell manufacturing in Wrexham last year, it did so on the basis of a long-term commitment to renewable energy manufacturing. A disturbing story in *The Independent* today suggests that there is grave concern in the industry about uncertainty for future funding of the scheme, which is due to run out in April next year. I know that my right hon. Friend is interested in the matter, so will he have a word with the Department of Trade and Industry to try to get it to present the new scheme soon to ensure that we have continuous support for this important developing industry?

Mr. Hain: I agree that this is an important developing industry. I visited Sharp with my hon. Friend and continue to take an interest in it. It is a flag-carrier for photovoltaic panels and renewable energy. As he knows, £31 million has so far been awarded to solar panel projects, and current funding extends to March 2006.

What we need to do following the renewables innovation review is to consider its proposal for a technology-blind capital grant programme combining household renewables and energy efficiency technologies to see whether there is a more efficient way of delivering that support. Support for solar PV is an important part of the programme and we are clear that there will be continued funding. The report in this morning's newspaper did not take account of the fact that the Government are committed to prioritising funding for solar PV, even if the way in which it is delivered is configured to take account of the need for insulation and energy efficiency measures as well.

Dr. Julian Lewis (New Forest, East) (Con): Last week the Leader of the House, typically generously, responded warmly to my suggestion that we might have a debate on performance-related pay for politicians—that is, cuts in what they get paid when they do not do their job properly. On that occasion, I had in mind his right hon. Friend the Chancellor of the Duchy of Lancaster, but today I have in mind the Liberal Democrats. Given that they have been pontificating about the anti-terrorism legislation up and down the country, does the Leader of the House agree that whichever view one takes on that legislation, for the Government to have saved it by 14 votes, and for 17 Liberal Democrats, including their leader, not even to have turned up to vote—one third of their parliamentary strength—is absolutely disgraceful?

Mr. Hain: The fact that 24 Conservative Members were absent as well means that I will just let them fight it out between them.

Kevin Brennan (Cardiff, West) (Lab): Could we have a debate on causes of crime? Is my right hon. Friend aware that the Liberal Democrat-led council in Cardiff,

despite receiving an increase in its funding of 5.6 per cent. this year at a time of low inflation, is cutting back on youth service provision? That includes the Ely youth bus, in an area in my constituency with high rates of crime and antisocial behaviour. Together with proposals to lower the drinking age to 16 and to give the vote to prisoners, does not it show that the Liberal Democrats are not only soft on crime and soft on the causes of crime, but soft in the head?

Mr. Hain: I enthusiastically agree with my hon. Friend on all those points. I think it goes to show that when the Lib Dems are in power we really see how appalling and incompetent they are. What they are doing in Cardiff—a city that has been the fastest-growing European capital, under a dynamic Labour leadership, for many years—is putting its future in question by these appalling policies. The sooner we get a Labour majority in Cardiff, able to provide the visionary leadership that Cardiff once enjoyed, the better.

Mr. Bill Wiggin (Leominster) (Con): The Prime Minister assured me that the right hon. Gentleman would speak to the Secretary of State for Defence about the naming of Welsh regiments. May we have a debate about the importance of keeping at least one regular battalion in Wales? Finally, on St. David's day the right hon. Gentleman assured the hon. Member for East Carmarthen and Dinefwr (Adam Price) that we would have a debate, but when he answered the hon. Member for Caerphilly (Mr. David) he introduced the word "if". St. David's day debate—yes or no?

Mr. Hain: I am anxious to get a St. David's day debate just as soon as I can. I give the hon. Gentleman that assurance, but it will not be tomorrow or in the next two weeks because I have announced the business for the next two weeks.

On the question of the naming of the Welsh regiment and the Welsh battalions, as the hon. Gentleman knows, the Army Board has recently made a decision on this matter. Despite extensive representations from him, from me and from Members right across the House, it has made its own decision and that, I am afraid, is that. It is not a matter for Ministers any more; it is a matter for the Army, because that is the source of the decision and the announcement that has been made.

Mr. Andrew Turner (Isle of Wight) (Con): Pursuant to the right hon. Gentleman's answer to my hon. Friend the Member for New Forest, East (Dr. Lewis), the Liberal Democrat leader said this morning that it had been a judgment call to miss the vote and

"I followed the debate right through".

Well, we now know that his judgment was very poor, but in the *Daily Telegraph* yesterday we read that the Liberal Democrats said that

"Mr Kennedy and many others were away campaigning."

In fact, the vote was at 9.56 pm and the right hon. Member for Ross, Skye and Inverness, West (Mr. Kennedy) was boarding a taxi in Abingdon street only half an hour earlier. May we have a debate entitled, "Helping the Lib Dems to co-ordinate their words with their actions"?

Mr. Hain: That is an excellent idea. Perhaps the hon. Gentleman would get his Front-Bench spokesmen to apply to me for an Opposition day debate. Perhaps, in that debate, we would learn the Conservatives' policy for dealing with the problem of terrorism, following the Law Lords' decision, the expiry of the renewal order and the situation that would follow on 14 March. Despite all the twistings and turnings by the Conservatives and by the Lib Dems on this matter, nobody knows what they will do if terrorists walk away without the necessary control orders and continue to organise in the way that they have been doing, and without proper security and protection for our communities and tough Government action against international terrorism. The country now knows that it is the Government taking tough action against international terrorism, while the Lib Dems and the Conservatives are wavering and do not know what they would do.

Points of Order

1.35 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): On a point of order, Madam Deputy Speaker. In circumstances where the main Opposition party has made it clear that it is prepared to extend the existing terrorist legislation and have offered the alternative of a short period of legislation in order to protect the position, is it in order for the Leader of the House so grossly to misrepresent the position of the Conservative party, when it is his party that is reckless and prepared to go ahead without proper respect for the House?

Madam Deputy Speaker (Sylvia Heal): The matters to which the hon. Gentleman has referred will be debated in the near future.

Mark Tami (Alyn and Deeside) (Lab): On a point of order, Madam Deputy Speaker. During business questions I asked the Leader of the House about the funding of school trips to this Parliament. I think he misunderstood me and I wonder whether it would be possible for me to have a written answer on that subject or, obviously, a reply now.

Madam Deputy Speaker: That is not really a point of order for the Chair, but the Leader of the House is here; he will reply.

Mr. Hain: Further to that point of order, Madam Deputy Speaker. I am sorry that in the general hubbub from the other side of the House I misheard what my hon. Friend the Member for Alyn and Deeside (Mr. Tami) said. I will certainly send him a reply on the matter.

Orders of the Day

Consumer Credit Bill

As amended in the Committee, considered.

New Clause 1

DISAPPLICATION OF SECTION 101 OF THE 1974 ACT

'(1) In section 101 of the 1974 Act (right of hirer to terminate regulated consumer hire agreement) after subsection (8) insert—

"(8A) If it appears to the OFT that it would be in the interests of hirers to do so, it may by general notice direct that, subject to such conditions (if any) as it may specify, this section shall not apply to a consumer hire agreement if the agreement falls within a specified description; and this Act shall have effect accordingly."

(2) In subsection (8) of that section for the words from "this section" onwards substitute ", subject to such conditions (if any) as it may specify, this section shall not apply to consumer hire agreements made by the applicant; and this Act shall have effect accordingly".'.—*[Mr. Sutcliffe.]*

Brought up, and read the First time.

1.36 pm

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): I beg to move, That the clause be read a Second time.

Under section 101 of the Consumer Credit Act 1974, regulated consumer hire agreements are cancellable after 18 months. Section 101(8) allows for the Office of Fair Trading to direct that regulated hire agreements from an individual applicant can be non-cancellable for a period of longer than 18 months, where it is in the hirer's interest. This amendment enables the OFT to direct that a whole class of hire agreements can be non-cancellable for a period of longer than 18 months, although the agreement must meet specified criteria.

This new power is necessary as the OFT has been receiving large numbers of very similar applications for directions. The need for individual directions can lead to significant delay with few benefits to those concerned. A particular example is that of the home computing initiative, which encourages employers to set up schemes to provide access to home computers for their employees. However, to make this economical for employers, hire agreements must be non-cancellable for more than 18 months. The increasing popularity of the scheme means that the OFT is receiving a high number of individual applications, which is resulting in significant delays for applicants. This is a barrier to the success of the home computing initiative.

Mr. Graham Allen (Nottingham, North) (Lab): Would my hon. Friend, in respect of this new clause and many others in the Bill, express his view on the timing of the legislation and its progress in the other place? Is it not important that the Bill gets to the other place quickly and that the other place takes it seriously, given that so many constituency interests are involved for Members in all parts of the House, particularly on those provisions relating to retrospectivity in respect of the loan shark parts of the Bill? Will he take the

opportunity, when it is in order, to make the appropriate comment, because many of us are very concerned about this matter?

Madam Deputy Speaker (Sylvia Heal): Order. I think those are points for Third Reading.

Mr. Sutcliffe: I am grateful to my hon. Friend the Member for Nottingham, North (Mr. Allen) for making those points and I am sure that I shall return to them at the appropriate time when it is in order.

To return to the point about the home computing initiative, which is a key plank of the Government's policy of increasing access to the internet in UK homes, this amendment would enable the OFT to grant group directions in this and other cases where it would be in the interests of hirers to do so. It is not necessary for the OFT to approve each application individually to provide adequate protection for hirers—that wastes time and resources; it can simply identify general criteria, which will ensure that agreements under the scheme are in the hirer's interest. The new clause will cause no reduction in consumer protection, but there is a real benefit associated with the costs and efficiency of the process.

Mr. Laurence Robertson (Tewkesbury) (Con): I want to deal with the new clause only briefly and in general terms. We made the point on Second Reading and, indeed, I made it at considerable length in Committee—I think that the Minister anticipates what I shall say—that we are really concerned about increasing the power of the OFT. I should be ruled out of order if I repeated the arguments that I put forward on Second Reading and particularly those that I gave in Committee, but the extra powers that the OFT will get from the Bill are a matter of concern to a great many people—in the industry and generally—and to hon. Members.

Mr. Nick Hawkins (Surrey Heath) (Con) *rose—*

Michael Fabricant (Lichfield) (Con) *rose—*

Mr. Robertson: I see my hon. Friends queuing up; I shall give way to my hon. Friend the Member for Surrey Heath (Mr. Hawkins).

Mr. Hawkins: My hon. Friend is making an extremely important point. As he and the Minister are aware, I used to work as a corporate lawyer before I came to the House in 1992, and I spent part of my career in the consumer credit industry. Does my hon. Friend agree that one of the success stories of Britain in the latter part of the 20th century and the beginning of the 21st century has been the creation of a flexible and successful consumer credit industry? We do not want cowboys to be involved in it, but equally we want to make sure that we do not give power to over-mighty regulators. Does my hon. Friend agree that reputable organisations in the industry, such as the Finance and Leasing Association, have expressed concerns about giving too many unfettered powers to the OFT?

Mr. Robertson: My hon. Friend is right. We have a very flexible and successful industry. I was going to say that we support the principles of the Bill, but that we are concerned about aspects of it—which we explored in Committee and can explore this afternoon. My hon. Friend has put his finger on one of those.

The OFT is already a powerful organisation. It was not created by the Consumer Credit Act 1974, but it has been given an awful lot of powers. I bored hon. Members at length in Committee and on Second Reading—

Mr. Sutcliffe: No, no.

Mr. Robertson: The Minister says that I did not.

I discussed at great length in Committee my problems with another matter in which I have a constituency interest—the horse racing industry. As we approach the great week at Cheltenham, it is probably appropriate to remind the House that the way in which the OFT was looking at the horse racing industry was very clumsy.

Madam Deputy Speaker: Order. I ask hon. Members to confine their remarks to the new clause that is being debated.

Mr. Robertson: I apologise, Madam Deputy Speaker.

I was going to say that the OFT threatened to wreck the industry with a heavy-handed approach and to make the point that there was little that the House could do about it. I am therefore concerned about giving the OFT more powers when we cannot affect its decisions. I shall attempt to explore that issue a little more deeply on a later amendment. However, although I shall certainly not recommend to my hon. Friends that we oppose the new clause, I want to put it on the record that we recognise the fears expressed by industry representatives that the OFT is becoming far too powerful. I regret that.

Michael Fabricant: My hon. Friend has made his point clearly, as did my hon. Friend the Member for Surrey Heath (Mr. Hawkins). Does he agree that the OFT has a valuable role in protecting the consumer and that Conservative Members would certainly not want to see large—or, come to that, small—organisations working together as cartels, monopolies or oligopolies?

Madam Deputy Speaker: Order. Once again, we are going rather wide of the new clause. I ask hon. Members please to confine their remarks to the new clause.

Michael Fabricant: Does my hon. Friend agree that although we agree to the new clause and the Minister's interesting points, we do so not only with concern about the power of the OFT and our inability in the House to control all its actions, but with a view to our need to protect the consumer as well?

Mr. Robertson: My hon. Friend is right, and the objective of legislation of this kind is balance. That involves being fair to consumers—consumer protection is of paramount importance—but not throwing the baby out with the bath water by being too prescriptive. We shall come to that issue in a few minutes, I suspect, on other amendments. I am concerned about the extra powers being given to the OFT, especially when the House cannot affect what it does. When constituents complain to us about matters that we cannot raise with the people who make the decisions, that is regrettable.

1.45 pm

Malcolm Bruce (Gordon) (LD): I want to say briefly that I am happy to accept the Government's new clause. Although I have expressed reservations about the OFT, the new clause will give it the power to do the job that it does not do often enough: to adjudicate on whether or not trade is fair. My concern is that the OFT does not do enough to promote fair trade and that it regards itself more as a competition agency.

The promotion of fair trade is a proper role. Indeed, I have tabled other new clauses and amendments that would impose further responsibilities on the OFT. However, in deference to the Conservative spokesman—I share some reservations with the hon. Member for Tewkesbury (Mr. Robertson)—my view is that it is not the accretion of power to the OFT, but the imbalance in the way that the OFT applies its powers and its accountability that are matters for concern. For that reason, the thrust of the new clause is to make the OFT do more of what it should do and perhaps to spend less time on what it should not do.

Mr. Sutcliffe: The hon. Member for Tewkesbury (Mr. Robertson) was consistent during the debates in Committee in his views about the OFT.

Mr. Andrew Love (Edmonton) (Lab/Co-op): And about Cheltenham.

Mr. Sutcliffe: And about the timing of Cheltenham week, as my hon. Friend suggests.

I want to reassure the House that the new clause does not involve a serious giving up of power that will thwart consumer protection in any way. The idea of a class agreement will help the consumer. That is the basis for moving the new clause. For example, about 300 applications have been made for individual exemptions—which can take up to eight weeks, to the detriment of the consumer. There are other examples of class agreements, and the process could be applied to the bicycle-to-work campaign. Notwithstanding—I am sure that this will be a consistent theme this afternoon—the OFT's role, this important step will be beneficial to the consumer. The reason why we did not take it earlier is that we were looking around to ensure that anything that helps the consumer would be included in the Bill. The new clause is entirely sensible.

Question put and agreed to.

Clause read a Second time, and added to the Bill.

New Clause 2

MAXIMUM LEVELS OF INTEREST AND OTHER CHARGES

'(1) The Office of Fair Trading shall publish, at least annually, the range of interest rates and ancillary charges currently on the market for specified products.

(2) The Office of Fair Trading shall, within 14 days of publishing the information provided for under subsection (1)—

(a) publish court rulings and details of cases brought before the ombudsman concerning levels of interest rates and ancillary charges for agreements deemed unfair under section 19, and

(b) present to the Secretary of State a report on the conclusions it has come to and the recommendations it has decided to make as a result of its consideration of these findings.

(3) Where, on receipt of the report from the Office of Fair Trading, the Secretary of State considers that the cost of credit for any particular product, or within any sector of the consumer credit market, taken together with any charges made for ancillary services usually sold together with regulated agreements, are causing widespread consumer detriment, he may by order introduce regulations requiring the Office of Fair Trading to set out maximum permitted levels of interest and other charges for particular products or in particular sectors of the consumer credit market.

(4) Regulations as provided for under subsection (3) may not be laid unless the Secretary of State has first published a notice of intention to do so, and not less than 52 weeks have elapsed since the publication of such notice.

(5) During the period of the notice, the Office of Fair Trading shall—

(a) consult with industry and consumer bodies concerning the possible effects of the introduction of a maximum permitted level of interest, and

(b) make a report to the Secretary of State concerning the consultation responses and the conclusions it has come to and the recommendations it has decided to make concerning the issues raised by the responses.

(6) Where a creditor charges a rate of interest or makes a charge that is in excess of any permitted maximum imposed under subsection (3), then the agreement will be unlawful and unenforceable against the debtor and the creditor shall be liable for a civil penalty.

(7) Regulations introduced under subsection (3) may provide for maximum levels of interest and other charges to be—

(a) reviewed at such times as the Secretary of State thinks fit, and

(b) revised in line with changes to the Bank of England Base Lending Rate or as considered appropriate and recommended by the Office of Fair Trading following the consultation provided for in subsection (5).'—*[Adam Price.]*

Brought up, and read the First time.

Adam Price (East Carmarthen and Dinefwr) (PC): I beg to move, That the clause be read a Second time.

Madam Deputy Speaker: With this it will be convenient to discuss the following: New clause 4—*Standard method for the calculation of interest accrued*—

'(1) The Office of Fair Trading shall consult financial agencies and produce a standard method for the calculation of interest accrued to enable direct comparison between products.'.

New clause 5—*Further duties of the Office of Fair Trading*—

'(1) The Office of Fair Trading (OFT) shall periodically, and at least annually, publish the range of interest rates and ancillary charges on the market for specified products.

(2) The OFT shall publish court rulings and details of cases brought before the ombudsman on levels of interest rates and ancillary charges for agreements deemed unfair under section 19 and report on these findings to the Secretary of State.'.

Adam Price: Last year, I introduced a ten-minute Bill on creating an interest rate cap. I am grateful to the House for the opportunity to raise this very important issue again, as it is of great interest to many people. I speak in particular about the umbrella organisation, "debt on our doorstep", which has campaigned long and hard on the subject of an interest rate cap. Oxfam, Help the Aged, the Local Government Association and Church Action on Poverty are involved in that campaign. I also pay tribute to the *Sunday Mirror*,

which has recently launched a campaign called "curb the credit sharks" to promote the idea of interest rate ceilings.

Essentially, new clause 2 would introduce a requirement on the OFT to collate accurate information on interest rates in the different segments of the consumer credit market and, separately, on any relevant court judgments. It would then provide the Secretary of State with an enabling power to introduce an interest rate ceiling subject to a one-year notice period, in order to allow sufficient time for consultation in the industry.

We have already had the opportunity to discuss this matter. On Second Reading, the Minister gave an assurance that the subject of interest rate capping would be kept under review—the door, if not wholly open, is slightly ajar. He said that he stood by the decision not to introduce a ceiling, but that he was committed to keeping the matter under review. I would be interested to hear today a little more about the Government's intention; how do they intend to keep the matter under review? I will make my decision on whether to force the new clause to a Division on that basis. The hon. Member for Rhondda (Chris Bryant) is listening intently to me for once; I thought that he wanted to intervene.

The "debt on our doorstep" campaign has asked the Government whether it can have more information on how they propose to review the matter. The emphasis in the Bill is on the new unfairness test, which is very welcome but will depend to some degree on interpretation in the courts. The new clause is intended to provide a further guarantee by requiring accurate information and allowing for the enabling power if the unfairness test does not create the desired security.

Mr. Sutcliffe: The hon. Gentleman hits on the crucial point of why we are not going for an interest rate ceiling and why I see the unfair credit test as the appropriate route. Unfortunately, because of the order of selection, the debate on unfair credit will come later. However, the hon. Gentleman will hear in response that I believe that the unfair credit test may be the appropriate way to head.

Adam Price: I hope that the Minister is right, but we will know only once the legislation goes through the courts. We do not want to get into problems of sub judice, but I think that the recent case is now subject to appeal under previous legislation. I suppose that the intention of legislators of the Consumer Credit Act 1974 was to provide some protection, but unfortunately that was not delivered.

Chris Bryant (Rhondda) (Lab): I do not know whether the hon. Gentleman has had the opportunity to read our proceedings in Committee, but we quizzed the Minister and pushed him quite hard to try to ensure that the unfairness test would catch many of the self-evidently unfair practices about which all Members are concerned. My worry about the hon. Gentleman's new clause—I wholly agree with his aim, not least because many of my constituents have faced the terrible practices of loan sharks and of those who do not look like loan sharks—is that we might be encouraging interest rates to creep up to the cap rather than bearing down on them.

Adam Price: The argument that the cap would become the market average was one of the points made in the research that the Government commissioned, and I will come to the Policis report shortly. I hope that the Government are right and that the unfairness test will be sufficient. The new clause would provide an additional safeguard and give the Secretary of State some flexibility; it would assess accurately through the collation of information whether the test is having the desired effect. I believe that the Liberal Democrats have tabled a new clause that includes a parallel provision. If it is felt that the unfairness test is not having the desired effect, another policy option would be available.

Mr. James Plaskitt (Warwick and Leamington) (Lab): The hon. Gentleman talks of the new clause being a further safeguard, but will he comment on the choice of words in subsection (3), which proposes the test of "widespread consumer detriment" which would trigger the cap? Do not excessive interest rates, which give us all cause for concern, especially when imposed by loan sharks, often apply to small groups of individuals in a confined area? Would that not always fail his test of widespread detriment?

Adam Price: That would be subject to interpretation by the Secretary of State in the first instance. A fairly generous notice period is allowed for. It would be difficult for the industry to argue that a 52-week consultation did not give it ample opportunity to respond to any move by the Secretary of State. I hope that that covers the hon. Gentleman's point.

I want to turn to some of the arguments about the collection of information.

Mr. Love: I have some sympathy for the argument that the hon. Gentleman is making, but let me express to him my concern. In a recent report, "Affordable credit: The way forward", Elaine Kempson from Bristol university, who is considered the foremost independent analyst in the area, said in her conclusion:

> "Many of the proposals to tackle high-cost lending while well-intentioned could accelerate the move away from lending to the poorest people and thus leave them with even less choice and higher costs."

Does the hon. Gentleman think that his well-intentioned new clause might achieve that?

Adam Price: No, I do not think so. That is the Government's argument—

Mr. Love: It is Elaine Kempson's argument.

Adam Price: The argument is that an interest rate ceiling could lead to more rather than less financial exclusion, particularly given that we do not have a well-developed financial infrastructure for people at the lower income end. The UK is almost unique in not having controls in this area, yet we have greater financial exclusion than that in countries where there are interest rate ceilings. Therefore, the empirical evidence suggests the opposite: the UK, which does not have an interest rate ceiling, has the greatest problem with financial exclusion.

In France, the regulator has a remit to research and publish information on prices charged in the marketplace, as suggested in the new clause, and to set

[Adam Price]

interest rate ceilings for different types of loans. In Italy, the Government take responsibility for setting a legal maximum interest rate, which is double the average rate charged. In Germany, there is also a maximum rate of double the average. In Switzerland, the legal limit is 15 per cent. There are similar arrangements in some of the Australian and American states. In the Netherlands, there has been an interest rate ceiling since before the second world war.

Mr. Sutcliffe: The hon. Gentleman is making some important points. He cites what happens in other countries, but I am sure that he will accept that the UK credit market is far more mature. Let us consider the levels of credit available across the range of products in the UK. That has tempered our view, and is why we would not learn from examples in other European countries. I understand his point, but I ask him to reflect on the nature of the UK credit market.

2 pm

Adam Price: Part of the UK financial services sector is very good at getting profits out of some of the poorest people in our communities. I know that that is not what the Minister meant, but I would not regard that as a sign of maturity. There are elements that we need to develop further. The credit union movement in Ireland, for example, is far wider and deeper than it is in the UK. There are the Sparkassen—publicly owned lending institutions—in Germany. An interest rate ceiling, while necessary, would not of itself be sufficient. There have to be other, complementary measures. I think that the Government have recognised that, because in addition to the welcome new safeguards in the Bill, they have accepted the need for a positive agenda on building up, initially through pilot projects, new mechanisms to combat financial exclusion.

My core point is that the evidence from countries in the European Union, north America and Australasia, some of which have had interest rate ceilings for many years, shows that they have less of a problem of financial exclusion. I therefore question the accuracy of the research on which the Government based their decision. Representations were made by "debt on our doorstep" and by Professor Udo Reifner, of the Institute for Financial Services in Hamburg. Professor Reifner was involved in the original work that led to the decision to create an interest rate ceiling in Germany. He wrote to the Department to express his concerns about the research. For example, according to him, there was no direct discussion with European consumer groups or with any of the key stakeholders that have a good overview in Germany.

There is a statutory requirement in Germany to measure the interest rate ceiling's effects on financial inclusion and exclusion, but the UK Government-commissioned report made no reference to that and its conclusion was precisely the opposite of what the German Government's statutory data show, which is that after the introduction of the ceiling there was less financial exclusion than before. The "debt on our doorstep" campaign has made an application under the Freedom of Information Act 2000 to get some of the working papers underlying the Policis report, and I believe that the deadline for the Department to answer is today. Perhaps the Minister will tell us whether he will release the information.

The Minister has been open and consistent. He says that this is an interesting and well-intentioned debate, which should continue, and that the Government are committed to keeping the matter under review. However, will he be more generous and say how they intend to keep it under review? Given the serious and well-founded concerns about the Government-commissioned research, will they commission further research, which might resolve some of the problems of the earlier research; allow a wider range of submissions; and perhaps take another look at the empirical experience elsewhere? I hope that we do not have to wait 30 years for another consumer credit Bill, but it would be useful, while the present proposals bed down, to carry out further research that redresses the flawed nature of the Policis report.

Michael Fabricant: I have considerable sympathy with many of the hon. Gentleman's points, but does he agree with me on two? First, greater clarity is needed in the definition of interest rates. New clause 2(1) refers to the Office of Fair Trading publishing,

"at least annually, the range of interest rates",

but which interest rates? There are different ways of calculating annual percentage rates, so that interest rate X offered by one credit card company is not the same as interest rate X offered by another, because of the small print on the APR. [HON. MEMBERS: "New clause 4."] But new clause 4 was not tabled by the hon. Gentleman to whom I am addressing my question.

If I may, Madam Deputy Speaker, I wish to raise a second point, which is that I am a little unsure about what the hon. Gentleman means by financial—

Madam Deputy Speaker: Order. Interventions are to be brief.

Adam Price: I assume that the hon. Gentleman was about to ask me what I mean by financial inclusion and exclusion. The latter is the lack of equitable access to financial services, particularly among lower-income groups. Because of that key problem, such people are vulnerable to exploitation by the less worthy, less mainstream financial services companies, which prey on the poor.

Michael Fabricant: That is the definition that I thought the hon. Gentleman was using, but in that case I do not quite follow his argument. In Germany, there is a real problem of people living in the rust belts, which lie mainly in eastern Germany, being unable to borrow money from Sparkassen because they do not meet the criteria, and therefore suffering social exclusion. Far be it from me to take the Minister's side of the argument, but does not that show that sometimes people who desperately need to access money quickly can only borrow at excessive interest rates, because the lower interest rates offered by institutions such as Sparkassen are not available—

Madam Deputy Speaker: Order. Again, the hon. Gentleman is making a speech, not an intervention.

Adam Price: I understand the hon. Gentleman's point, although I am not an expert on the recent experience of Sparkassen. Their creation following the second world war was an important contribution to social regeneration in West Germany, but there may be problems.

We are discussing the type of exorbitant interest rates charged on, for example, pay-day loans, whereby people get loans covering a few days in advance of pay day on which the APR charged can be about 1,000 per cent. My question is whether the unfairness test, which will ultimately rely on the courts, will be sufficient to tackle such problems. The new clause is designed to provide an additional safeguard—a policy lever that has been used successfully in other European countries and throughout most of the industrialised world.

Mr. David Drew (Stroud) (Lab/Co-op): I think that the clause is a good one and I hope that the Government will give it serious consideration. However, if I have a criticism of the hon. Gentleman, it is that he is being rather too sanguine about the orthodox end of the market. We all know what the Treasury Committee has been discovering about the lack of transparency surrounding credit cards. The whole industry is opaque; it is no wonder that operators at the other end of the market try to get away with charging excessive interest rates.

Adam Price: The hon. Gentleman has a point. The "debt on our doorstep" campaign has recently brought cases against Alliance & Leicester and some other mainstream providers. Examination of charges and default payments, for example, reveals points on which such providers can be criticised. The interest rate ceilings set in some European countries would affect some store cards, whose APR can be as high as 35 per cent. I suspect that if the enabling power that I propose was given to the Secretary of State, the initial focus would be on the door-to-door lending market, where there is an urgent need for scrutiny, but I agree that some of the mainstream providers have used the flexibility afforded them by current legislation.

I am interested in seeing whether the Minister will go a little further and acknowledge some of the difficulties with the original Policis report, about which there are genuine and widely held concerns. I want further research to be done, because that would go a long way toward meeting some of the demands of the campaigning organisations.

Chris Bryant: I am grateful to the hon. Member for East Carmarthen and Dinefwr (Adam Price) for tabling the new clause, because the subject was not expressly debated in Committee and there is considerable concern about it in my constituency. Some lenders, credit card companies and personal loan providers deliberately target areas with large pockets of poverty. People in those areas want ready access to finance for short or long periods, but they cannot use the services provided by more orthodox lenders, and must rely on those who will lend only at high rates of interest. Such lenders operate in particular in areas where a large proportion of the population own their own homes, so they know that they can turn an unsecured loan into a secured loan, and have some certainty about whether they can get the money back from poor communities. The Government are right to address the issue, as we need to tackle financial exclusion and the profound cynicism in some parts of the financial services market.

Mr. Drew: I agree entirely that the worst aspect of this is the targeting not just of individuals but of whole areas so that resources are sucked out. However, does my hon. Friend accept that the problem is the way in which the financial regime blacklists certain areas, as that means that the other lenders know exactly where people are desperate to get money? That is discriminatory, and deserves careful examination.

Chris Bryant: My hon. Friend is right. The system that provides City money for companies engaged in such marketing in those communities should be inspected. Some of the standards of honesty that those companies use when they are trying to raise money in the City fall short of what we in the House aspire to.

I am wholly sympathetic to the reasoning behind the new clause tabled by the hon. Member for East Carmarthen and Dinefwr. Indeed, I am attracted to the notion of a maximum interest rate, which prima facie is a good idea, and is in the interests of the poorest communities in the land. A couple of arguments have been evinced against a maximum interest rate, but I did not find them convincing. My hon. Friend the Minister argued that we have a mature financial services and consumer credit industry, which is true to some extent, as it has been around for a long time and is highly competitive. However, I would argue that as a result there is an intense scrabble for customers, and the better business practices to which we all want the financial services industry to aspire sometimes fall by the wayside. Occasionally, the maturity of the market is counter-productive.

Mr. Sutcliffe: The Bill aspires to achieve responsible lending and borrowing as well as transparency. We need to make sure that where the industry does not behave properly, suitable regulatory powers are available to the Office of Fair Trading. We also want to make sure that consumers are fully aware of the detail of the relevant agreements. That is the basis of my belief that we have a mature market.

Chris Bryant: I agree with the Minister. Individuals should be aware of the requirements of the deal that they are entering into and comprehend them fully. Even if lenders include an official statement about the risk of people losing their home if they do not keep up their interest payments, many consumers are desperate for money and are under pressure, especially in the run-up to Christmas and the holiday period, so they find it difficult to understand the deal that they have entered into. The old principle of caveat emptor—buyer beware—is important, but this is an area in which the market alone will not provide.

Michael Fabricant: The hon. Gentleman has made an important point. Is it not the case that in a sophisticated and mature financial market the respectable side of the market recognises that it is not a good investment to make loans to some people? Consequently, the portion of the population highlighted by the hon. Member for

[Michael Fabricant]

East Carmarthen and Dinefwr (Adam Price) can be exploited. He gave the example of an APR of 1,000 per cent. or more, and such interest rates can be levied because the mature and sophistimicated market does not sell its products to those people, who cannot access it.

2.15 pm

Chris Bryant: I think that the "sophistimicated" market is a Bushism—but I am sure that everyone in the Chamber agrees that exploitation needs to be tackled. We want to try to find the right means to prevent exploitation, whether of individuals or of communities, including the Rhondda, which I represent.

I do not accept the argument that a maximum interest rate would make it impossible for poor people to gain access to financial services. Some loans should not be made, because people cannot afford them. I accept that most financial services organisations want to ensure that they do not lend money to people who cannot afford a loan, because they might not get the money back. However, if that results in unsecured loans being turned into loans secured on people's homes, we should put a stop to that corrupt exploitation.

I find some aspects of new clause 2 problematic. The new concept of widespread consumer detriment proposed by the hon. Member for East Carmarthen and Dinefwr may well undermine the provisions at the heart of the Bill to tackle unfair relationships. Courts may decide to strike down an agreement that someone has entered into for all sorts of reasons, but they cannot do so because the interest rate is too high, as there is provision to tackle that elsewhere in the Bill. That is detrimental to the cause of preventing exploitation, so I hope that the Minister will give some further explanation. He is waggling his head as he did in Committee—but perhaps he will do it later. High or excessive interest rates and the charges that often ensue for late payment are exploitative in themselves, and should be considered by the court as reasons for characterising an agreement entered into by a consumer as an unfair relationship and striking it down. If that is the case, we should not support the new clause, as it would contradict the purposes that we are trying to achieve.

I fear that if the Government used the powers afforded by the new clause and set a maximum interest rate, that rate might be considered acceptable and could lead to a steady sliding up of interest rates. I hope, however, that the Bill will achieve a steady sliding down of interest rates. Once a court strikes down an agreement because the interest rate is excessive and the relationship is unfair, I am sure that there will be a dramatic change in higher interest rates. My contribution has not been as short as I intended, which is often the case. I wholeheartedly support the aims of new clauses 2 and 4, but I am not sure that they would help us to achieve the aims that we are trying to achieve.

Malcolm Bruce: I am glad that the hon. Member for Rhondda (Chris Bryant) acknowledged the role of new clauses 4 and 5, to which I wish mainly to speak. I have had discussions with "debt on our doorstep", and the early part of new clause 2 is derived from my original amendment, which I have separated out, partly for the reasons stated. I do not think that we disagree on what we are trying to achieve; we are trying to work out a way to deliver a practical result. As the hon. Gentleman says, we want lower interest rates, and we want people to be able to take advantage of the best available interest rate, rather than the worst, which is often the case at the moment.

We have gained some useful insight and information from the *Sunday Mirror* campaign, in conjunction with "debt on our doorstep", which is to be commended, even if we cannot agree precisely with the three objectives. It seeks a cap on interest rates, and there may be a way of achieving that slightly different from the one in new clause 2; new clauses 4 and 5 might lead to that outcome or to an even better outcome. It also seeks to stop reckless lending, which I shall deal with when we debate amendment No. 21, and it seeks to improve education—a matter not specifically addressed here, but my new clauses are designed to give people more information, so that they can make informed decisions and be aware.

One of the main problems that people have is knowing what rate of interest they are paying, and what that means. I hope that new clause 4 will commend itself, at least in principle, to the Government and to the Office of Fair Trading. It would be hugely helpful if we had a mechanism to ensure the comparability of rates of interest and to establish the method by which interest is collected, and perhaps also if we required customers to be given a clear statement of the interest and how it would be incurred.

The Consumers Association has sent us a briefing with an example of two credit cards from different organisations, ostensibly offering different rates of interest, but charging exactly the same, because of the different way in which the interest is applied in terms of time and repayment terms. Even an intelligent and well-informed customer is in an impossible position when trying to calculate the real cost, so we need to inform, and the Office of Fair Trading should be helping that process. I commend new clause 4 as a means of suggesting how that might be done.

New clause 5 addresses the issue of excessive interest rates, and suggests a way in which we might achieve the results sought by the hon. Member for East Carmarthen and Dinefwr (Adam Price). The range of products and the way in which interest is charged are differential, so we need some mechanism that can be applied by product. We need to establish a standard way of calculating interest. We may also require a standard way to present interest, and to state product by product the range of interest rates in the market, in real terms, rather than through what the card provider wishes to say. For example, we need to be able to say, "The real rate of interest operating in the market for normal credit cards—apart from special offers of 0 per cent.—is between 8 per cent. and 28 per cent., and the median is about 16 per cent." By implication, therefore, anything outside that borders on the excessive.

Mr. Plaskitt: As the hon. Gentleman will know from our time in Committee, I am entirely in sympathy with what he seeks to achieve here, but does he accept that new clauses 4 and 5 focus on the calculation of interest,

and even were we to achieve a common method of calculation throughout the industry—a common arithmetical standard for defining and calculating APR—that would solve only a small part of the total problem, because the issue is the cost of credit, not just the APR? Does he recall the evidence showing that even where cards have the same APR, based on the same method of calculation, the actual cost of credit can still vary by as much as 40 per cent.?

Malcolm Bruce: Of course I do. As is always the case, when as individual Members we table amendments to Bills, we try to focus on a point to help the Government, as the principal legislator, and the agencies that will operate the Bill to understand the will of Parliament and to devise methods to apply it. These new clauses have been tabled in that spirit. Some positive wind from the Government behind them would be helpful as a directive to the OFT, the ombudsman and others as to how they might go about applying the legislation.

During the Bill's passage to date, we have all said that we do not know how it will work in practice, and we will not know until is has been up and running for a while, but it is not unhelpful for the House to give some kind of steer as to our expectations. Matters such as charges, times at which interest rates are calculated and the point from which they date all need to be taken into account, but comparability is a point, because if people are presented with two identical rates of interest that cost something completely different, or they have no idea how to make comparisons, that might be why they do not switch from high-cost cards to low-cost cards. They will not be aware that it would make a difference—and it may not make a difference if the methods of calculation are different.

Mr. Drew: Does the hon. Gentleman agree that the state has the opportunity to be even more proactive? The hon. Member for East Carmarthen and Dinefwr (Adam Price) mentioned the role of credit unions. They could operate through every post office branch, and the Department for Work and Pensions—a major funder of the mechanism by which money reaches individuals through the financial system—could be encouraging the relationship to grow so that people could pay their money into credit unions and use them as a mechanism for borrowing, which would tremendously expand that movement, but also set a benchmark for the lower rates of interest that could be obtainable.

Malcolm Bruce: That is an eminently good suggestion, and I hope that the Post Office management and the DWP will take it up between them. Cash handling is what the Post Office is best at, and credit unions, which I strongly support—I have them in my constituency—are an important vehicle. The more they expand, the more they will fill some of the gaps. Even so, there are conditions attached to credit unions that leave some people outside, and that is why some people get into debt and difficulties. Later I will allude to the fact that for many people the biggest single problem is the accumulation of debt rather than the rate of interest.

New clause 5 shares the same objective as new clause 2, but seeks to achieve it in a rather different way. Basically, the OFT should do an analysis, and periodically publish bands of interest rates, so that people will be aware that if they are paying above that rate, they are at the wrong end of the market and should be able to find something lower. That is desirable. Secondly—a much more powerful weapon, particularly when the Bill is enacted and its provisions are up and running—we should identify interest rates that are outside those parameters and likely to be deemed to be falling on the wrong side of the unfairness test, effectively giving a strong warning to the industry and a clear guide to the customers that if a case is taken to the ombudsman or to court the consumer would probably win it and the credit provider would probably lose it. The publication of such information is likely to pull the interest rates back into the tramlines, simply because people will not want that.

I have tried to think through a mechanism that avoids some of the disadvantages of setting a maximum rate—one is that the maximum can become a minimum, which is the concern of the hon. Member for Rhondda—and some circumstances in which it might not be appropriate. The hon. Gentleman made a fair point. In many ways some rates of interest and some loans should never be provided, but although I will not say that that attitude is patronising, there is a difficulty in deciding where that level falls. There are people who openly, consciously and knowing exactly what they are doing, will sometimes accept high rates of interest for short terms because of a cash gap. That often includes poor people who have cash bumps, although sometimes quite well-off people are willing to do it, and ironically the Bill has allowed well-off people to do what the heck they please. We are obviously more concerned about the poorer people.

Adam Price: That is not an argument against the idea of a maximum rate; that is an argument against setting that maximum at too low a level? Clearly, one has to take account of the conditions in the marketplace and provide sufficient flexibility, but it is not an argument against the principle of a maximum rate.

2.30 pm

Malcolm Bruce: I think that it is, and that is a point of difference. I might mention the fact that I have grave reservations about the Financial Services Authority, the establishment of which I supported and was somewhat involved in. Far from protecting consumers, it is often used as cover for saying that things are all right. I take the point that the *Sunday Mirror* and the "debt on our doorstep" campaign have raised, which is that the maximum charge on plastic should be no more than 25 per cent. more than the base rate—so currently 30 per cent.—and that the maximum for doorstep lending should be 80 per cent.

The problem with that is that doorstep lending might be running at 40 per cent. or 50 per cent., which would make it much easier for people to say, "Well, 80 per cent. is okay." That is a genuine concern. We are not disagreeing about the outcome, but we are offering a different way of achieving the same result. Our proposal is more dynamic and flexible, and would mean that the OFT could give notice as the market developed and say what it regarded as excessive, at a given time and for a particular product.

Alistair Burt (North-East Bedfordshire) (Con): I am following the hon. Gentleman's argument carefully.

[Alistair Burt]

I, too, share the concern about the difficulty of setting the rate, for all the reasons that have been discussed. The danger, given that so many things have to be taken into account, would be that the level would be set so high that it would be practically meaningless. Does the hon. Gentleman have any proposals for parliamentary scrutiny of the rate, so that there would be a mechanism other than just the Office of Fair Trading, perhaps influenced by the Government? That way, someone else could have some input into whether the rate chosen had any bearing on real life outside.

Malcolm Bruce: I must confess that my proposals do not address that, although the issue is related to a comment that I made in an intervention on the hon. Member for Tewkesbury (Mr. Robertson). I have reservations about the OFT. We need to ask, "Quis custodiet ipsos custodes?" Who ensures that the OFT is trading or operating fairly? I take the point that the hon. Member for North-East Bedfordshire (Alistair Burt) made and I think that mechanisms are necessary. For instance, the Treasury Committee has done a good job and there may be other mechanisms. All I have done with my new clauses is try to give direction to the OFT, so that it does its job more effectively than it has in the past.

My point, which I hope I have explained clearly, is that I agree that there ought to be a recognition of what are excessive and extortionate interest rates at any given time, and that the unfairness test can be applied to them. However, the only point of disagreement is on quoting a particular rate in the Bill, which denies flexibility and judgment over time, given the development of the market and different products.

Chris Bryant: The honest truth is that the vast majority of people in the country would think it unfair that poor people have to pay higher interest rates than rich people, which is one of the great injustices of life. The hon. Gentleman referred to doorstep lending, but perhaps he would care to be a bit more careful about that concept. In theory, of course, the law does not allow it, although we all know that it happens, especially in certain areas, not least in my constituency. My worry is that if the maximum interest rate were set too low, more people would be pushed into doorstep selling, which, because it is illegal and outside regulation, is a greater danger.

Malcolm Bruce: I completely agree, and I have made that point on a number of occasions. I should, however, point out that "doorstep lending" was not my term but the *Sunday Mirror*'s term. I would prefer to talk about doorstep collection, which is an established and reputable aspect of the credit market. It is true, in every sense of fairness, that

> "For whosoever hath, to him shall be given . . . but whosoever hath not, from him shall be taken away"—

although to an ex-cleric, I do not need to quote that. Nevertheless, that is the case, and it is even true of the tax system, which falls, proportionately, more heavily on those on lower incomes than it does on those on higher incomes.

We are trying to achieve a degree of justice. However, as I think the hon. Gentleman said in his speech, the legitimate justification for higher interest rates is sometimes that institutions are offering short-term unsecured finance to people of dubious means, and are therefore likely to suffer substantial defaults, so they build that into the calculation. As long as both parties understand that, there can be a fair and agreed bargain. There is a danger, as has rightly been said, that those arrangements could be excluded, which would drive people to the criminal underworld, where drug barons and the like try to recycle the money from their drugs and other things. That would be completely the opposite of what the Bill is trying to achieve, and not what any of us wishes to happen.

I hope that I have explained the logic of my new clauses. I do not claim that they are perfect and I have no intention of forcing them to a vote, but I believe that they are a constructive contribution to the debate. I hope that the Government will make positive noises in response to them—or better still, take them away and improve on them. However, the Government should certainly give guidance to the OFT along similar lines, as we are looking to it, with some trepidation, to operate the provisions in a way that applies not only the letter of the law, but the spirit of the debate on the Bill.

Mr. Laurence Robertson: This has been an interesting debate and it reflects well on the House that we can have such a well informed debate, even when we hold different opinions.

It is important that we discuss the issue, because even if we do not agree with what is proposed, the debate sends a message to the industry that it needs to deal with people fairly and compassionately. We all know that those who can least afford the higher interest rates are those most likely to have to pay them, which is a good reason to discuss the issue.

Another good reason is that personal debt in increasing. Only this morning in *The Times* business section, there was a report on HBOS, which has announced that the value of its unsecured loans where borrowers are three months or more in arrears last year rose by more than 20 per cent., from £1.4 billion to £1.7 billion. That is a tremendous amount of money. HBOS figures also referred to borrowers with secured loans totalling £952 million being three months or more in arrears, which was an increase of 100 per cent. in the past year. So debt and arrears are increasing. The reason for that is not necessarily the rate of interest that those people pay, but the point is relevant to this debate.

Although the Bill is well intentioned and contains much that is good, there is a feeling that it lacks the teeth to address the issues that concern us. Although we accept that, as I am sure the Minister will say, such matters are covered by the unfairness test, which we support, we are concerned that we do not yet know what unfair means in that context. However, I shall return to that issue on a later amendment. There is a need for clarity on how we will address the problem of indebtedness, particularly among those who can least afford it.

There are nevertheless a number of reasons, some of which have already been raised, why I cannot agree that having the Minister set the maximum level of interest rates is the way forward. One of the most important points, which has been mentioned, is that the rate of interest is not the only thing that matters. There are of course difficulties with agreeing on what that maximum rate should be. Indeed, as the hon. Member for Rhondda (Chris Bryant) said, if a maximum rate were set, lenders might be inclined to increase their standard rates to nearer the maximum than otherwise.

The point, however, is that the interest rate is not the only thing that matters. The charges that often go with loans are what count. The ability, legal or not, of lenders to write letters when people have missed payments and charge them £25, £40 or whatever for the privilege of doing so is unfair. That adds to the cost of the loan. The interest rate is only one part, although it is of course an important part.

We must also take into account companies that collect money on the doorstep—the hon. Member for Gordon (Malcolm Bruce) referred to that, rather than companies that lend on the doorstep—which can often provide a more flexible approach. Although the interest rates of those companies might be higher than what is found through the ordinary way of borrowing money, they may offer a more flexible service. They know their customers and can sometimes tell them that if they cannot pay one week, they can pay twice the next week. I accept that that can lead to problems, but the difficulty is not crucial when we are talking about amounts of only £5 a week, for example. To take away the flexibility to benefit customers simply because the interest rate charged is higher than normal would be to miss the real problem.

My main reason for opposing setting maximum rates of interest is that I do not consider that to be the Government's job. We must strike a balance between protecting consumers and making it impossible for people to get a loan or credit, even if they have to pay a bit more money. I believe in the free market. I accept that we have to regulate sometimes, but we must not over-regulate and allow the Government to interfere in every aspect of people's lives. The British people have a good deal of common sense, and we must allow them to borrow money at the rates that they deem acceptable.

Questions have been raised about the transparency of interest rates, and to some extent that problem has been addressed by a statutory instrument. Much remains to be done in that regard, however, and I accept that we must protect vulnerable people, as lack of choice means that they are more likely to borrow at higher rates of interest than the rest of us.

That said, we must leave the determination of interest rates charged on credit transactions to those who want to borrow and those who want to lend. I recognise that this matter needed to be debated, and those who tabled the new clauses have done so very competently. However, for the reasons that I have given, I cannot recommend to Conservative Members that they should support the new clause.

Mr. Sutcliffe: I begin by adding my congratulations to those hon. Members who have contributed to the debate, which has been of a very high quality. Quite rightly, we have moved beyond the content of the new clauses to discuss other matters connected with the Bill, as consumer credit has not been looked at for more than 30 years. All sides of the argument generally accept that something needs to be done, given the maturity and development of the market.

The hon. Member for Tewkesbury (Mr. Robertson) said that he believed in free markets, but the Government believe in fair and competitive markets. We believe that fairness is a vital component in this matter.

The new clauses in this group all relate to interest rates. New clause 2 deals with interest rate ceilings, new clause 4 with interest rate calculations, and new clause 5 with the monitoring of interest rates. I shall deal with each proposal in turn, as they cover different aspects of the same theme.

I am grateful to the hon. Member for East Carmarthen and Dinefwr (Adam Price), who said that he was committed to introducing a maximum rate of interest and who introduced a private Member's Bill on the subject last May. We may disagree on that, but I know that he wants to protect vulnerable people, and he will accept that that has been the spirit of this debate. All hon. Members are aware of the effect on our constituents of unfair credit and the difficulties that people can get themselves into.

I slightly disagree with the hon. Member for Tewkesbury about debt levels and the proportion of disposable income spent on debt, but I do not want to go into that, as we are all working to the same goal. The Treasury Select Committee, the Treasury, the National Association of Citizens Advice Bureaux and various consumer groups, as well as the industry itself, have all done a great deal of work on financial inclusion. I also want to go on record with my thanks to "debt on our doorstep". Although we disagree, its campaign has been important and I have met representatives from that organisation on several occasions. My right hon. Friend the Member for Leeds, West (Mr. Battle) has also been heavily involved in campaigns about debt.

I am grateful for the work done by the *Sunday Mirror* and many other newspapers with sections devoted to financial advice. The campaign to ensure responsible lending and borrowing has been important, and provides the context for my response to these new clauses.

I do not believe that imposing an interest rate ceiling is the right option at this time. As has been noted, such a ceiling could harm the very consumers whom we are trying to protect. The hon. Member for East Carmarthen and Dinefwr talked about the research carried out by the Government, which "debt on the doorstep" does not regard as perfect. However, the Policis research is very important, and I shall say more about that later. It shows that interest rate ceilings can lead to low-income consumers using products that are not suitable for their needs. Such products also make it difficult for consumers to control their levels of borrowing. For example, as the hon. Member for Tewkesbury said, they may include late-payment charges that are not part of the advertised interest rate.

2.45 pm

One of the proposals in this group of new clauses is that there should be a cap on high charges, but those charges do not need to be unreasonably high to cause problems for low-income consumers. Those are the people most likely to miss payments, and thus most likely to be charged. Even a charge that does no more than recover costs can be a problem if it is frequently incurred.

The hon. Member for East Carmarthen and Dinefwr mentioned the research carried out by Policis, which found that interest rate ceilings exclude low-income consumers from the market. That prevents them from getting into debt, but the research shows that demand for credit among that group remained constant, whether or not a ceiling was in place.

The hon. Member for East Carmarthen and Dinefwr raised a number of other matters to do with the Policis research, and I shall respond to them now. He said that "debt on the doorstep" had sought information under the freedom of information legislation. The inquiry was highly detailed, and I can confirm that the DTI has responded and that some documents have been sent off today.

Other questions included the calculation of APRs. New regulations on credit advertising come into force on 31 May, introducing a single set of assumptions required for the calculation of those rates. As for the consultation with Professor Reifner, his research showed that low-income consumers in Germany did not have the same access to credit as their UK counterparts. That backs up the point that I made that ours is a mature and highly developed market.

The DTI also looked at the situation in the Republic of Ireland, where the interest rate cap has been set at 200 per cent. People in Ireland take out fewer small and short-term loans, and the limited competition there has had an adverse effect on low-income consumers. The hon. Member for East Carmarthen and Dinefwr spoke about independent evidence in respect of the time scale for this matter. I shall return to that later, because I am committed to keeping an interest rate ceiling under review, even though we do not intend to introduce it today. In that context, all available information and research will be very helpful.

The questions covered in the new clauses have been discussed by various consumer bodies. We have taken note of the observations from NACAB and the National Consumer Council, both of which oppose the introduction of interest rate ceilings. We do not want consumers to turn to illegal money lending, and we believe that that risk would increase if such ceilings were introduced.

Mr. Plaskitt: Does my hon. Friend agree that although interest rate caps would provide some marginal help with the indebtedness problems about which all hon. Members are concerned, they would still do nothing about the fundamental causes of those problems? Those causes deserve greater focus. For example, one difficulty is the ease of multiple acquisition of cards. Each card could carry a cap, but in the absence of proper data sharing in the industry, that would not prevent some people from getting into very serious debt problems through owning several cards.

Mr. Sutcliffe: My hon. Friend is exactly right, and I pay tribute to his work in the Treasury Select Committee and elsewhere. He has done a great deal to highlight these problems, and he makes a fair point when he says that people could have several cards. In Standing Committee, we looked at data sharing and the problems that exist in that regard. The industry must be careful about hiding behind the data protection legislation too often as a way of avoiding sharing data.

The hon. Member for East Carmarthen and Dinefwr does not want to introduce an interest rate ceiling now, but proposes the introduction of a reserve power to permit that to be done at a later date. He will not be surprised to learn that I do not accept his new clause. Our policy is not to introduce an interest rate ceiling, so there is no reason to include the reserve power in the Bill. The hon. Member for Tewkesbury would have some difficulty with the idea of Ministers having such a reserve power, as he has pointed out.

Chris Bryant: I am sure that the Minister, like everybody else in the Chamber, wants some of the truly exorbitant rates of interest to disappear from the market. Does he think that a court might feel able to declare that a credit agreement constituted an unfair relationship, merely by virtue of its exorbitant interest rate?

Mr. Sutcliffe: My hon. Friend looks quizzically at me once again, but I do not want to be drawn on that issue, which we discussed in Committee. Many members of the Committee tried to draw me down the path of defining clearly what the unfairness test is about. As I tried to explain, it is inappropriate for me to do so, although other members of the Committee were able graphically to explain their thoughts on the unfair credit test. We need to keep the test general because we want it to be flexible enough to catch all unfairness. By defining unfairness, one actually limits the test. No particular practice will always be unfair; it will depend on the circumstances. The tendency is for unscrupulous lenders to innovate, and we want to deal with all such unfairness.

If we define the provision too closely, the courts might feel restricted in their ability to deal with any developments that take place. The unfairness concept exists throughout the financial services sector, so it is not appropriate to suggest that the provision is ambiguous and does not do what it was intended to do. I will leave the matter to the courts and hope that they will operate in such a way as to maximise fairness. I hope that that helps the hon. Member for East Carmarthen and Dinefwr.

We will keep open the option of an interest rate ceiling in case emerging evidence from the courts and the financial services ombudsman shows that the legislation is not working, but we do not feel it appropriate to include such a provision in the Bill this time round. We are not talking about waiting another 30 years to deal with this issue, which will be with us for some time. The hon. Member for East Carmarthen and Dinefwr will know that through measures such as the financial

inclusion fund, we are trying to educate and advise people on the appropriate use of credit, but also to persuade them to consider savings and credit unions. I hope that the financial inclusion fund will be used to develop and support the credit union movement in the way outlined by Members.

Given the spirit in which the hon. Member for East Carmarthen and Dinefwr moved new clause 2, I ask him to accept my assurance that the door is not shut to such a measure, even though we are not going to include it in the Bill. I am happy to examine independent evidence to see how things are working, and to consider evidence from bodies such as "debt on our doorstep" on interest rate ceilings. I hope that, on that basis, the hon. Gentleman will withdraw the new clause.

I turn to new clause 4. The case for a standardised way of calculating and applying interest to loan accounts was set out by the Treasury Select Committee in its December 2003 report on the transparency of credit card charges. The Committee argued that, particularly in respect of running account credit such as credit cards, a single set of assumptions for calculating the annual percentage rate did not go far enough in informing consumers about the cost of a product. It was still open to lenders to calculate and apply interest to accounts in many different ways, which meant that, as the National Consumer Council pointed out, products with the same APR could have different costs if used differently.

The Select Committee urged the Government to work with the credit industry towards greater standardisation. In our formal response of February 2004, we argued that the key to consumer empowerment was ensuring that before borrowers commit themselves, they are given clear information on how the interest rate charges will be calculated under the agreement. To that end, we introduced legislation last summer. The Consumer Credit (Disclosure of Information) Regulations 2004, and the Consumer Credit (Agreements) (Amendment) Regulations 2004, require both pre-contract information and credit agreements to include an explanation of how and when interest charges are calculated and applied under the contract.

Michael Fabricant: I accept the point that the Minister makes, but does he not accept that such explanations can often be quite confusing, particularly to those who are not financially literate? At the end of the day, they look at the headline figure and if it says "11 per cent. APR", that is what they see. They do not read an explanation in 8-point typeface that goes on in great detail for several paragraphs.

Mr. Sutcliffe: The hon. Gentleman will be aware that as a result of the consumer credit regulations that flowed from the White Paper, the summary box on such an agreement has now to be printed in a typeface that people can read. He is right, but this is where the test of unfairness comes into play. Under the Consumer Credit Act 1974, there was an extortionate credit test that was a very high hurdle for people to clear. The unfairness credit test reduces the height of that hurdle and will hopefully get the industry to act more responsibly, while at the same time making consumers more aware of what they need to do.

Returning to new clause 4, the regulations that address the issue raised by the hon. Member for Gordon (Malcolm Bruce) come into force on 31 May. Removing this important information on the cost of credit from its location in the small print will help consumers to select the product that best suits their needs. We do not believe that standardising the way in which the interest is calculated and applied would benefit consumers, because doing so would eliminate consumer choice. Not all borrowers want to use credit in the same way, and they benefit from being able to choose a product that complements the way in which they organise their finances. For example, some credit card users will want a lower APR but will be prepared to pay interest from the date of purchase. Others will prefer a slightly higher APR but, if they do not settle the whole balance, will want to pay interest on the outstanding amount only. Provided that these aspects of the product are clearly highlighted—our new transparency provisions will require that—we believe that it is better to give consumers a choice of products. Standardisation may bring certainty, but it comes at the expense of flexibility and innovation and, ultimately, competitiveness and consumer choice.

I understand the spirit in which the hon. Member for Gordon moved his new clause, and it will doubtless be reflected in the Bill's implementation and in the regulations to be introduced on 31 May. That said, I do not consider his new clause to be the appropriate way forward.

Mr. Laurence Robertson: The Minister mentions—as did I—competitiveness and the free market. In a competitive world, the free market will put a downward pressure on interest rates because companies obviously want to sell their products. Is there any way—I cannot think of one—in which we can examine the effect on the vulnerable, who are more likely to be paying higher interest rates? This is a difficult problem, but I ask the Government to give serious thought when they issue their guidelines to how such people might be protected. I do not agree with imposing a ceiling on interest rates, but I do accept that such people have a problem.

Mr. Sutcliffe: This brings us back to the question of fair markets, fair products, people fully understanding the product and their ability to get out of unfair agreements during the lifetime of such an agreement, rather than simply at the start. I should point out that if such an agreement is proved to be unfair, they can get out of it. These measures, together with the loan shark pilots in Birmingham and Glasgow and other work being done on financial inclusion, will hopefully enable people to choose the best product for them, regardless of their income and circumstances. That is what we are trying to achieve.

Members in all parts of the House want to see responsible lending and responsible borrowing. One of the Bill's strengths is perhaps the lack of a party political element. There is a clear view that something needs to be done, and hopefully, this Bill, which has been preceded by two years of consultation and a White Paper, is the best vehicle to do it. With that in mind, I respectfully ask the hon. Member for Gordon to withdraw new clause 4, just as I will ask him to do in respect of new clause 5.

On new clause 5, our view is that monitoring interest rates and charges would be a very costly exercise for the OFT and would subsequently impose excessive burdens on business. It would require the OFT to duplicate the

[Mr. Sutcliffe]

valuable work already done in that area by consumer groups and researchers. The OFT's time and resources are much better spent on tackling fitness in the market, which is where it can most effectively ensure consumer protection, rather than collecting data and monitoring.

3 pm

It would not be useful for the OFT to publish the details of court cases or Financial Ombudsman Service determinations. Court judgments and evidence given in court in cases relating to unfair relationships tests will already be available to the public. The FOS will publish generic information from its cases, and it will share details of cases with the OFT to enable the OFT to take action, if it is necessary. The OFT will be able to publish key decisions relating to unfairness in its guidance, and I take the points on the development of guidance.

A far better way in which to protect vulnerable consumers is to enact the Bill in its current format. The Bill will improve protection against unfair relationships and opportunities for consumer redress, and it will give the OFT the right tools to ensure that rogues are driven from the market. On that basis, I ask the hon. Member for East Carmarthen and Dinefwr to withdraw his new clause.

Adam Price: I thank the Minister for his response. We are calling for transparency in the industry, and the way in which he has taken the Bill through the Commons has been open, transparent and fair.

I shall respond briefly to some of the points that have been made in this interesting debate. The hon. Member for Rhondda (Chris Bryant) and others have asked whether the maximum rate would effectively become the going rate, which is the one argument that the Policis report, of which I have been very critical, knocked down. The report states that although many within the UK industry have made that case, no evidence exists to support it from the countries in which a maximum rate has been set.

Another argument is that a cap could cause some lenders to move out of the market altogether, leaving a gap in the marketplace, which might force some people into the arms of illegitimate lenders—and to be fair, that argument holds some truth. The key issue is where one sets the cap. I do not claim to be an expert, but I have been told that some evidence suggests that the cap was set at too low a rate in the inefficient financial markets in some American states, which caused some of the problems that have been mentioned. The European experience, however, has been better.

I have referred to my criticisms of the Policis report, which we do not need to examine in great detail, but I know that Professor Reifner has said that the report's specific conclusions in relation to Germany were absolutely incorrect, and he has provided the Department with evidence that proves that point. I do not know whether the hon. Member for Lichfield (Michael Fabricant) has seen a copy of the report, but the Sparkassen claim that the report is wrong, too. The concerns about the report must be addressed.

I welcome the Minister's remarks. Both sides of the discussion have legitimate points to make, and both share the same ultimate objective. It is excellent that we can continue this dialogue by leaving the door open and that the Minister is interested in hearing and seeing independent evidence.

One interesting question concerns the relationship between a maximum rate and an unfairness test. I am not a lawyer or parliamentary draftsman, so I cannot answer that question definitively. We used the phrase, "widespread consumer detriment" to avoid confusion around the unfairness test. We used another form of words to avoid directly influencing decisions on the definition of unfairness, but I accept that that matter must be thought through. I point to the example of the South African Department of Trade and Industry, which has introduced consumer credit legislation that performs both of those functions at the same time. The legislation introduced a cap on maximum charges as well as a new test of reckless lending. The South African example shows that it is possible to have both an unfairness test and a maximum rate. Although the details may be different, the principle of two mechanisms is clear in the South African legislation, and I cannot see why it is not possible to combine two such mechanisms in this Bill.

Although greater clarity on interest rate charges and recourse to the courts will be useful to many consumers, I fear that the poorest consumers will not necessarily be able to avail themselves of either legal action or information and advice, which is why my party remains of the view that intervention by the Government in the form of a maximum rate is desirable to protect the most vulnerable.

Mr. Sutcliffe: The alternative dispute resolution process is due, and it will give vulnerable consumers the opportunity to get out of such agreements. The FOS's decision is binding, so consumers will not even have to go to court to get out of a particular agreement.

Adam Price: Legal advice will still be required as part of that process. We will have to revisit the matter because maximum interest rates have had a positive impact in other countries. I welcome the Minister's statement that we will not have to wait for another 30 years to make such a change because the Government are committed to reviewing the matter. In that spirit, I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

Clause 6

STATEMENTS TO BE PROVIDED IN RELATION TO FIXED-SUM CREDIT AGREEMENTS

Mr. Sutcliffe: I beg to move amendment No. 1, in page 5, line 31, leave out 'on the day' and insert 'immediately'.

Mr. Deputy Speaker (Sir Michael Lord): With this it will be convenient to discuss the following Government amendments: Nos. 2 to 4, 6 and 7, 9 to 13, 19, 14 to 18 and 20.

Mr. Sutcliffe: These are technical amendments to ensure that the Bill works effectively. They mean that the obligations on business are clear and that consumers are protected.

Amendment agreed to.

Amendment made: No. 2, in page 5, line 34, leave out first 'on' and insert 'at the end of'.—*[Mr. Sutcliffe.]*

Clause 11

FAILURE TO GIVE NOTICE OF SUMS IN ARREARS

Amendments made: No. 3, in page 9, line 29, leave out 'on the day' and insert 'immediately'.

No. 4, in page 9, line 31, leave out 'on' and insert 'at the end of'.—*[Mr. Sutcliffe.]*

Clause 16

TIME ORDERS

Mr. Sutcliffe: I beg to move amendment No. 5, in page 11, line 27, at end insert—

'( ) In section 32(1) of the Sheriff Courts (Scotland) Act 1971 (c. 58) (regulation of civil procedure in sheriff court) after paragraph (l) insert—

"(m) permitting the debtor or hirer in proceedings for—

(i) a time order under section 129 of the Consumer Credit Act 1974 (time orders), or

(ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129,

to be represented by a person who is neither an advocate nor a solicitor."

( ) In section 32(2B) of the Solicitors (Scotland) Act 1980 (c. 46) (offence for unqualified persons to prepare certain documents)—

(a) after "represent" insert "—(a)",

(b) after "cause" insert—

"(b) a debtor or hirer in proceedings for—

(i) a time order under section 129 of the Consumer Credit Act 1974 (time orders); or

(ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129".'

I promised to introduce this Government amendment in response to the concerns raised by several Members on Second Reading about Scottish time order applications. The amendment enables Scottish courts to allow debtors or hirers to be represented by a person who is not a solicitor or advocate in proceedings covering time order applications or the revocation or variation of time order applications. That will put Scottish consumers on an equal footing with those in the rest of the UK, enabling them to be represented by, for example, a money adviser or Citizens Advice Scotland employee. I am happy to address the matter to ensure that the situation in Scotland is equivalent to that in the rest of the UK.

Malcolm Bruce: I thank the Minister for moving the amendment. There was clearly an anomaly, in that, for historical reasons, the situations in Scotland and England differed. The Consumer Council has made representations to that effect. Clearly, accessibility will be made easier and cheaper than it was under the old unnecessary requirement. People can still use a solicitor or other professional if they wish, but they will be able to make their own choice about how to make representations, and that is very welcome. I am grateful to the Government for bringing Scotland into line.

Mr. Mark Lazarowicz (Edinburgh, North and Leith) (Lab/Co-op): Given the subject matter of the amendment, I should declare an interest as a member of the Faculty of Advocates, even though it goes against that interest. Like the hon. Member for Gordon (Malcolm Bruce), I welcome the amendment and the fact that the Government have recognised the concern raised by several Members from Scotland when the issue was raised early during the Bill's process. Citizens Advice Scotland has taken the lead in pushing for the change and is pleased that the amendment has been tabled at this stage. I spoke to CAS representatives earlier this week and they were delighted.

On the face of it, the amendment is a small one, but it will have important implications, together with the extra funding that the Government and the Scottish Executive are giving to the Money Advice Trust and organisations that work in the area. We should now see a bigger take-up of the opportunities given to those who represent debtors who find themselves in difficulties. The amendment is worth while and I am glad that the Government have tabled it. I commend the Minister for moving so quickly.

Amendment agreed to.

Clause 17

INTEREST PAYABLE ON JUDGMENT DEBTS ETC.

Amendments made: No. 6, in page 12, line , leave out 'on the day' and insert 'immediately'.

No. 7, in page 12, line 12, leave out first 'on' and insert 'at the end of'.—*[Mr. Sutcliffe.]*

Clause 19

UNFAIR RELATIONSHIPS BETWEEN CREDITORS AND DEBTORS

Malcolm Bruce: I beg to move amendment No. 21, in page 13, line 19, at end insert—

'(2A) For the purposes of this section, an agreement shall be automatically unfair if the court determines that—

(a) at the time of making the agreement the debtor could not reasonably have been expected to maintain the level of payments required under the agreement; or

(b) the lender made inadequate attempts to determine the financial circumstances of the borrower at the time of entering into an agreement.'.

Mr. Deputy Speaker: With this it will be convenient to discuss the following: Government amendment No. 8.

Amendment No. 22, in page 63, line 2 [Schedule 3], leave out paragraphs 14 and 15 and insert—

'14 The court shall not make an order under section 140B of the 1974 Act in connection with a credit agreement made before the commencement of section 20 of this Act.

15 The repeal by this Act of sections 137 to 140 of the 1974 Act shall not affect the court's power to reopen an existing agreement under those sections.'

Malcolm Bruce: The purpose of the amendment is to address the accumulation of credit, putting some responsibility on providers of credit to ensure that people who are given it have the capacity to repay. Members will understand why such an amendment is

[Malcolm Bruce]

justified, even if this one is not in quite the right format. The Minister has referred to the maturity, development and sophistication of the UK credit market, but we have reached the point at which people no longer have to ask for credit. It arrives on our doorsteps, sometimes in piles. We receive offers for credit cards with substantial limits, cheques and bank loan offers. We have all received them. Open the envelopes, and we find that a £7,500 cheque can be ours today to send to a bank. No security is required, and seductive letters suggest we might want to go to Hawaii and do this or that. All we have to do is bank the cheque.

Most of us probably have several credit cards, and if we look at the limits on all of them we might be surprised to find how much access we have to instant credit. For most of us, I hope, it is more than we would wish or intend to use, but some people get themselves into a complete mess. It seems disreputable, to say the least, for large financial institutions—we are talking here about the biggest, most reputable brand names in the business—to offer credit without making any attempt to find out what other lines of credit we have, whether we have a mortgage, what security we can offer and what our circumstances are. They are relying simply on the fact that the majority of people will act responsibly and in their own interests. The majority of people do manage, and do whatever they will do—but some people will take full advantage of all the credit made available, then find it impossible to manage their debt.

Michael Fabricant: I am very interested in the amendment and have great sympathy with what the hon. Gentleman is saying. However, paragraphs (a) and (b) talk about the obligations of lenders to find out the total indebtedness of the person to whom they are lending. To what degree can one put responsibility on the lender when it may be that the person borrowing the money will not disclose all the borrowing he or she has? A person may need the money desperately, and if that happens is the hon. Gentleman saying that the lender should be held responsible?

3.15 pm

Malcolm Bruce: I hope not. I hope that the amendment is worded to address that. It says that the debtor

"could not reasonably have been expected"

and that

"the lender made inadequate attempts".

My concern is that, in some cases, the lenders make no attempt to find out circumstances. I am certainly not trying to cover the situation in which someone has wilfully misrepresented their circumstances to the lender, or saying that that should place an obligation or blame on the lender. I want to cover the case where the lender has not taken reasonable and responsible steps to ensure that the person to whom they are offering credit has the capacity to repay.

There are two reasons for that. The first is a basic duty of care, an obligation or a responsibility to ascertain that people have that capacity. Secondly, there is an extraordinary contradiction here with the way in which financial institutions usually work. If we want a mortgage or to take a bank loan for a specific purpose, we have to fill in forms and forms and forms, often involving declaring things we hardly remember to calculate, such as our council tax payment, golf club subscription, salary, wife's salary or donations received from great-aunt Matilda or whatever. We have to give all that before institutions consider whether to offer a loan for a car or a house or whatever it may be.

Yet on to our doormats drop credit cards such as the one that fell on mine with a £7,500 limit if I just phoned the number so that I could use it immediately. The issuer had no idea what my circumstances were or what credit I had. Citizens advice bureaux and many newspapers have had cases; indeed, this is a rich seam for many tabloids because they can find cases of people in hardship every day.

Mr. Lazarowicz: No matter what the ultimate fate of the amendment, there is great sympathy across the House for what the hon. Gentleman is saying. When letters arrive on our doormat, however, we can at least ignore them. Does he accept that an even more difficult and unacceptable situation arises for the consumer when some credit card issuers harass people at such places as airports, just when they are going off on holiday? Does he agree that it is even more outrageous effectively to invite people to take on an extra debt of thousands of pounds at the very time when they may be most vulnerable to such appeals? Is that not an example of the kind of practice that must stop? Should not the lenders who engage in such practices take that message away from both this debate and the general debate we have been having on such subjects?

Malcolm Bruce: I understand that point: whenever I go to Edinburgh airport I am accosted, and I am frequently accosted at Aberdeen airport, too. Usually, I am accosted by people on behalf of the best-known brand names: Shell promotes at Edinburgh, as does the Royal Bank of Scotland.

I must balance what I am saying by adding that consumers, of course, have some responsibility and should have a sense of care for themselves. One could say that many people who get into difficulties do so knowingly, but they will say, "The money was available and I could not resist the temptation or did not see how fast I was building up debt." We can say we have no sympathy for those people and ask why they do it. In reality, they could not have done it if the credit was not made so easily available. What I am trying to say is that we need to show the financial institutions that we expect them to take some responsibility by not putting that degree of temptation in the way of people who will get themselves into difficulty.

In a particular case, covered, I think, in the *Sunday Mirror*, someone managed to take out £125,000 on 11 credit cards and in six loans while on a salary of £16,800. The person in question says that he was stupid and brought the situation on himself He describes how the heavy mob was effectively sent in. He says that the debt

"will never go away, it will follow us until we die."

It is awful when people get into such a situation. I am not suggesting that people should not be educated at school about personal finance and responsibility, which

is a point made by the *Daily Mirror* and the "debt on our doorstep" campaign. Frankly, however, part of the education process should be undertaken by the providers of credit.

First, such providers should always try to ascertain whether people can afford a product, so they should find out about people's circumstances by getting honestly presented evidence of their income and other loan obligations. Secondly, the providers should give advice about the appropriateness of their products. I am worried about the number of people who take out credit on credit cards when it would be much more appropriate to obtain such credit through a bank loan or another product that would be cheaper, more manageable, more organised and less likely to lead to considerable difficulties.

Products are promoted not only when people are going on holiday, but through 0 per cent. introductory offers. I have already said that I am not against the 0 per cent. special offers—indeed, I have taken advantage of them. They are, however, an easy way of seducing people. People are encouraged to take out £10,000 of credit with no interest to pay for six or even nine months. The problem is that they do not have the ability to pay after that time, so under the credit card companies' calculations, they must pay an interest rate of 15, 18 or 20-plus per cent. However, the companies do not say to people, "Now that you are in this mess, you should convert the credit to a loan or a cheaper product." However, that goes slightly wide of the mark of my amendment.

Amendment No. 21 would make it clear in the Bill that the providers of credit would be obliged to take reasonable steps to determine the circumstances of people to whom they provide credit. That suggests to me that unsolicited credit should not be offered without a second test. People such as the hon. Member for Rhondda (Chris Bryant) might well think that unsolicited credit offers should not be sent out at all, but I am not sure that I would want to inhibit product development in such a way. However, it should be made clear that such credit is being offered as long as the provider can satisfy itself that people have the ability to pay. The providers should make it clear to people that they have to answer specific questions satisfactorily before the credit is given.

Michael Fabricant: For the sake of clarity, would the provision apply not only to financial institutions, but to car retailers and furniture vendors? Such businesses advertise regularly on television and offer nothing to pay for six months, 10 months or a year, after which time people must pay for the credit.

Malcolm Bruce: Yes, but there would be a reasonableness test. I agree with what I anticipate the hon. Member for Tewkesbury (Mr. Robertson) would say at this point. I want flexibility and choice in the marketplace. I am certainly not against special offers or inducements. A genuine offer of 0 per cent. interest for six months is a valuable commodity, provided that the price of a product is fair. If a person is buying a car for a given price and has one offer involving paying 0 per cent. interest for six months and another offer that would lead to charges immediately, one deal is incontrovertibly better than the other. I would not want to do anything to close such options. All I am asking is for the providers of credit to take reasonable steps to ascertain people's circumstances, thus protecting them from their lack of responsibility or self-control. I qualify that requirement with the words "reasonably" and "inadequacy", which are used in the amendment.

I think that the Minister will acknowledge that the expansion of such credit and the increase in bankruptcies, default and personal debt has much to do with the fact that it is excessively easy to access unsolicited credit. Such credit was not available 30 years ago. Credit was hard to come by then, not least because we had credit squeezes when the Government made things more difficult. I do not think that any of us wants to go back to those days, but we want a little discipline. Frankly, the providers of credit are the people best able to achieve that, rather than the Government or a third-party regulator. We simply require a reasonable test of how people should pay for credit. People should also receive advice on the products that they require. Why should they pay credit card interest rates when they could pay bank loan rates? It is distasteful that banks encourage their own customers to take credit on credit cards when they could offer cheaper credit through other products.

I imagine that the Minister will say that my amendment would have the disadvantage of qualifying the unfairness test, as he has said about other amendments. I understand that, but I hope that he accepts that my amendment is drafted in the spirit of many of the findings of the Treasury Committee. The Committee is not hostile to the expansion of credit or the availability, variety or flexibility of products, but it is worried that many people find themselves in serious financial distress because credit is too easily available and the providers of it do not determine responsibly whether people can afford it. They do that because they assume that they will get their money back from most people by using ruthless methods and making people's lives a misery, so they decide that the odd default will not matter given that the vast majority of people will struggle, but pay. However, for such people, the glamorous offer of credit that was supposed to enhance their quality of life leads to long-term misery. Surely we do not wish to encourage such a credit regime.

Chris Bryant: As was the case when we debated an earlier group of amendments, I wholeheartedly support the aim of amendment No. 21. I said in Committee that we must remedy a series of mischiefs in the market. It is true that credit card companies and other lenders wish to perpetuate a cycle. They want someone who has one credit card and pays it off every month to choose not to pay it off every month and thus start to accumulate charges. They want people with only one credit card to end up with several, and hope that those who have several cards will take out a personal loan secured against their home. The process is designed to increase the amount that people borrow and the length of time for which it is borrowed. The aim is for the lender eventually to provide a person with a secured loan so that it knows that it will not be out of pocket.

Although the vast majority of us understand the market, accept that caveat emptor is a good principle and are aware that people should appreciate that there is an onus on them to attempt to understand the precise

[Chris Bryant]

nature of a loan agreement before entering into it, there is none the less such competitive stress in the market at present that pressure exists on all businesses to perpetuate and increase that cycle. In many parts of the country it is an entirely virtuous cycle, but in some parts it ends up as a vicious cycle into which individuals and families can all too easily fall because they do not understand either the nature of the agreement or whether they can afford the debt. We all know of individuals and families in our constituencies who have ended up in terrible difficulty for all sorts of genuine and complex reasons—not for devious reasons or because of their fecklessness. Debt can place significant stresses on families and individuals.

The amendment would go some way towards addressing the mischief of not only indiscriminate marketing—all marketing is indiscriminate to a degree because it is pumped out to everyone—but indiscriminate direct mail marketing. It is the stuff that lands on someone's doorstep with no check having been made on who that person is. I mentioned in Committee that I received correspondence from HFS. The letter was headlined "Debt Busting Loan". I do not understand the concept of a debt-busting loan; it seems to be a debt-increasing loan to me, but clearly the approach works. HFS sent me another letter. The first was sent to my apartment in London and the second to my house in Wales, to ensure that I got the message that I could take out a loan and that it had already approved a loan. I had to answer only a few questions, and not a question about the amount that I earn every year or one about other debts. One question was whether I was 18 years of age. I was slightly flattered—well, very flattered.

If an organisation is sending a letter asking someone to prove that they are over 18, by definition it does not know whether the person is over 18. I believe that that contravenes the banking code of conduct, and in turn suggests that the organisation should not be marketing to people who are under 18. It suggests that it is feckless about establishing to whom it is marketing. It may be legitimate to use poster boards or to advertise on television or radio—obviously that type of marketing is less discriminate—but with direct mail, the organisation should be required to ensure that it has established who it is marketing to.

3.30 pm

There is also the process of credit card pushing. There is a pre-approved credit card application form. It is necessary only to state, "Yes, I want it," and sign it. That having been done, the individual has got it. Often, the company has already sent out the card through the post.

Credit card pushing has become endemic. Someone might go to Selfridges on the last day of the sales. They are told that if they take out a store card on the spot, they will get 10 per cent. off their purchases on that day. The individual thinks that all they are doing is getting a store card. A week later, they will be sent a pre-approved credit card as well.

If someone takes out a Tesco points card, likewise a week later they will be sent a pre-approved Tesco credit card application form. The process of constant pushing of credit cards—many people say, "I might as well have another one, what harm does it do?"—means that a letter will arrive at a difficult or vulnerable time of year, which says, "We have increased your credit limit." Lo and behold, they get into precisely the sort of trouble that the *Sunday Mirror* highlighted at the weekend.

So often, there is the factor of the overblown nature of the marketing. I believe that sometimes the letters that are sent out are deliberately misleading. Their content tries to make people focus not on what should be the key issue to those who are entering into an agreement—"Can I afford to borrow this money?"—but on other issues. There is a classic example. I mentioned in Committee that I received a letter from Capital One, which was designed to persuade me to take out a card. I was sent another letter because I did not take out a card. With Capital One, the most exciting thing that anyone can do is choose the design of the credit card. It is that on which the company tries to focus people. There are four small sticky colour maps and the recipient can choose to stick one of these on the card and return it. Surely that is a deliberate attempt to try to get people to focus on the least important issue when taking out a credit card, rather than the important one. It is, again, an instance of irresponsible marketing.

Michael Fabricant: I want to ensure that the hon. Gentleman mentions contact by telephone as well. MBNA is a company that uses a firm in Bangalore to phone people to ask them to take out credit cards. How much research has been carried out in Bangalore when such a contact is made? Unfortunately, I have never been asked whether I am under 18.

Chris Bryant: Not even when that was the case?

The hon. Gentleman makes an important point. When I telephoned the Royal Bank of Scotland two weeks ago to confirm that I had received my new debit card, I was asked whether I wanted another credit card. The person on the phone knew that I already had a credit card, but I was asked whether I wanted another. It seems that some of the credit card companies have an addiction. They want to push more and more cards at us. I sometimes wonder whether people are being paid by results. In other words, people are paid more if they persuade people to take out more cards, regardless of whether it would be sensible to do so.

Malcolm Bruce: New cards are issued, and people used to think that the purpose of a credit card was to buy a product. However, after three or four days of issue, a phone call is made, saying, "We can transfer the entire credit limit from this card to your bank account today by authorisation from you over the phone." That is making it incredibly easy for people to get into difficulties—I suspect much, much too easy.

Chris Bryant: I agree. The second half of my conversation with the Royal Bank of Scotland was to do precisely that. That is the telephone version of the unsolicited blank or filled-in cheque. I am sure that hon. Members will know about receiving a credit card cheque through the post. The individual thinks that it is probably more likely to be a credit card loan. He or she probably does not expect that interest will be charged

from the moment that the cheque is paid into their bank account. The process deliberately makes taking out extra loans too easy, in my understanding.

The hon. Member for Gordon (Malcolm Bruce) referred earlier to cheques that have a certain amount filled in, but I believe that blank cheques are even worse. On my HFS loan card I could actually fill in the amount on the blank cheque with whatever figure I wanted. I could pay it into my bank account and, lo and behold, from that moment I would be paying interest at a fairly high APR.

All these problems are endemic in the industry, which needs to roll itself back from this position—partly for its own good, because there may come a time when interest rates rise and people find it much less affordable to sustain their present level of debt. The Minister rightly argued earlier that, as a percentage of people's income, the amount of money expended on servicing debt is now, because of lower interest rates, considerably less than it was 10 years ago. The truth is that if interest rates did have to rise for whatever reason, many people would find themselves hideously exposed, and the industry would find itself exposed, too. That is why the industry should do some of its own rolling back. Of course, many in the industry have written to us to say that they have already done some rolling back. The new banking code, which comes into practice this spring, imposes some further restrictions on what companies should or should not do.

I will not support the amendment because of what I suspect the Minister will argue. I expect him to say that it would conflict with the unfair relationship clause, which we debated in Committee. I am nervous about the fact that so much is hanging on a fairly slender thread. We do not really know whether it will be a slender thread or a hefty rope capable of sustaining the weight. My metaphors are becoming too complex nowadays, Mr. Deputy Speaker, and I feel that I should draw my words to a conclusion.

I hope that the Bill will manage to operate in precisely the manner outlined by the hon. Member for Gordon and that it will help to roll back these practices. I believe that they currently expose people to excessive risks. They are irresponsible and feckless. We want a mature industry that provides people with opportunities to manage debt responsibly, and we need to ensure that that is made possible for everyone in the country.

Mr. Laurence Robertson: I want to deal mainly with amendment No. 22, which relates to retrospection, but I also want to add a few thoughts about our debate on amendment No. 21, which was ably moved by the hon. Member for Gordon (Malcolm Bruce). He touched on many important issues and I agree that it is far too easy for people to take out credit these days.

The hon. Member for Gordon rightly drew attention to the fact that when a £150,000 mortgage is applied for, every nook and cranny will, quite rightly, be examined. It is a major commitment on behalf of the lender, as well as the borrower, which is why such an application is so seriously looked into. Unfortunately, that does not happen when someone wants to borrow just £3,000. I know from private conversations that lenders do not really look into the proposal too seriously. If they lost one or two lots of £3,000 here and there, they would still be making enough out of the interest on the many other lots of £3,000 for it not to matter that much. They tend not to bother too much about applications for relatively small amounts. The problem is, of course, that people can borrow £3,000 from this company, another £3,000 from that company, and so forth. One lot of £3,000 is not very much, but when they are all added together, it could represent a significant debt for an individual.

I well understand how easy it is for people to get into great difficulty. While we were debating the Bill in Committee, I recall hearing a report on the "Today" programme—a very sad report that featured a widow whose husband had committed suicide because he had got into terrible debt as a result of having 22 credit cards. That really set the tone of debate in Committee. Tragic though it was, the radio programme did a useful service for our considerations, but we all wished that the tragedy had not happened in the first place.

I was concerned about the issue and tabled an amendment on data sharing. Unfortunately, it was not selected, but it would have required many changes to the Data Protection Act 1998, which we are not considering; we are amending the Consumer Credit Act 1974. In it I sought to make it easier for lenders to share information on potential debtors. The credit reference agency carries many details on people who have defaulted or been late with payments or who have county court judgments. That is fine, but often they do not share information on how many credit cards people have or what their level of income is. That is where the problem begins because it is so easy to take out many credit cards.

I do not wish to add to the anecdotes, but over Christmas I had such an experience. I bought several items from Marks and Spencer. I was not paying much attention to what I was doing. It was hot in the store and I just wanted to get out and get home. I ended up signing up to what I thought was just a points card but turned out to be a MasterCard, with which I could instantly spend up to £7,500 anywhere in the country. I did not ask for that or want it. That is how easy it is to take out a credit card. The minimum number of checks was done. Presumably a credit check was carried out, but the store had no idea whether I had other credit cards and no proof of my income. I am probably reasonably safe with that credit card, but many people are not. In my amendment I wanted to enable lenders to have access to information in that situation.

Mr. Sutcliffe: If I may, I should like to help the hon. Gentleman on data sharing. I understand the principle of what he was trying to achieve, even if I do not understand why it was not ruled in order. I received a draft paper from the Financial Ombudsman Service on issues surrounding data sharing. Officials are currently working closely on it with stakeholders. We believe that data sharing is a necessary and important means of ensuring responsible lending. I put that on the record so that the hon. Gentleman knows that work is being carried out on the issue.

Mr. Robertson: The Minister is as helpful as ever. We have made enough points on that amendment, and I agree with him in principle.

[Mr. Robertson]

Amendment No. 22 relates to retrospection with particular respect to the unfair test which replaces the extortionate test in the 1974 Act. We approve of the change of test of an agreement's legality from extortionate to fair. It fits with the reasonable requirement and test of English law—"reasonable" being the most important word in English law. Given the nature of this business, it is possible that some retrospection is necessary. For example, is it not the case that a respectable company would only ever enter into what could be considered a fair agreement with an individual? If an unfair agreement continues to run, is it not right that the courts should be allowed to look at it and bring to an end the suffering of the weaker party? I accept that there are some reasons for retrospection.

Several problems result, however. Philosophically, legislation is not normally retrospective. Indeed, it is a principle of legislation that it should not be retrospective because it is unfair in itself for someone to be fined or punished or have their business disbanded because some years previously they behaved in a manner that complied with the law then, but the law has subsequently changed. As the Finance and Leasing Association has said, applying laws retrospectively is equivalent to recording a motorist driving 40 miles an hour on a 40 limit road in 1995, but fining that motorist in 2005 because the speed limit has subsequently been reduced to 30. That sums it up. As all students of history will agree, figures of the past should be judged by the standards of the times in which they lived, not by the standards that exist now.

3.45 pm

Retrospective legislation is bad enough, but not having the requirements of the legislation in the Bill is worse, because lenders will not know what they are supposed to be doing retrospectively. The Bill does not state what will constitute an unfair agreement, and that is the crux of the matter. We will never be completely certain of what constitutes an unfair agreement, because the courts will have to decide in each case, and one case will not set a precedent for subsequent cases unless they are identical.

The Government and the Office of Fair Trading may issue guidance, but if it is considered to be a remedial order, it might contravene schedule 2 to the Human Rights Act 1998 unless it is laid before Parliament. There is no suggestion in the Bill that that is the intention.

The unfairness test is retrospective, and I understand that it will apply to agreements reached before enactment of the Bill, certainly in some respects, if not all. There will be a transitional period, which the Secretary of State can extend, but existing agreements will be affected.

A further point, which is slightly complicated, is that if the industry complies with the original guidance and it later changes, will we be creating further retrospection because of the fluid nature of the business and the change to the guidelines? Leaving those details out of the Bill is a backward step, because section 138 of the Consumer Credit Act 1974 defines the meaning of "extortionate" by listing the evidence that should be taken into account—for example, prevailing interest rates; the age, experience, business capacity and state of health of the debtor; the degree to which he was under financial pressure at the time; the degree of risk accepted by him; his relationship to the lender; and whether a cash price was quoted for any goods or services included in the credit bargain. The Bill repeals that section, leaving lenders totally in the dark about what constitutes an unfair agreement. I tabled amendments in Committee which would have gone some way towards addressing the problem, but sadly, the Government did not accept them.

That vagueness has led to a great deal of unrest and concern in the industry. I have received representations from, among others, the British Bankers Association, the Council of Mortgage Lenders, the Consumer Credit Association, the Finance and Leasing Association, the Association for Payment Clearing Services, Cattles, Royal Bank of Scotland, Barclays, the Zacchaeus Trust and MBNA Europe Bank Ltd. All are concerned about the lack of guidance on the unfairness test, and that concern is increased by the retrospection in the Bill.

As I said, there is a transitional period for the industry to clean up its act and to clean up the agreements that it feels it should clean up, but how can it do so if it does not know what the criteria are for determining what represents an unfair agreement?

Mr. Sutcliffe: Does the hon. Gentleman accept that there is unfairness throughout the financial services and that the code of practice relates to that? The concept of fairness exists, and the industry is trying to do something that we resisted in the discussion on interest rate ceilings. If the test is tightly defined, there may be omissions, and vulnerable consumers may be left in a worse position.

Mr. Robertson: I am grateful to the Minister, but I do not entirely accept that putting something on the face of the Bill means that something is left out. I suppose that by definition it is, but it is possible to put on the face of the Bill some examples of what the courts might want to give credence to. That does not mean that the courts cannot look at other things as well. Many Acts of Parliament contain clauses that end by saying, "and the Secretary of State shall do whatever else he thinks fit"—I paraphrase, but I think we all recognise that such a provision appears in very many Acts of Parliament. I think it is called a Henry VIII clause or something like that. So I do not accept that stating some examples of what the court should take into account means that it cannot take into account other things.

To summarise, I stress that we welcome the change from extortionate to unfair. We accept that some retrospection is necessary—perhaps even desirable—in this type of legislation, but we do regret the lack of detail as regards what constitutes an unfair agreement. We also regret the fact that retrospective legislation is effectively being introduced by the courts, and possibly the OFT and Ministers, but not Parliament. That is the point. It is, as I said in Committee, "a double whammy". It is retrospective legislation, introduced other than by Parliament. That cannot be the right way of carrying out what is generally appropriate legislation, and therefore I would ask the Minister to reconsider his approach in this respect.

Mr. Alan Williams (Swansea, West) (Lab): I shall be brief. When I took the Consumer Credit Bill through Parliament in 1974, I did not expect to be able to stand here 31 years later discussing its amendment. I am amazed that it has lasted quite so long, and indeed that I have lasted quite so long—politically, I mean, not physically.

Chris Bryant: Too long.

Mr. Williams: In which respect?

Chris Bryant: The Act.

Mr. Williams: I have every sympathy with what the hon. Member for Gordon (Malcolm Bruce) said, and the spirit of the debate so far, but it seems to me that we are choosing the more difficult alternative of making increasingly complex definitions of what is fair without trying to cut through the knot.

When I was taking the 1974 Act through Parliament, I appalled the credit reference agencies by announcing that for the first time they were going to be subject to the law of libel. At that time they literally depended on gossip—the local milkman, the local bread delivery man and so on—without verification. I remember being asked to go to Croydon to discuss it with them. I put it to them that if they could not get their act together, it was for them to bear the consequences; it was not for me to exempt them. In fairness, despite all their protestations that the credit reference agency industry was about to collapse, they actually did get their act together, have become very professional, and could become more professional.

I hope that you will bear with me, Mr. Deputy Speaker, if you think that I am straying slightly from the amendment—I will be very brief. It seems to me that data sharing by the credit industry with the credit reference agencies is the way of cutting through the complexities of ever more amendments stating what is fair and what is not, trying to meet the manoeuvrings of the industry. Because if there is a focal point at which information is available, from which one is expected to obtain information on creditworthiness, and that body has collectively what no individual card issuer has—a knowledge of what other cards a customer has when he applies for his 50th or 60th or second or third—it would seem to me that that is the way through. I know that I have a very old-fashioned approach to legislation, but if it were me, I would be looking to credit reference agencies as a way of short-cutting to the objectives that we all hope to achieve.

That is all I want to say; my apologies to the Minister for delaying him.

Mr. Sutcliffe: I am delighted that my right hon. Friend the Member for Swansea, West (Mr. Williams) is in his place, and I congratulate him on the 1974 Act, which has stood the test of time. I understand that it took nearly six years to put that Act together. I spoke earlier about the maturity of the credit industry. Who would have recognised, when my right hon. Friend introduced that legislation, that the availability of products would change so dramatically? I shall refer later to the data sharing that my right hon. Friend talked about.

I want to speak briefly to Government amendment No. 8, which is a minor technical amendment to clarify the wording of proposed new section 140A(4) of the Consumer Credit Act 1974. The new wording is more precise and makes it clear that the court would be able to apply any provisions where all or any of the parties had no further duties under a credit agreement covered by the new unfair relationships provisions. The amendment will not alter the test or change the circumstances in which the provision applies to agreements. It will clarify the wording to improve understanding.

I understood clearly where the hon. Member for Gordon (Malcolm Bruce) was coming from when he outlined the proposals in his amendment No. 21. He spoke about marketing techniques and the need to provide education all the way through school about handling money and developing ideas about it, and it is amazing to me that although we teach youngsters about everything, money and how to handle it is not at the forefront of that. A lot of work is being done on that, not least with the new financial inclusion fund.

An aspect of the Bill that I am passionate about is the momentum that we have developed, through the White Paper and surrounding issues, and the fact that there is an acceptance that things must change. We affect people's lives. The hon. Member for Tewkesbury (Mr. Robertson) raised the issue of the "Today" programme and the unfortunate case of the man who committed suicide. I have, as a Consumer Minister, had too many approaches for my liking from hon. Members with constituents who have had great difficulties and in some cases have committed suicide because of the spiral of debt that they have got into. Surely we have a responsibility to promote legislation to help to avoid that.

The industry must have a job to do. The sentiments of the hon. Member for Gordon are right and proper. Perhaps he will expect me to say that the wording of the amendment is not quite right—I shall come to that a little later—but the message from all hon. Members is clearly that the industry must look at its marketing techniques and its responsibilities.

We can and will pass legislation, and we try to do that in a way that is as business-friendly as possible, but supports consumer groups and consumers. The industry has a major role to play. The availability of credit is important to all the groups that we have mentioned, but it must be available on a responsible basis. The Bill will enable us to look at instances in which the industry does not operate properly.

Data sharing is vital. At conferences that I have attended, the industry has raised the point that the Data Protection Act 1998 and other factors prevent the sharing of information, with, for example, credit reference agencies. I have made it clear that, as I have said already today, the 1998 Act should not be used as a barrier to the sharing of that information. I am pleased that work has been carried out with organisations such as the Finance and Leasing Association, that members of the Association for Payment Clearing Services agreed data-sharing principles in September 2004, and that the DTI has been discussing further measures to improve current levels of data sharing within the credit industry.

[Mr. Sutcliffe]

As the Minister, I shall, as far as I can, ensure that we pursue the industry to honour its commitments to ensure that people cannot accumulate debts of low amounts on many different credit cards; I do not think that is acceptable.

Clause 19 is wide enough to allow the courts to take into account the factors that the hon. Member for Gordon listed, as well as any other relevant matters. Therefore, amendment No. 21 is unnecessary. The unfairness test is concerned not with specific types of behaviour but with the unfairness of the relationship between the debtor and the creditor. It allows the courts to decide on the basis of the widest possible range of behaviour without being constrained by market practices or issues of concern. We want the test to be able to deal with the ingenuity of those seeking to exploit and harm consumers. Therefore, the court can consider the types of practice that the hon. Gentleman identified, and can provide remedies when such practices make the relationship unfair.

4 pm

The hon. Gentleman's amendment might even be unhelpful. It is vital that the proposals do not limit the court's discretion in matters of unfairness. That would serve to do two things: narrow the range of matters that the court will consider in determining whether something is unfair, and encourage a culture of minimum compliance by businesses, which operate on the basis that if the practice is not expressly outlawed in law, it is permitted. The hon. Gentleman's proposals would not enhance the test, are unnecessary given the breadth of the test, and may prove to be unhelpful to consumers by limiting the test's operation.

I have set great store by this test. My hon. Friend the Member for Rhondda (Chris Bryant) said that it was a thin thread; I hope that it is more than that. It is a lower hurdle than the extortionate credit test in the 1974 Act, and will capture the core of what we are trying to achieve: responsible lending and responsible borrowing. If someone acts unfairly, they will be seen to be outside the spirit of what we are trying to achieve.

Amendment No. 22 proposes that the new unfair relationships provisions should apply only to agreements made after commencement of those provisions. We have consulted widely on the issue and considered it carefully. It might help hon. Members if I explain precisely what the Government propose. Unfair relationships provisions will commence in line with the other provisions of the Bill, and we will consult on when that will occur. That means that the new test will apply to new agreements made from the date of commencement. The new test will apply to existing agreements after the end of the transitional period. We believe that that will give businesses time to adjust. The transitional period will last for at least 12 months after commencement.

Mr. Laurence Robertson: The transitional period may give businesses time to adjust, but the question is—adjust to what? That is not in the Bill.

Mr. Sutcliffe: I fear that we will disagree on this issue. Let me move on and see whether the following helps the hon. Gentleman.

As the transitional period will last for at least 12 months after commencement, existing agreements will not be subject to the new test for at least two years after Royal Assent. However, that is not set in stone; we will consult on whether the period should be extended. It is important to realise that provisions will not apply to agreements that come to an end before the completion of the transitional period. I understand the hon. Gentleman's concern about the effect of the new unfair relationships test on existing agreements, but the position that we have reached is not without precedent. When the extortionate credit test was enacted in 1974, it applied to all agreements whenever they were made. The new test, as I have said, does not do that. Moreover, the current test does not allow consumers to challenge post-agreement conduct effectively.

Mr. Robertson: The Minister refers to the 1974 Act, and yes, it was retrospective—but my point is that the items with which businesses had to comply were in that legislation. They have been repealed and replaced with nothing. That is my objection to the retrospective nature of this Bill.

Mr. Sutcliffe: They have not been replaced with nothing; they have been replaced with the unfairness test. I will resist until the end, and will not give a prescriptive list of circumstances.

Chris Bryant: Go on.

Mr. Sutcliffe: Despite my hon. Friend's plea, I will not give a definitive list, because that would undervalue the test.

Mr. Robertson: It is not in the Bill.

Mr. Sutcliffe: As I have tried to explain to the hon. Gentleman—in Committee and this afternoon—the concept of unfairness is enshrined in many areas of financial services.

Mr. Robertson: It is not in the Bill.

Mr. Sutcliffe: The courts will be able to reflect and consider the issue of unfairness. The concept is well established, for example, in the banking code and the mortgage code, subscribers to which are instructed to act fairly in all their dealings. The Financing and Leasing Association's code of practice states that its members promise to

"act fairly, reasonably and responsibly in all our dealings with you",

and the Financial Services Authority requires the businesses that it regulates to treat customers fairly.

Chris Bryant: Is not the truth of the matter that if businesses are uncertain or nervous about whether a product that they are about to sell, or a marketing process, such as direct mail marketing, in which they are about to engage, might be unfair, they would probably be best advised not to proceed?

Mr. Sutcliffe: That was a better attempt to get me to say yes. I hear what my hon. Friend says.

I have tried to show that we have consulted fully on the Bill and I have left the door open to further consultation with the industry. I do not think that amendment No. 22 will take us further forward, and I ask the hon. Member for Tewkesbury not to press it. I also ask the hon. Member for Gordon to withdraw amendment No. 21, although I accept and understand the principle of what he wants to achieve.

Malcolm Bruce: I appreciate the Minister's response and the terms in which it was couched. I did not say so when I introduced it, but I regard the amendment as probing. In fact, I agree completely with him about the unfairness test and the desire not to qualify it. On the other hand, I believe that when passing a Bill that updates 30-year-old legislation, it is important to have a proper debate about how it should be applied. In our debates, we are trying to give the authorities that are to implement the legislation some idea of our expectations regarding its application. The Minister is in a particular position, in that what he says carries some judicial force, whereas what the rest of us say has no consequence, but I am optimistic enough—some might say naïve enough—to believe that the authorities that apply the legislation in such a specialist area will read the Committee proceedings and our debates to inform themselves about the thrust of what we are trying to achieve.

Without putting words in his mouth, I think that the Minister has, in essence, gone as close as he can—without restricting the test's application—to stating the Government's view that consideration of the unfairness test should take on board the issues that have been raised. He knows that my colleagues and I favour the principle of applying the duty to trade fairly, or the duty not to trade unfairly, much more widely. In the present context, I agree with him: there is no point in having a test and then surrounding it with qualifications.

Mr. Laurence Robertson: Does the hon. Gentleman agree, however, that there is a difference between the 1974 Act being retrospective when the details of what was required were on the face of the Bill, and the present Bill being retrospective when the details are not on the face of the Bill? Is it not wrong to pass retrospective legislation when the details of its application are to be left to the courts to establish in a piecemeal manner?

Malcolm Bruce: The hon. Gentleman puts me in a slightly difficult position—indeed, he is trying to do so, which is fair enough. As a general principle, I am not in favour of retrospective legislation. The difficulty is that we are trying to change a culture. I examined the amendment that he tabled—a similar proposal came across my desk—but could not support it, not because of what I felt about retrospectivity in principle, but because I was worried that there would come a time when people involved in long-term credit agreements would see that all new agreements applied a completely different test, but their own could not be revisited because of a hangover from an Act dating back 30 years or more, which had, in effect, been repealed.

The Minister says that there will be a transitional period, which might be extended. Although I have reservations and I understand the concern voiced by the hon. Member for Tewkesbury, my feeling is that we have identified many things that the industry has not got right and that there is a spirit of compromise in operation. In principle, retrospectivity is not a good thing; on the other hand, we are trying to change a culture. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: No. 8, in page 13, line 25, leave out 'one or more' and insert—

'all or any of the'. —*[Mr. Sutcliffe.]*

Clause 26.

ENFORCEMENT OF AGREEMENTS BY UNLICENCED TRADER ETC.

Amendments made: No. 9, in page 18, line 33, leave out 'business' and insert—

'consumer credit business or a consumer hire business (as the case may be)'.

No. 10, in page 18, line 41 [Clause 26], leave out 'business' and insert—

'consumer credit business or a consumer hire business (as the case may be)'.

No. 11, in page 19, line 4, leave out 'business' and insert—

'consumer credit business or a consumer hire business (as the case may be)'.

No. 12, in page 19, line 21, at end insert—

'(8) This section (apart from subsection (1)) does not apply to a regulated agreement made by a person if by virtue of section 21(2) or (3) he was not required to be licensed to make the agreement.

(9) Subsection (1) does not apply to the enforcement of a regulated agreement by a person if by virtue of section 21(2) or (3) he is not required to be licensed to enforce the agreement.'.

No. 13, in page 19, line 22, leave out subsection (5). —*[Mr. Sutcliffe.]*

Clause 32

WINDING-UP OF STANDARD LICENSEE'S BUSINESS

Amendment made: No. 19, in page 25, line 20, leave out subsections (8) and (9) and insert—

'(8) The procedures set out in subsections (6) and (7) shall be carried out concurrently with the OFT's consideration of whether it should take the step falling within subsection (2).

(9) Accordingly, the OFT's determination of any application of the licensee shall be made at the same time as its determination to take the step falling within subsection (2).

(10) If an appeal lies from the determination of that application, the step falling within subsection (2) shall not be taken before the end of the appeal period in relation to that application and, in the case of a step falling within subsection (2)(a) or (b), section 29(4) shall apply accordingly.'.— *[Mr. Sutcliffe.]*

Clause 33

CONSEQUENTIAL AMENDMENTS RELATING TO SS. 27 TO 32

Amendment made: No. 14, in page 26, line 10, leave out subsections (1) to (5) and insert—

'(1) Where—

(a) a consumer credit EEA firm makes an application for a standard licence, and

(b) the activities covered by the application are all permitted activities,

the OFT shall refuse the application.

(2) Subsection (3) applies where—

(a) a consumer credit EEA firm makes an application for a standard licence, and

(b) some (but not all) of the activities covered by the application are permitted activities.

(3) In order to be entitled to be issued with a standard licence in accordance with section 25(1) to (1AB) in relation to a type of business, the firm need not satisfy the OFT that it is a fit person to carry on that type of business so far as it would involve any of the permitted activities covered by the application.

(4) A standard licence held by a consumer credit EEA firm does not at any time authorise the carrying on of an activity which is a permitted activity at that time.'. —*[Mr. Sutcliffe.]*

Clause 35

CHARGES FOR INDEFINITE LICENCES

Amendment made: No. 15, in page 29, line 15, leave out from 'on' to end of line 16 and insert

'such day as may be determined in accordance with provision made by regulations.'.—*[Mr. Sutcliffe.]*

Clause 36

EXTENSION OF PERIOD TO PAY CHARGE FOR INDEFINITE LICENCE

Amendments made: No. 16, in page 29, line 34, leave out from 'made' to end of line 35 and insert—

'before such day as may be determined in accordance with provision made by the OFT by general notice'.

No. 17, in page 30, line 6, leave out subsection (5). —*[Mr. Sutcliffe.]*

Clause 52

POWER OF OFT TO IMPOSE CIVIL PENALTIES

Amendment made: No. 18, in page 44, leave out lines 12 to 17 and insert—

'rate for the time being specified in section 17 of the Judgments Act 1838.'.—*[Mr. Sutcliffe.]*

Schedule 1

SCHEDULE A1 TO THE 1974 ACT

Amendment made: No. 20, in page 57, line 45, at end insert—

'(4A) Where—

(a) the Tribunal disposes of an appeal against a determination to take a step falling within section 34A(2) of this Act, and

(b) at the time it made that determination, the OFT also determined an application under section 34A(6) in relation to that step,

the Tribunal may do one or more of the things mentioned in sub-paragraph (2)(a) to (e) in relation to the determination of the application.

(4B) The Tribunal—

(a) may exercise its power under sub-paragraph (4A) even if no appeal has been made against the determination of the application under section 34A(6); and

(b) in a case where such an appeal has been made, may exercise that power instead of disposing of the appeal.'.—*[Mr. Sutcliffe.]*

Order for Third Reading read.

4.10 pm

Mr. Sutcliffe: I beg to move, That the Bill be now read the Third time.

I would like to return briefly to the consumer credit White Paper, in which we said:

"We want a modern framework that encourages and rewards vigorous competition, innovation, choice and enterprise, while stamping out irresponsible and unfair lending practices."

I hope that hon. Members agree that the Government have produced a Bill that not only fulfils those commitments but in many cases goes beyond them. It is the keystone of the most ambitious reform of consumer credit legislation since the Consumer Credit Act 1974 was introduced. Its passage through the House has justified the Government's position on all counts. I would like to thank hon. Members from all parts of the House for their contributions. In particular, I am grateful to the hon. Member for Bournemouth, West (Sir John Butterfill) and my hon. Friend the Member for Bootle (Mr. Benton) for their effective joint chairmanship of the Committee. I am also grateful to the hon. Members for Tewkesbury (Mr. Robertson) and for Gordon (Malcolm Bruce), as well as everyone else who served on the Committee.

I am extremely encouraged by the support that the Bill has received from consumer groups, the industry and Members from all parts of the House. That support is reflected in the speed with which it has progressed through Parliament. Second Reading provided an insight into problems experienced by both consumers and the industry. In Committee, we had discussions of more specific and detailed concerns. In our final debate, I would like to conclude discussion on matters of particular interest, including unfair credit relationships. Hon. Members will recall the extreme care that I took in explaining the concept of unfairness.

Chris Bryant: The Minister took excessive care.

Mr. Sutcliffe: Indeed. I have no intention of being drawn back to that point. The Government have addressed the issue with extreme sensitivity. We have considered extensive arguments made by people across the sector, and I believe that the Bill provides an effective solution. Hon. Members are well aware that the market has evolved quickly and know that it will continue to do so. We cannot predict future market changes, nor should we. The Government's solution provides comprehensive and flexible protection for consumers and for the industry both now and in the future.

We must ask ourselves some critical questions. Should the body that enforces the Consumer Credit Act have the power to investigate wrongdoing? Should consumers be able to operate confidently in the market, safe in the knowledge that they are dealing with responsible lenders? The answer to both questions is obviously yes.

Mr. Plaskitt: As the Minister said, it is indeed an evolving market. I am pleased that he opened our debate on Third Reading by quoting the objectives of the White

Paper, because the Bill is an excellent measure that goes a long way towards meeting those objectives. However, as that quotation made clear, the Bill tries to deal with irresponsible lending. The White Paper gave as an example of irresponsible lending the unsolicited issuing of credit card cheques. When we debated that practice in Committee, the Minister undertook to take action to end it. Now that we have reached Third Reading, does he believe that the Bill will achieve that outcome, and if not, does he have other means of achieving it?

Mr. Sutcliffe: If my hon. Friend can wait a few moments, I shall come to credit card cheques and what the Government intend to do about them. However, I pay tribute to him and to the Treasury Committee for their work in exposing the issue in the context of responsible lending.

The Bill provides a regime that is based on fairness for consumers and competition for the industry, and which gives regulators the powers they need to keep it that way. Those proposals are not a luxury addition to the Bill but are vital and necessary foundations on which to build a modern and effective consumer credit market now and in the future.

Unfortunately, misconduct will be found in almost any market, and the consumer credit market is no exception, so the Bill ensures that proportionate sanctions are available to the regulators. The importance of those sanctions is not simply that they punish wrongdoing; it is that they are a flexible deterrent to unscrupulous lenders, now and in the future.

If we enable the regulators to penalise misconduct, we must also enable consumers to resolve disputes for themselves. That means introducing a system that is cheap, fair and easy to use. The alternative dispute resolution system is all of those things. Not only will it empower consumers to act with confidence in the market, it will ensure stable competition throughout the credit sector, now and in the future.

Hon. Members will be aware how successful the Bill was in Committee. That was due not simply to the hard work of my hon. Friend the Member for West Bromwich, East (Mr. Watson), who unfortunately is not in his place, but to the contribution made by all hon. Members with the detailed knowledge that they brought to the Bill at all its stages.

I hope that the Government listened to what was said—and we shall continue to do so. That is highlighted by two additional commitments that I have made in response to my hon. Friend the Member for Warwick and Leamington (Mr. Plaskitt). In any market there are often key factors beyond even the control of the regulators—factors that have the potential to cause consumer detriment. I have acted on the wishes of many and have committed the Government to looking further into the issue of credit card cheques and their unsolicited nature, under secondary legislation. In addition, comments from consumer groups and Members from Scotland have prompted me to act on the issue of lay representation in Scotland. That is another example of the Government listening to and acting on what people say.

It does not matter where one lives or what one does, consumers should all have the same rights. I hope that I have clarified and reaffirmed the Government's position on some of the more significant points of the Bill. I have no doubt that we will revisit them further, both now and as the Bill progresses through the other place. I hope that it progresses through the other place as swiftly as possible, whatever the Prime Minister's thinking on the date of the general election. I would be sad to see the Bill thwarted in the other place, for whatever reason. The momentum that we have established is important. The industry, consumer groups and all those affected by the Bill understand the need for the discussions to continue. If the Bill were not enacted, that would be to the detriment of consumers, and the industry would not be clear, and would be unable to deal with its rogues.

The Bill is an important package of reform. It caps the work that has been done over the past four years and brings together the Government's proposals for a 21st-century consumer credit market. It delivers everything that we set out to achieve. It benefits consumers, industry and the regulators, it promotes responsibility and fairness across the sector, it encourages effective competition, and it allows for comprehensive and unbiased enforcement. I commend it to the House.

4.18 pm

Mr. Stephen O'Brien (Eddisbury) (Con): I pay tribute to the Minister for his steadfast conduct of the Bill on the basis of careful consideration and patient dealing with the questions raised. I also pay tribute to my hon. Friend the Member for Tewkesbury (Mr. Robertson), who has worked diligently to ensure that the issues have been properly considered, as well as to all my right hon. and hon. Friends who have served on the Committee.

It has been just over 30 years since the last Consumer Credit Act. Since then the credit market has undergone a process of rapid and radical transformation. The liberalising reforms of the last Conservative Government not only opened up financial markets, but brought new opportunities and new sophistication to consumer behaviour. In general, and importantly in the context of this Third Reading debate, during the past 30 years consumers have become more and more powerful in driving the marketplace. Effective access to credit is indispensable to economic growth. It not only provides a way for people to manage their finances; it enables risk taking and entrepreneurialism, which in turn, via Government revenue, pay for schools and hospitals.

The present legislative framework governing the consumer credit market might have been adequate for a world in which only one type of credit card was available, but it is certainly not adequate for a world in which there now exists a choice between more than 13,000 such cards. In particular, it is apparent that the extortionate credit test provides, at worst insufficient, and at best unclear, protection to consumers. Indeed, only 10 cases have succeeded under that test since the Consumer Credit Act 1974 was passed.

As the legislation has become increasingly dated and unsatisfactory, the problem of consumer debt becomes more acute. I am sure that we all know from our constituency casework of debt-related problems tackled by citizens advice bureaux, which do an outstanding job, especially on managing debt that has become difficult or unsustainable, on behalf of our constituents. The number of problems with which the CABs deal has risen by 75 per cent. since 1997. Under the Government, the

[Mr. Stephen O'Brien]

savings ratio has almost halved and, in 2004, household debt broke the £1 trillion barrier for the first time. As the Bank of England recently warned, with consumer credit running at approximately £1.5 billion a month and increasing by 15 per cent. every year, we are

"building up vulnerabilities for the long term".

For all the reasons that I have outlined, I made clear on Second Reading my strong support for a new consumer credit Bill to crack down on unscrupulous lenders, make credit agreements more transparent, and provide consumers with an effective means of redress for unfair credit agreements. However, the support of Her Majesty's Opposition was not—and never is—unconditional. There are genuine and important anxieties about the Bill's timing, the manner of its passage through Parliament, and the significant but somewhat ill defined powers that it will transfer from Parliament and thereby from people—the consumers—to a policing regulator, who, by definition, is remote from consumers.

The Prime Minister described the Bill as

"an important piece of legislation",

but the Secretary of State for Trade and Industry was not here either for today's debate or on Second Reading. However, like me, she was here for Trade and Industry questions earlier today. Her absence is therefore by choice. Of course, I cast no aspersions on the Under-Secretary who is in his place, but we must draw our own conclusions about why the Secretary of State felt that it was not important to present and defend her Bill, which the Prime Minister described as

"an important piece of legislation".

I fear that the problems of consumer credit and debt are too low a priority for her to trouble to come to the House and take responsibility for the measure.

Although I am conscious of the strong tone of happy consensus on many aspects of the measure—I am not necessarily about to fracture that spirit—it is our duty to point out when things are not what they seem and especially when they are not supportable. The delay in introducing the Bill to tackle the menace of unsustainable delay can be explained by the fact that the Government are demonstrably incapable of maintaining spending in line with the growth of the economy, with the inevitable tax rises that that would entail should they be re-elected. I hope that that will not happen.

The delayed and subsequently somewhat hurried timing—I am sure that that has nothing to do with the proximity of a general election—is at least partly because the EU Commission has just announced a consultation on a new draft consumer credit directive. Consumer credit legislation is like buses: you wait for more than 30 years for a new law and then two come along at once. Moreover, the proposed new directive will cover unfair terms, contractual information requirements, licensing of creditors and credit intermediaries. The directive and the Bill therefore deal with similar if not identical issues.

Parallel legislative proposals from the UK Government and the EU Commissions hold a danger of creating a confused and duplicating legislative structure that places unnecessary burdens on business. That is an especially sensitive matter, given the Government's serious reservations, which I acknowledge, about the draft consumer credit directive. The Department of Trade and Industry's consultation on the directive, which was published last month, stated that the Government

"continues to have concerns with the current draft Directive. We believe that some of the proposals place unnecessary burdens on business."

It goes on to press for

"substantial amendments to specific provisions contained in the Directive to ensure an appropriate balance between costs to business and benefits to consumers".

One such provision that the Government would like deleted from the directive is the proposed duty on lenders to advise consumers of appropriate credit products. I hope that the Minister will confirm that the Government, for once, will stand up for British business and make it clear to the Commission that they will not implement the directive in the UK if the amendments that they seek are not adopted.

Michael Fabricant: Is there not the greater danger that the DTI will not only adopt the directive but gold-plate it? The temptation in the UK is always to over-regulate, whereas our European competitors do the opposite—or, at the very least, adopt a directive without any gold plating.

Mr. O'Brien: I am grateful to my hon. Friend, but his intervention should not be interpreted as a criticism of the diligence and expertise of those officials who must deal with the implementation of EU directives into UK law. Although I do not want to go too far down this road, my hon. Friend's question is pertinent and deserves a direct answer. Reconciling administrative and legal systems in all EU member states presents a permanent challenge. In Britain, our legal system causes us to adopt an approach based on means as well as on ends. By contrast, member states in continental Europe have inherited legal systems based more on the Napoleonic code, which leads them to prescribe the ends and to leave the means to discretion.

The British approach causes us to gold-plate directives, as my hon. Friend the Member for Lichfield (Michael Fabricant) said, and to over-implement them. That is becoming a menace, as it applies friction to the competitiveness of British business. The directive in question directly contradicts some of the proposals in the Bill, and it is important that we draw attention to that. I know that the Government are seized of that already, as they have made their representations on the matter known, but it is worth putting the issue on the record.

Mr. Sutcliffe: I forgive the hon. Gentleman for his attack on the Government, but the consumer credit directive is a serious matter. The first proposal was adopted in September 2002. In all our work on this Bill, we have kept in touch with the industry and monitored how it and other groups have felt about the proposals. However, the potential impact of the directive is outside the scope of the Bill. We had to decide whether to wait for the directive to win agreement among member

states, or to get on with work on the Bill, given that 30 years had elapsed since consumer credit was last subject to legislation.

Mr. O'Brien: I understand why the Government have made the judgment that they have made, but I am sure that the Minister will accept that this is a matter of principle and that it is right, in a Third Reading debate, to ensure that it is placed on the record.

Representations were made to the Government during the consultation process, but the Minister will know that the industry is constantly in touch with members of all parties on these matters. That is understandable, as it sometimes feels that the consultation process with the Government does not carry great weight and that another approach has to be adopted to ensure that matters are given an appropriate airing. The tendency to gold-plate directives identified by my hon. Friend the Member for Lichfield, and the potential discord over implementation are worth putting on the record, not least so that those in the other place are aware of all the issues that have been raised in this debate when it is their turn to consider this Bill.

As I said, the burdens imposed by this Bill on the consumer credit industry are not insignificant. According to the Department of Trade and Industry's website:

"licence fees will approximately double to around £220 over five years for sole traders and to £550 for incorporated bodies . . . There are also new requirements for provision of post-contract information, which we estimate to be around £1,000 one-off for a small business, £5,000 for an intermediate business and £20,000 for a large business."

I am also concerned that implementing the provisions in the forthcoming EU consumer credit directive will further jeopardise one of the Bill's aims. I took note of the Minister's saying that the issues under discussion are, in his view, largely outside the scope of the directive as it is anticipated, but that the idea is to make it much easier to challenge unfair loan agreements. On that point, we coincide.

Already under this Bill, there are at least three ways of dealing with unfair or inappropriate lending practices that affect consumers. They can challenge unfairness through the new "unfair relationships" provisions in clauses 19 to 22. Under clauses 59 to 61, they can take disputes to the Financial Ombudsman Service for resolution. Alternatively, they can complain to the OFT or to their local trading standards authority, which, under the Bill, have enhanced powers to deal with lenders through a reformed licensing system.

I am not sure that the Government have necessarily considered the confusion that this array of options could cause for consumers. So I hope that the Minister will explain the basis on which consumers are expected to make an informed choice between the courts, the FOS, the OFT and their local trading standards authority. I hope that he will also confirm today that there are no plans to introduce further options for challenging unfair agreements, if and when the new directive is transposed into UK law. The current options in the Bill seem more than sufficiently widespread, and could already lead to lack of certainty and confusion.

It is possible to argue that the Government's motive in introducing this Bill and its rather rushed passage through Parliament are unimportant issues. Of course, people will draw their own conclusions, but given the need for such legislation and the general support for it from the official Opposition, from the minor political parties and from business organisations and consumer groups, should we not simply trust this Government, take their word for it and rubber-stamp the Bill? The answer, of course, is no: we cannot and we should not. It is not possible, in my view, to trust a word that this Government say any more, particularly given their addiction to presentation. Moreover, we must scrutinise the Bill as best we are permitted—in this House and in the other place—given this Government's command of the parliamentary timetable. We owe that to those who back the principle behind the Bill—as, indeed, do we—but who have serious and justified doubts about some of the detail, or lack of it.

In particular, the provisions relating to unfair relationships and the OFT's new licensing regime have given the consumer credit industry cause for concern. As I made clear on Second Reading, I share reservations about the wording of—if not the intention behind—the relevant parts of the Bill, and I also believe that both these provisions reflect this Government's potentially unsatisfactory habit of seeking to empower regulators in order to absolve themselves of all possible blame. This has the twin effect of encouraging regulatory creep—the flow of regulations has increased by 50 per cent. under Labour—and of dispersing and undermining proper parliamentary accountability.

The major Government regulators now spend three times the amount spent before Labour took office, with twice the number of bureaucrats. It is surely unacceptable that, on top of this, the regulators' regulator, the so-called Better Regulation Task Force—a highly questionable title—is forced to admit that there are now so many regulators that no one in government knows how many there are.

Returning to the "unfair relationships" provisions in clauses 19 to 22, it is surely a statement of the obvious to say that good regulation—not to mention the comparative "better regulation" favoured by the Government—should set out clearly and simply what is intended and what the obligations of business will be in order to meet the new requirements. The CBI has made clear its view:

"Clause 19, which sets out the substance of the new test, is too wide and too imprecise to bring about necessary certainty and clarity in the legislation. This is particularly when it is combined with Clause 22 (4) which states that when an agreement is challenged on the grounds of an unfair relationship it will be for the creditor to prove to the contrary. This is extreme and provides far too high a burden on traders."

This lack of clarity is also a serious problem for parliamentarians, who are unable to fulfil their democratic duty to scrutinise Government legislation, as well as for businesses, which face uncertainty as to their new obligations. For those reasons, I specifically asked the Minister on Second Reading for his assurance that OFT guidance on draft relationships—it is important to make it clear that I am referring to the guidance on draft relationships, not the guidance on fitness—would be made available before the Bill entered Committee. I would be happy if the Minister were to correct me, but as I understand it, although the OFT draft guidance on fitness was provided in Committee, the guidance on unfair relationships was not. According

[Mr. O'Brien]

to the Library, where I checked yesterday, that guidance, which I was promised on Second Reading, was not available in Committee.

I hope that the Minister will produce that guidance. The matter is important, because it raises the suspicion that the OFT is not ready and has not thought the matter through. I am sure that the OFT is the last organisation that would want to embarrass the Minister, who wanted to make all the information available, and I hope that the explanation does not involve incompetence. We must see the draft OFT guidance on unfair relationships. My hon. Friend the Member for Tewkesbury used the guidance on fitness in Committee, and he has kept me fully informed.

Whatever the reason why the guidance on unfair relationships was not produced, it damaged our ability to scrutinise the Bill. The Minister is surrendering authority to a regulator that clearly feels no urgent duty to be accountable via him to this House and to the citizens, consumers and businesses represented by hon. Members. I am sure that the other place will focus on that issue, and if the OFT has still not lived up to the Minister's promise, their lordships will be justified in being highly critical and in considering delaying the passage of the Bill. I hope that a delay will not be necessary, but the matter will be taken seriously in the other place.

We all know that the absence of necessary detail makes for bad law, and that is also true of the retrospective implementation of the unfair relationships provisions for all existing agreements following a 12-month transitional period. As the guidance in the 1974 Act on extortionate arrangements is being repealed, until the new legislation is tested in the courts, companies have no clear idea of which adjustments they should make. I acknowledge the point about transitional arrangements, but the legislation is designed to enable companies in particular to achieve clarity and certainty, which is why the guidance should be on the face of the Bill.

The unsatisfactory provisions on extortionate credit are being replaced with, at least in the short term, a legal vacuum. The Council of Mortgage Lenders has said:

> "This flies in the face of assurances from DTI as late as September 2004 that while retrospection would be adopted in principle, lenders would not be financially liable for mistakes occurring before the Bill became law."

Members of the Committee and I have received numerous representations in the same vein from across the consumer credit industry.

The amendments tabled by the official Opposition would have avoided uncertainty for businesses by ensuring that the provisions would not apply to agreements which were established before the Bill's enactment, and I regret the fact that that the Government did not have the good sense to adopt them. I am confident that their lordships will study the advocacy of my hon. Friend the Member for Tewkesbury in representing those concerns and in providing the Government with an opportunity to restore clarity, fairness and balance in line with the long-held principle and custom that legislation should not, save in the most exceptional cases, apply retrospectively. I foresee that that particular issue will consume much of their lordships' time and expertise, and it could delay the passage of the Bill, although I hope that the Government will avoid that outcome. That serious concern remains unresolved, however, and it continues to generate many representations to me and my hon. Friend.

The OFT guidance on licensing is available, which is all the more the reason why the guidance on unfair relationships should have been available in Committee. The issue remains that the Secretary of State and the Government will have no direct influence over the OFT once the Bill has transferred powers away from this place. I am not often to be found arguing that Secretaries of State should be given further statutory powers, still less that they should do any more "nannying". However, it should not be forgotten that an independent regulator and a Department of state have *very different* remits. The Department of Trade and Industry has a responsibility to promote the health of the consumer credit industry and business competitiveness in general, while the OFT has a duty, and consequently a regard, only to protect the consumer. There are therefore consequences of transferring powers in the way proposed in the Bill.

I regret that the Government have resisted the amendment tabled by my hon. Friend the Member for Tewkesbury that would have given the Secretary of State the right by order, subject to affirmative resolution, to vary guidance to the OFT, or issue further guidance, about the issuing of standard licences. Where guidance exists, it appears to be beyond accountability to Parliament; where it does not exist, there is no possibility of adequate scrutiny.

In Committee, the Minister told my hon. Friend that he did not entirely challenge the statement that the Bill was "wholly vague". That sounds to me like a polite way—the Minister is unquestionably polite—of partly accepting that the Bill is partly vague. I agree with that. I support the Bill on the basis that the present legislation is badly in need of revision, but I regret the fact that consumers, businesses and Members deserve and require more detail than has been provided in the Bill, particularly on its face. I am confident that the other place will carefully note those concerns, which centre on the Government's reluctance to publish the OFT guidance, at least in draft, in relation to unfair relationships. That is integral to proper consideration of the Bill. In addition, there are the Government's inadequate attempts to justify breaking from long held and well founded parliamentary convention not to legislate retrospectively so long as it is unclear what companies need to do.

I was struck by interventions during the last group of amendments on Report. The Minister was, in an adjective I used at the outset of my remarks, steadfast in resisting publishing a list of what companies have to do. He was supported by the hon. Member for Gordon (Malcolm Bruce) in the suggestion that there is a cultural issue, which, at least in part, there unquestionably is, but it would be helpful to know whether he has a list that he thinks it would be unhelpful to publish or whether there is no list at all. If there is none, I am even more concerned that the Government are taking a deliberate risk and that it is being left to the courts to set benchmarks, standards and precedents.

Inevitably, the difficulty will be that that will be piecemeal. We cannot predict what set of circumstances, what facts, and which plaintiffs and defendants—with what financial resources—will go all the way through to the courts.

I hope that the Minister will take note of that important consideration, and that it will get a broader airing in the other place. On that basis, and anticipating their Lordships' consideration, we are content to let the Bill proceed and do not wish to divide the House. We wish the Bill well, but we wish for further clarity and detail in future.

4.43 pm

Chris Bryant: I congratulate the Government on an important Bill. From my constituency I know—and others in the House will feel the same—that all too many families and individuals have been caught in a vicious cycle of debt that has made ordinary family life impossible. Sometimes that may be their own fault, and sometimes there are feckless buyers and borrowers. However, in many instances the consumer credit industry has been reckless in the way in which it affords loans and hands out credit cards, making it all too tempting for people to run up debts that they cannot afford and that the credit card companies and loan providers did not know whether they could afford.

I am grateful to the Government for bringing forward the Bill and to the Minister for the way in which he has handled it. I also thank him for listening to much of our debate in Committee. Although we have not been able to tempt him down the road of being explicit about what he understands to be an unfair relationship, he has none the less made it fairly clear that he hopes that the law will be used robustly and that we will thus row back from the vicious cycle of more loans and debts that are doled out irresponsibly.

After listening to the speech made by the hon. Member for Eddisbury (Mr. O'Brien), I felt that he had not been kept well abreast of what was debated in Committee—perhaps he could have listened more carefully to his colleague, the hon. Member for Tewkesbury (Mr. Robertson). He inveighed against the Government, albeit in his usual charming way, by saying that unfair relationships are still too vague under the Bill, but he missed the point that the Minister tried to make. If we were to make the provisions too precise, there would be the danger that we would not row back from the culture of over-indebtedness that has grown up over the past 30 years.

The hon. Member for Eddisbury said that the Bill had been hurried through the House. The programme motion allowed for eight Committee sittings, but we needed only four to provide absolutely adequate scrutiny of the Bill. We had a full exploration of many important issues, so his comments were rather unfair. However, I think that it should be hurried through the next part of its passage so that it will arrive on the statute book.

Gregory Barker (Bexhill and Battle) (Con): Will the hon. Gentleman give way?

Chris Bryant: The hon. Gentleman has not been here for the rest of the day.

Gregory Barker *indicated dissent.*

Chris Bryant: I do not think that the hon. Gentleman has been here all day, but perhaps he has been hiding behind the Dispatch Box and I am being ungenerous to him, so I shall be generous and give way.

Gregory Barker: I might not have been in the Chamber all the time, but I have been present for a significant part of our proceedings. May I remind the hon. Gentleman that I sat through all the Committee? My biggest regret is that the Bill lacks any firm proposals to deal with the aggressive direct marketing of debt. It is all very well to talk about fairness and interest rates, but the Bill does not contain any firm measures to deal with the direct marketing of debt to vulnerable people who are at the end of their tether.

Chris Bryant: The hon. Gentleman was present for all of our Committee sittings, but he cannot have listened to our proceedings carefully, because we had a substantial discussion about that matter. We debated several amendments that I tabled.

Gregory Barker *rose—*

Chris Bryant: Will the hon. Gentleman contain himself for a moment and let me finish my point?

There was considerable debate on the matter both in Committee and on Report—I am not sure whether he was in the Chamber for that part of our proceedings. The Committee and the House felt satisfied by the Minister's answer that the unfair relationship provisions would make it perfectly possible for the courts to strike down a credit agreement merely on the basis of irresponsible direct marketing that might have been entered into. We decided that it was better not to insert further measures in the Bill, but to leave the matter open. I do not know whether the hon. Gentleman wants to intervene again; he looks satisfied by what I said.

Gregory Barker: The hon. Gentleman did table amendments and there was a great deal of debate. However, I would not say that all the points that were raised and debated will be dealt with by the measure to which the hon. Gentleman refers. The problem is addressed only partly. People are still worried about the aggressive direct marketing of debt, especially to the most vulnerable people in society.

Chris Bryant: The hon. Gentleman is right about aggressive direct mail marketing and I think that everyone in the Chamber hopes that the industry will correct its behaviour on that. Of course, it has made some movements this year by changing the banking code. However, I hope that courts will feel free to strike down agreements on the basis of unfair relationships due to the feckless and irresponsible way in which a product was marketed. That would be possible if it could be established that the credit card company or loan company had not determined an individual's ability to pay, or had used irresponsible marketing of any kind. I would gently point out to the hon. Gentleman that he did not table any amendments to that effect, so it is slightly difficult for him to argue on Report that the Bill is not adequate because the point had not been met.

[Chris Bryant]

I hope that the House of Lords will consider the Bill with adequate scrutiny, but swiftly. The two main periods of the year when credit card companies and loan companies are at their most aggressive in direct mail marketing are in the run up to the summer holiday period and at Christmas. I hope that we will not have to go through another summer holiday period and a Christmas without new legislation being on the statute book. That being so, I hope that it is possible for the Bill to pass through all its remaining stages in the other place in time for the general election, whenever that may be. Further, I hope that even the Lords Spiritual will consider that this is an important measure. I guess that what we are talking about, in their terms, is the sin of simony.

Several Members have mentioned the issue of extortionate rates of credit and the change introduced *by the unfair relationship*. I think that the entire House hopes that the Bill will roll back the vicious cycle of over-indebtedness. This is either a thin thread on which we are hanging a great deal of hope or, as it is to be hoped, the courts will take the Bill in earnest and ensure that it is a hefty rope that is able to bear the burden of our expectations.

The hon. Member for Eddisbury seems to be suggesting that the Bill will be yet another example of regulation in the context that the Government regulate too much. It is said that we have doubled the amount of regulations since being elected in 1997. However, so many of the measures that we introduce are necessary pieces of legislation. They are added to the list of regulatory measures by the Opposition, even though they support them. The deregulatory measures that we introduce are never taken into account. I believe that we are dealing with an area in which further regulation has been needed for more than a decade, and it is good that it has now been introduced. I hope that the Conservatives will not be wittering on about the over-regulatory nature of the Government.

My final point—

Mr. Stephen O'Brien: Good.

Chris Bryant: The hon. Gentleman is in a generous mood this afternoon.

My final point is that the proof of the pudding will be whether individual members of the public feel that they are able to take advantage of the proposed legislation. I believe that there will be a necessary process of providing information to the public.

Mr. O'Brien: Will the hon. Gentleman give way?

Chris Bryant: I have already been told that I have been going on for too long by the hon. Member, who was whispering in the ear of the hon. Member for Tewkesbury, so I think that it is unnecessary for me to continue any further. Therefore, I will not give way.

4.52 pm

Malcolm Bruce: We are completing the passage of the Bill and I think that we have had constructive debates on Second Reading, in Committee and throughout today.

Many of us have tried to explore the practicalities of how the Bill will work while understanding the process at the heart of the Bill, which is to apply the test of unfair relationship and then set a framework within which that will be determined, rather than to define the Bill in detail. The first problem, if we defined the Bill in detail, is that it would probably be three or four times as long, it would be prescriptive and it would be regulation by Parliament as opposed to regulation by practice, which I think most of us feel might be a better approach.

Mr. Laurence Robertson: I suggest that regulation by Parliament, when we can debate it and when it is in the Bill, would be far better. I ask the hon. Gentleman to comment, if I am in order in doing so, on the closing remarks of the hon. Member for Rhondda (Chris Bryant). For the courts to consider whether something is unfair, it will largely be up to the debtor to take the issue to court. I think that I am right in saying that. How many debtors will have the confidence to take a matter to court when it is not even established what will constitute an unfair relationship or agreement? Does the hon. Gentleman agree with me on that point?

Malcolm Bruce: My understanding is that the debtor can take the matter through various routes—through the Office of Fair Trading, through trading standards or through the ombudsmen. There are various mechanisms. Given the representations that we have had from a variety of interest groups, it seems that test cases will almost certainly be taken up on their behalf. I do not want to be contentious. I think that the Government have set a framework and an approach that is constructive and worth trying. In my view, it might well lead to lower rather than higher levels of regulation.

I have expressed the view before that the Office of Fair Trading often disappoints us, but we have tried to give that body a framework and a clear understanding of what the Bill is designed to achieve, which it should be able to apply. We hope that it will then produce the practical results that we want, which is to bear down on extortionate and excessive interest rates, to ensure a spread of information better to enable people to take appropriate decisions about credit, and to discourage lenders from reckless lending.

We have debated all those matters and amendments have been tabled and discussed. We concluded—as far as I am concerned, by consensus—that we want the unfairness test to make all that happen and we want better practice established in a relatively short period of time. The reality is that we either do it that way or write every single bit directly into the Bill. From the start, we all accepted, including Conservative Members, that the Bill provides a way forward. Conservatives have always had some reservations but, at the end of the day, we have to go one way or the other: there is no halfway house that could operate consistently. As I have already made clear, my party believes that the ideas of reasonableness and fairness have a wider application and I would contend that they should lead to lower rather than higher regulation. The practice will no doubt test the argument and I am pleased that we will be able to proceed in that way.

I should like to acknowledge the role of my hon. Friend the Member for Richmond Park (Dr. Tonge), who is unable to be with us today, but who made a useful

contribution in Committee. On a slightly wider basis, I should also like to mention my hon. Friends the Members for North Norfolk (Norman Lamb), a member of the Treasury Committee, and for Twickenham (Dr. Cable). They have both been active in making the case for this legislation to combat some of the abuses in the credit market and I appreciate their contributions.

I am rather intrigued by the style and approach of the hon. Member for Eddisbury (Mr. O'Brien), who comes to this place, rebukes the Secretary of State for not being present—I make no comment on that—and characteristically enters the debate towards the end, making a long and, frankly, boring Third Reading speech, which bore very little relation to our preceding debate. He then raises some issues that have been discussed—in particular, he expressed his concern about the need to review regulation. I tabled amendments expressly to deal with that matter, yet the hon. Gentleman's party tabled no such amendments. If he is so concerned about regulation, why did he not ensure that some amendments were tabled about it? *[Interruption.]* What I am saying is most certainly right.

I hope that the issue of regulation will crop up again in the other place. Although I cannot order my noble Friends what to do, I want to make it clear, on behalf of my party, that we support the Bill and want it to come into law. We certainly do not want it to get caught up in any of the other arguments that might well be happening in the other place. Such amendments as my noble Friends table will be designed simply to improve the Bill, and the matter of regulation and its review could be one that they will want to deal with further.

I believe that the spirit in which the Bill has proceeded through the House has been extremely constructive. Many of us do not look forward to taking a Bill through its Committee stage: it is not always the most inspiring part of our work and it can be time consuming and somewhat tedious. However, that has not been the case with this Bill. It has been an interesting and lively process throughout.

I should like to express my appreciation of the Minister's considerable courtesy. Throughout the different stages of the Bill, he made regular contact with me and, I am sure, with other Members, to inform us of progress and liaise in order to ensure the smooth progress of the Bill. We have all had the opportunity to express our views in an orderly and constructive way. I have to say that the Government could well use the Minister in other Departments—*[Interruption.]* What I am saying is that not every Minister is as diligent and attentive to taking a Bill through Parliament as this Minister has been. It is greatly appreciated. I believe that it helps the Government, the parliamentary process and—*[Interruption.]* I seriously believe that it helps us to produce better legislation and I am happy to put that on the record.

The Bill will make an important contribution. I shall follow the operations of its mechanisms with interest. I hope that they will be a model for how other matters can be dealt with. I repeat that the outcome should be lighter, not heavier, regulation. I hope that that will happen. It is a good Bill and I am happy to support it.

4.59 pm

Mr. Allen: I should like to tell the House a story about several hundred Lords and an ordinary person. I have observed the hard work done here today and I have followed it in Committee, and before Members go off for their well-earned rest, they deserve to be tucked in with my story.

The story concerns an ordinary constituent, Mr. Frederick Jones, who wanted to improve his house, do a better job for his family and ensure that his wife was well looked after. To do that he borrowed £8,500. He now owes £123,000. That is not a fairy story; more like a nightmare.

Today's Third Reading gives Mr. Jones some hope of a happy ending. I will not give the House the full details of the long story, which stretches over seven or eight years to my certain knowledge. It has been a nightmare for Mr. Jones. He has done nothing to deserve the treatment that has been meted out to him. Indeed, he has paid the original loan many times over. I believe that he has paid back something like £24,000 already on an £8,500 loan.

The hon. Member for Gordon (Malcolm Bruce) referred to being stuck in Committee. Sometimes it is not the greatest parliamentary perk available. It is hard work. I hope, however, that Committee members feel that their work is valued, not just by other Members, but by many constituents, supporters of Conservative, Labour, Liberal and other parties, throughout the land. All hon. Members have stories similar to that of my constituent. Those people are right to look to us for redress. It is one of the main functions of the House. Committee members and Front-Bench spokesmen have done a great service in their hard-working Committee for many people.

Several hundred Lords who enter this story at a late point have a great deal on their plate. There are grand issues of state, matters of fundamental import to our democracy and great constitutional issues. As many colleagues have said today, we hope that they do not allow those issues to overtake and suffocate the good work that the Committee and the Chamber have done in progressing the Bill to Third Reading. I hope that the Bill does not become a party political football and get lost in the maelstrom of events in the other place.

One might say ungenerously that their Lordships may not be involved too much in this end of the loan market and that they might not have personal experience of taking out loans from, not a loan shark—let us call a shark a shark. One might stereotype them and say that they are not particularly interested in this. I refute and reject that. They are interested. I hope that, despite the significant issues on their plate, they consider the story of Mr. Jones while these high matters of state fly between the two Chambers. I hope that they consider seriously the possible rescue of Mr. Jones from his predicament.

The main reason why I ask their Lordships to think seriously about the issue relates to the important clause on retrospection. We all heard the Meadows family case. It was the fundamental case in reviving the possibility of a reasonableness test on whether a loan was extortionate. I welcome that, and it will be a great relief to many of my constituents. I hope that those who

[Mr. Allen]

take out loans in future will have a strong rope—the bonds that have already been referred to—to help them through any difficulties.

Retrospection is important for another group of people who, like my constituent, went through the legal process prior to our consideration and prior to the Meadows case. They are entirely dependent on retrospection to obtain justice in their various cases. Much as my constituent wishes the Bill to go forward to help other people, he is dependent on retrospection, as are so many others, to help him to obtain justice. Just looking at the figures—a loan of £8,500 resulting in a debt of £123,000—is case enough to make to their Lordships, and I hope that they would consider that seriously.

Even as an outsider, in that I was not a member of the Committee, although I followed its proceedings carefully, I would like to place on record my thanks for the way in which it conducted its business, and I particularly thank the Minister, who did not just follow his brief but clearly cares about the issues concerning my constituent that I have been trying to raise with him for some time. I also thank the hon. Member for Tewkesbury (Mr. Robertson) for the way in which he marshalled his arguments in Committee, and other members of the Committee.

The way in which the matter has been dealt with so far shows the exemplary way in which the House helps individuals throughout the country. I hope that their Lordships will take that responsibility equally seriously and give the Bill a fair wind so that it can help people like my constituent.

5.7 pm

Mr. Sutcliffe: This Third Reading debate epitomises where we need to be with the Bill and its effect on our constituents. We all know constituents with tremendous debt and credit problems. I shall put the matter in context. We have discussed how matters have evolved since the 1974 Act with increased confidence because we have had a stable economy and people have been able to use credit as a tool for good. I referred earlier to how important it is to consider the amount of disposable income that is spent on personal debt.

The hon. Member for Eddisbury (Mr. O'Brien) said that debt is a problem and out of control. I do not accept that. The organisations involved in debt relief accept that a small number of people have debt-related problems, but that most people can handle credit as a useful tool. It is important to legislate 30 years on to ensure that the industry acts responsibly with appropriate marketing strategies and that consumers know the full facts of what affects them when they enter an agreement.

The hon. Member for Eddisbury knows that I always try to be open and to make information available. I am grateful for the comments of the hon. Member for Gordon (Malcolm Bruce). I have tried to keep Opposition spokespeople in touch with developments.

Mr. Laurence Robertson: I did not have the chance to speak on Third Reading, but I thank the Minister for the open and courteous way in which he has treated the official Opposition throughout the Bill's proceedings.

Mr. Sutcliffe: In that spirit, if the hon. Member for Eddisbury feels that the issues he raised were not dealt with in Committee, I will write to him about the detail. He referred to guidance and the Office for Fair Trading, and I want to respond to that major point. I wrote to him before the Committee about the OFT and he was kind enough to take the point about its enforcement activity. I think that that is where the confusion has arisen, because we never intended the OFT to decide on the test of unfairness—it will respond to the outcome of the courts' decisions—so there is no list. There can be no list, for the reasons that I have stated, in terms of the unfairness test, but that is not to accept the point that there is no association with unfairness. As I have said throughout the debate, the variety of bodies are clear about what fairness and unfairness mean and I am sure that it is not beyond the bounds of possibility that we can work within that framework.

Paul Farrelly (Newcastle-under-Lyme) (Lab): Does the Minister agree that the Bill in large measure depends for its bite on the effectiveness of the Office of Fair Trading? He will know, because I expressed this in Committee, that I, along with other hon. Members, have some doubts about the historic effectiveness of the OFT. That is particularly the case in relation to an inquiry on late payment charges—penalty charges on credit card holders, many of whom are on very low incomes—which the OFT has been conducting for nearly a year but for which it still cannot give a concluding date. After this debate, would the Minister, to give Members some confidence, make a point of ensuring that the OFT comes to a fairly speedy although considered conclusion to that inquiry?

Mr. Sutcliffe: I undertake to do that, but my hon. Friend has made the point and he knows that the OFT is regulated. It has to produce an annual report and it has regular meetings with the Secretary of State and me, and clearly we can raise these issues at those meetings. It was Parliament that decided to give powers to the OFT, through the Enterprise Act 2002 and the Competition Act 1998, and I hope that hon. Members will respect that.

The Bill is a vital piece of legislation and I hope that the other place will recognise that. It is true that there can never be unconditional Opposition support for Bills, but I think it is agreed that this has not been treated as a party political Bill, perhaps with the exception of the contribution by the hon. Member for Eddisbury, for understandable reasons. It has been generally a matter of consensus.

Mr. Stephen O'Brien: While we are having a tiny bit of knockabout, let us not lose sight of the fact that Her Majesty's official Opposition are not dividing the House on this issue and indeed are supporting the Bill's progress. I am grateful to the Minister for recognising that he might want to write in relation to some of the points that have been raised. Particularly as, for once, we are not in a time-limited Third Reading debate so we can explore these matters, it is important to state that the letter that he wrote to me, for which I was very grateful, following Second Reading, said that the OFT would provide a note to the House Library, before the Bill reached Committee stage, on the guidance that it would issue. The Library says that it never received that.

which is why I was concerned. I am grateful for his explanation, and if it can be made available before the Lords stages I dare say that would help to clear the matter up.

Mr. Sutcliffe: In the same spirit, I will try to clarify the situation.

I do not want to detain the House, which has not even divided on this legislation. I am grateful for the amount of work that has been done by the Bill team and all those who have been involved. It is important that the House of Lords recognise the spirit of consensus in this place and bear that in mind when it addresses the issues that we have raised. I commend the Bill to the House.

Question put and agreed to.

Bill accordingly read the Third time, and passed.

DELEGATED LEGISLATION

Mr. Deputy Speaker (Sir Alan Haselhurst): With permission, I shall put together motions 2 to 6.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

NORTHERN IRELAND

That the draft Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005, which was laid before this House on 20th January, be approved.

That the draft Insolvency (Northern Ireland) Order 2005, which was laid before this House on 24th January, be approved.

DATA PROTECTION

That the draft Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2005, which was laid before this House on 26th January, be approved.

AUDIT COMMISSION

That the Code of Audit Practice for local government bodies (2005), a copy of which was laid before this House on 27th January, be approved.

That the Code of Audit Practice for local NHS bodies (2005), which was laid before this House on 27th January, be approved.—*[Ms Bridget Prentice.]*

Question agreed to.

DELEGATED LEGISLATION

Motion made,

That the Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005, (S.I., 2005, No. 206), dated 3rd February 2005, be referred to a Standing Committee on Delegated Legislation.—*[Ms Bridget Prentice.]*

Mr. John Randall (Uxbridge) (Con): Looking at the Order Paper, I was wondering whether the Minister would be able to explain to me and to other hon. Members why this piece of delegated legislation was to be referred to a Committee.

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): There was a request to do that, and the Government were happy to comply with hon. Members' requests.

Question put and agreed to.

ITV News Programming

Motion made, and Question proposed, That this House do now adjourn. *—[Ms Bridget Prentice.]*

5.14 pm

Mr. Eric Joyce (Falkirk, West) (Lab): The Scottish Media Group—SMG—is a highly successful independent media group, which is headquartered in Glasgow, but represented across Scotland. For my constituents, the assets most associated with the company are Scottish Television and Grampian Television. However, SMG is also well known for owning the Virgin Radio, Pearl & Dean and Primesite brands.

SMG has been on its own news recently for a couple of reasons; first, because of an active attempt by other interests to purchase Virgin Radio against the wishes of the present board—something that, if successful, some commentators have suggested would precipitate the break-up of SMG as a whole. Such a development might have implications for the quality of independent production and broadcasting, including news broadcasting, in Scotland. I shall briefly mention that later. However, my main purpose today is to deal with the main reason why SMG has been in its own and other broadcasters' news—the group's proposals to opt out of the main UK ITN news bulletin at 22.30, and instead produce a Scottish bulletin to go out on terrestrial television at the same time as the UK version.

The Minister's locus in all this is, as the House will be aware, that public sector service broadcasting obligations are regulated by Ofcom, and it is for my right hon. Friend to set the framework of that regulation. Ofcom exists under the Communications Act 2003 to ensure that the market delivers the right outcomes. The role of the Department for Culture, Media and Sport is to ensure that the 2003 Act continues to reflect the Government's intended policy.

Decisions taken by Ofcom, therefore, must be fully independent of the Government, but over time, it is for the DCMS to decide whether the pattern of Ofcom's decisions is in line not only with current regulation, but with what was intended in the current legislation. In addressing this issue, I am neither calling on the Minister to intervene in an area that is Ofcom's preserve, nor to legislate in any way. My intention is simply to ask for an assurance that the Minister and the Department will take account of the processes that are now under way when, in future, consideration is given to whether the legislation should be amended.

I want to set out the context of the SMG proposals and raise some of their implications for Scotland as a whole. At present, the ITN news bulletin at 22.30, which is fronted by Sir Trevor McDonald, is as much of an institution in Scotland as across the rest of the UK. The main bulletin is augmented by regional programmes, which are different for the two stations: Scottish Television, which covers central Scotland, and Grampian, which covers the highlands. Anyone lucky enough to live in Perth, where I grew up, has a dizzying array of two stations to flip between—a forerunner, I suppose, albeit fairly modest, of today's digital options.

As I understand it, ITN is the nominated news provider and is contracted to provide a main news bulletin service, which is networked across the

[Mr. Eric Joyce]

independent stations in much the same way as BSkyB is currently contracted to provide the Channel 5 service. I have spoken to colleagues about their constituents' perspectives on the UK-wide bulletin, and on the whole, people seem to have a broadly positive impression across the UK.

The content of main ITN news bulletins is, of course, a mixture of international and national news stories. As hon. Members know, regional news programmes carrying regional stories augment the main ITN bulletin for each regional licence-holding station. The judgment on what kind of story, and how big a story, gets into the national bulletin, is, of course, an editorial one. However, in general, it is fair to say that, while regional bulletins will run follow-on stories if a nationally covered story happens locally, much of the regional content consists of stories of interest mainly—or only—to those who live in the local area.

I said earlier that people across the country have a similarly positive view of the main ITN bulletin, and that is true of the regional programme, too. Although that is true in Scotland, the implications of the mix of regional and national are different from those in the English regions, because of devolution. People in the English regions watch regional bulletins primarily because they are interested in what is going on at local level. However, they are less likely to see international and major news and current affairs through the prism of their localised regional identity.

Following devolution, with many important powers devolved to Edinburgh, things are different in Scotland. Indeed, in Scotland, Scotland is not generally considered to be a region, but a nation. That can be a little confusing because it is not, of course, sovereign. However, far from the small minority of the nationalist persuasion, many people view themselves as part of two nations: Scotland and, from a sovereign point of view, the UK. That means that there is greater likelihood today than heretofore that people will look out at the rest of the UK through a different lens than they did before 1999, when devolution was delivered by this Labour Government.

News and current affairs debates in Scotland, just like those about deeper matters of arts and culture, tend to take place along a continuum. At one end, people see everything through the prism of a Scottish identity, and at the other from a UK identity to the exclusion of the Scottish dimension. Some might consider those extreme manifestations of nationalism on one hand and unionism on the other, but the fact is that when considering such issues Scots tend to sit somewhere between the two, striking a good balance.

Devolution saw the Scottish Parliament take up many of the political issues that from a news bulletin point of view seem closer on a day-to-day, week-to-week and month-to-month basis to the lives of Scots. News and current affairs in Scotland have had to evolve to fit the new political ecology. That has meant, for example, a transfer of news gathering and reporting resources from Westminster to Edinburgh, although it should be said that new resources have been deployed and there has been significant growth in the amount of political news reporting in Scotland, in all types of the media but particularly on television.

On the whole, technical standards of news gathering and reporting, and all the associated skills of editing, producing and so on, are of a pretty high standard in Scotland. There is a thriving media community and there is a considerable focus in political stories on areas of policy that have been devolved to the Scottish Parliament.

In addition to legislative devolution and the new configuration of news professionals on the ground, the news agenda in Scotland has been greatly influenced by the creation of many jobs that interface with and inform it. Many of those new jobs are to be found in non-governmental organisations, non-departmental public bodies and of course the voluntary and private sectors. Those organisations have oftentimes up-scaled their Scottish media-orientated operations as a response to devolution. That has tended to create a culture in which people are more likely on a host of domestic issues to look in the first instance for a Scottish rather than a UK perspective.

At one level, that can be technically very straightforward. For example, debate and development of secondary school curriculums will be conducted on the basis that people are primarily interested in what is going on in Scotland. In the past short while, there has been a great deal of debate about the Tomlinson review, which covered England, but the reportage on the UK bulletins did not always reflect the fact that that had direct implications only for England. Of course, the review will have indirect implications for Scotland, because we hope to share best practice in all professional spheres.

Against that background, SMG has made a series of proposals. The proposals take into account the fact that some issues in Scotland are not always best covered through a UK lens. It is a moot point whether we can change the way that the bulletins are produced and edited at a UK level so that they are more sensitive. To be honest, that has been the case for some time. However, they cannot always be exactly right; the flavour and tastes will be different, and there is something to be said for proposals that might lead to a greater sensitivity in news values. SMG says that its proposals would produce the benefit that UK bulletin stories that are essentially English could be replaced altogether, or in some cases qualified. So, if there were a 22.30 opt-out bulletin, some stories would not run in Scotland. Other stories would run in Scotland and have their terminology altered.

The tailoring that SMG proposes in opting out of the 22.30 bulletin and producing its own version would apply also to the next level, and Scottish regional programmes would be produced. Scottish Media Group once owned Scottish Radio Holdings, and thus local radio stations across Scotland. Tailoring of a locally produced Scottish bulletin could broadly reflect the regions, including Edinburgh, Tayside and Grampian.

My understanding is that Ofcom takes a generally benign view of the proposals to have a greater degree of local variation and to opt out of the 22.30 news—although it would still be edited in London, it would be produced and delivered in Scotland. In principle, I regard the proposals as positive. SMG has a strong track record in news and current affairs production. Any misjudgments regarding the purpose or the operation of a new news configuration would probably result in a loss

of revenue as fewer viewers switched on and advertising revenue fell. My main concern is to ensure that, as with the BBC Scotland proposals, quality is at the centre of the equation.

Let me briefly describe the BBC's proposals for the "Scottish six"—the 6 o'clock news. There was a great deal of debate in Scotland about whether Scotland should have its own 6 o'clock bulletin and opt out of the UK one. On one side, people argued that to opt out would be to yield to a nationalist perspective; on the other, people said that the standard UK bulletin could be seen as unyielding in the context of devolution. In the end, BBC Scotland decided not to opt out, but its decision was based on resources: it thought that an excessive amount of resources in Scotland would be required to deliver a bulletin of the same quality. Quality was the key variable, and I generally agree with the decision.

Angus Robertson (Moray) (SNP): I am following the hon. Gentleman's argument with close interest, as one who used to report for the BBC and is keen to see the best news agenda delivered to all viewers, regardless of where they live. Is he saying that, in principle, if there were no technical objection and no financial impediment and if Ofcom and the BBC agreed that all bulletins could be produced with Scottish viewers in mind and with the right news order for Scottish viewers' interests, all bulletins in Scotland should be assembled in that way for both the ITV network and the BBC?

Mr. Joyce: That is a perfectly reasonable comment. In my view, such decisions are for professionals to take—the judgment is an editorial one. I am not hung up on the precise configuration. What I want is the right kind of service to be provided to my constituents. BBC Scotland's decision was essentially correct, but ultimately it was an editorial judgment made by the experts in the field, not a political judgment.

I shall not attempt a comprehensive definition of quality. Suffice it to say that it should cover the standards of news gathering and reporting, as well as some sense of perspective. If an unintelligent approach were taken to changing the configuration, some vested interests might, in particular political contexts, take advantage. Quality must be safeguarded; it sits at the heart of the issue.

As a commercial organisation, SMG must square its obligations to produce quality news programming with its obligations to its shareholders. It may well be that in discussions with Ofcom about licence renewal, SMG will seek to acquire additional resources or to recoup some of its losses—the costs will increase considerably—through negotiation of the price of the renewal. I do not know what position Ofcom will take in that respect. I have an open mind. I realise that Ofcom has to be even-handed across the network, but I believe that SMG should be given a chance to put its case. Public money—or, if the price is lowered, public money forgone—is involved, but if SMG makes creative proposals, which I believe are worth examination, albeit with some caution, there should be the possibility of Ofcom considering the price of renewal. I believe that there are other devices that could help to establish a new system, but it is technically possible for Ofcom to accept a lower price for the licence.

My final point is not tangential—I am sure that you would call me to order if it were, Mr. Deputy Speaker—as it concerns output in Scotland. SMG faces a hostile bid for one of its important assets, and some people are concerned that a successful takeover of Virgin Radio by a single interest could precipitate the break-up of SMG. SMG stations deliver about five and a half hours of news output every week, which is well above the average. In England, it appears that news output will be reduced, which would be a pity. SMG, however, is committed to maintaining its output. It is not for politicians to make unnecessary interventions in the market, but I would like to be confident that if SMG were broken up—I do not think that that will happen soon—the new owner would maintain the obligation to produce a high news output in Scotland. There is great appetite in Scotland for news, not least because of devolution. That is a positive development, and I hope that whether or not the SMG empire stays together—conflicting views on the issue are expressed in the financial press every day—total news output across Scotland will remain the same.

Much of this is initially in the domain of Ofcom, but it is for the Minister for the Arts and the Department for Culture, Media and Sport to watch what happens carefully to see if there are dysfunctions resulting in undesirable outcomes for people across Scotland and the country. Such things should be taken into account when legislation is introduced. I should therefore be grateful for an assurance from the Minister that notice will duly be taken of the matters that I have raised.

5.32 pm

The Minister for the Arts (Estelle Morris): I welcome the opportunity to respond to the Adjournment debate secured by my hon. Friend the Member for Falkirk, West (Mr. Joyce). He was correct to say that initially these are matters for Ofcom. Having introduced the relevant legislation, the Government should leave the regulator to get on with it. I accept that it is the Government's responsibility to make sure that legislation is effective. It is early years for Ofcom, but that process will take place.

We should approach our debate as a message to Ofcom. It is entirely proper and welcome that we hold such debates in the House, but I am not in a position to reply on its behalf. To provide a context for the SMG proposals, I shall set out the legal strategy behind the Communications Act 2003 and Ofcom's guidelines. This is essentially a Scottish issue, as the hon. Member for Moray (Angus Robertson) said. Both local and national politicians know that news is incredibly important, and all the evidence shows that news broadcast on television is more likely to be considered a straightforward and objective representation of events than news in the newspapers. I share that view.

Interestingly, every survey that has taken place shows that people rate local news services most highly. That is not to say that they do not want national coverage, but they rate local news services most highly. The BBC's regional news at 6.30 pm is the most watched news programme. Having said that, I accept what my hon. Friend said about the importance of national news. I do not want to go into what the Scottish electorate might think is more appropriate for them, but I will refer to the SMG proposals at the end.

[Estelle Morris]

Because of the importance of news, both local and national, the Communications Act 2003 gave Ofcom the duty to ensure that all licensed public service channels include high quality news and current affairs programming, covering both national and international matters. That may be helpful to my hon. Friend, given his reflections during the debate on national news and the coverage of international matters, and, I suspect, the interface between local and regional news. Clearly, in some instances there will be news that is both local and national, depending on who is listening to the broadcast, so sometimes it may be difficult to draw the dividing lines. Almost in defence of democracy, we need high quality regional news, as local as it can be, but national news to give us that sense of national identity and to enable everyone to take part in democratic processes.

What my hon. Friend did not touch on, but a matter that is very much behind this debate and which was particularly relevant to yesterday's announcement, is that the debate about how news is broadcast and what news is broadcast, at which time of the day and for how long, is very much governed by the great changes that are taking place in broadcasting and will continue to take place during the next 10 years.

Ofcom has two responsibilities—first and foremost, to ensure that the duty to make sure that licensed public service channels include high quality news and current affairs programming is kept to, but at the same time not to fail to understand that that public service news broadcasting obligation takes place against the background of many more digital channels, and that without doubt people's increasing decision to access digital channels has an impact on the public service broadcasters.

Angus Robertson: That is exactly why SMG's idea is so interesting. Anyone watching STV or Grampian on one channel in Scotland would be able to watch main news bulletins from a Scottish perspective covering Scottish, UK and international affairs, and at the same time, if one wanted to watch the network UK-produced programme, one could do so on another digital channel. No one would lose anything; everyone would gain something through being able to make a choice.

Estelle Morris: I see the point in that. There is then the issue on a commercial station such as SMG, as opposed to the BBC, of the point at which the number of people buying into digital channels are not choosing to watch news programmes on SMG, for example, making them financially unviable, or the price that is being paid for a bit of the channel not being worth the money. Then we might get to the situation where the only people with such a public service obligation would be the BBC. Certainly one of the obligations of Ofcom is to ensure that there is a competitor with the BBC for regional news programmes. It is an interesting debate as to whether in this week of all weeks one could say of the BBC, "That is our public service broadcaster; the others need not be bothered with that." At the moment, we want that competition, and Ofcom must ensure that there is that competition between the BBC and ITV. ITV has a duty to provide a high quality nationwide news service capable of competing with the BBC.

To some extent, during the next five to 10 years, we will have to work out those three matters—the role of the BBC as a public sector broadcaster; the role of commercial television as a competitor in terms of its public service broadcasting obligations; and at the same time the digital channels coming in will give members of the public that very choice with which the hon. Member for Moray is concerned. No doubt the debate will continue.

I should like to comment on the review that Ofcom has recently conducted, although I shall not go into too much detail. As hon. Members will know, the review is in three parts, and looks at how public service channels honour their public service obligations and speculates on how that might change with the digital outcome. Last week the third part was published, on how we ought to move forward in the evolving the digital market.

One of the major conclusions was that our targets—the quota on allocation of time for local news—should remain. That is an incredibly important part of the infrastructure for Ofcom. The obligation of five and a half hours of local news a week should remain. If we consider the issue historically—and we do not have to consider it too historically—we see that the amount of time has actually fallen, which has always concerned me. That is why the bottom line of five and a half hours is incredibly important as we work out the challenges and how to respond to broadcasting over the next few years.

ITV spends more than £100 million a year on news provision, which includes more than five and a half hours of local news a week. That equates to more than 3,000 hours a year, across 15 ITV regions and 27 sub-regions. Many in the industry wonder whether that is financially sustainable in a digital multi-channel market.

The amount of local and national news broadcast is one issue, but my hon. Friend the Member for Falkirk, West also talked about quality. We must do two things: monitor the amount broadcast, but also consider the quality of what is broadcast. The SMG's proposals address the latter part of that analysis—the quality of what is broadcast.

SMG, the operator of both Grampian and Scottish Television, suggests that the requirement to broadcast a half-hour lunchtime bulletin in the Scottish Television region should be removed. The evidence on who watches what shows that the lunchtime bulletin receives only an 11 per cent. share of the audience, whereas the evening local news bulletin receives a 24 per cent. share. Just as an observation, the issue is something for SMG to work out and put to Ofcom. The decision to cut one bulletin and put resources into the other is a response to what the evidence shows. In the SMG's view, the issue is about quality and it is saying that it can fulfil its public service obligation, but at the same time if it moves the resources about, it might be able to put more resources into the news broadcasts that people watch more. In the debate about how SMG fulfils its obligation, it is important to remember that the question is not only whether, but how.

As my hon. Friend said, SMG submitted two proposals to Ofcom. The first proposal, which he addressed for most of his time and in which he has a particular interest, is for SMG to explore a micro-regional news service, using the latest technology to

provide opt-out services across its coverage areas. That would provide a more local service to a specific area, instead of the one currently provided by a regional service.

The second proposal is to work with ITN to develop what SMG calls—these were the words that my hon. Friend used also—a tailored Scottish version of the 10.30 pm UK and international news. There are no plans at this stage to opt out of the 6 pm bulletin. That service would feature largely the same material as elsewhere in the United Kingdom, although it could be re-edited or omit stories of less relevance to Scotland.

The agenda that SMG has outlined—I welcome the tone with which my hon. Friend introduced the debate—is an interesting proposal for the way ahead which secures the minimum number of hours of local and national news and responds to what the evidence says about what people want to watch. However, the proposals also extend into the debate about what is national news and what is regional news under devolved Government, where there is both a strong Scottish national identity and a strong United Kingdom identity. I am pleased that SMG has made this proposal, as it is exactly the sort of thing that we need to discuss. We cannot say that there will be no change, but we do need a bottom line that is non-negotiable. As a Minister, I welcome the SMG proposals, in that they open up consultation and a wider debate.

Although I do not want to say that I approve the content of the proposals, I believe that it is entirely proper for Ofcom to offer them for consideration. I come from Birmingham, which is situated in the west midlands—that is, in the middle of the UK. Strangely enough, the debate there about national news as opposed to regional news is the same as the debate being held in the other nations of the UK.

The comments made in this debate by my hon. Friend the Member for Falkirk, West and the hon. Member for Moray are relevant to the consultation process, which ends on 19 April. I suspect that this is not the last that we shall hear of this matter, but I end by confirming that this House has a responsibility to ensure that all our constituents, wherever they live, have access to high-quality national, international and regional news. How that news is delivered will change over the next 10 years as the technology develops, but that is also a good thing.

I am pleased to have had the opportunity to reply to this short debate this evening.

Question put and agreed to.

Adjourned accordingly at fourteen minutes to Six o'clock.

House of Commons

Friday 4 March 2005

The House met at half-past Nine o'clock

PRAYERS

The Chairman of Ways and Means took the Chair as Deputy Speaker, pursuant to the Standing Order.

[MR. DEPUTY SPEAKER (SIR ALAN HASELHURST) *in the Chair*]

Orders of the Day

Health and Safety (Directors' Duties) Bill

Order for Second Reading read.

9.34 am

Mr. Stephen Hepburn (Jarrow) (Lab): I beg to move, That the Bill be now read a Second time.

I am proud and honoured to be able to present this Bill to Parliament on behalf not only of all the workers in the United Kingdom, but of the families who have suffered from bereavements in the workplace. Some of them are in the Gallery today.

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. This is just a small correction, but no reference should be made to anything other than what is happening in the Chamber.

Mr. Hepburn: I beg your pardon, Mr. Deputy Speaker.

The Bill has received widespread support not only in the House, but in the country. It has received widespread support from the vast majority of Back-Bench Members of Parliament, and received the backing of former Ministers and Secretaries of State, some of whom, I am pleased to see, are here today to support the Bill.

Mr. Eric Forth (Bromley and Chislehurst) (Con): The hon. Gentleman has just said that the Bill has received support from the vast majority of MPs. Frankly, if one looks around the Chamber, it does not look like that. Presumably he is confident that when we have a Division at the end of the debate—I hope we will—he will be able to back up his assertion with numbers in the Lobbies. If the Bill has the support that he says it has, Members will presumably be here in their numbers to express their support by their presence.

Mr. Hepburn: I hope that when we have the vote, that will prove true.

Tony Lloyd (Manchester, Central) (Lab): Does my hon. Friend agree that the small number of Conservative Members present is a rather sad reflection on the fact that such an important issue does not seem to attract their interest? In particular, will he challenge the right hon. Member for Bromley and Chislehurst (Mr. Forth) on whether he intends to oppose the Bill? If he does, that would make the important statement that the Conservative party does not want such legislation.

Mr. Hepburn: In fairness to the right hon. Gentleman, he assured me that he would not pull any procedural moves to wreck the Bill, although he will speak and vote against it. I respect him for that.

The Bill has received constructive comments from the Opposition parties, especially the Liberal Democrats, who have been very enthusiastic about it even though they wish to iron out the provisions in one or two clauses. The official Opposition spokesman has also made constructive comments.

The main thing that has struck me about the Bill is the support that it has received from the country at large. It has received support from organisations such as the Transport and General Workers Union, the Union of Construction, Allied Trades and Technicians, which is my trade union, Amicus, Unison, the Fire Brigades Union and the TUC. Before the right hon. Member for Bromley and Chislehurst (Mr. Forth) says that only the trade unions are backing the Bill, I shall point out that it is also supported by the Centre for Corporate Accountability, the Occupational and Environmental Diseases Association, the Association of Personal Injury Lawyers, the corporate responsibility coalition, faith groups and charities, decent employers, the Simon Jones memorial campaign and the many families and loved ones of victims in the workplace.

Mr. Andrew Dismore (Hendon) (Lab): One of the groups that my hon. Friend left off his list is the CBI. When it gave evidence to the Work and Pensions Committee on issues of health and safety, it told us then that it supported the idea.

Mr. Hepburn: I appreciate that comment. Other employer groups, which I shall mention in my speech, have also given their support to the Bill.

What does the Bill do? It seeks to introduce statutory health and safety duties on directors. Why should there be such responsibilities on directors? The simple answer is that directors matter. They control the policy and agenda of a company and they control its investment decisions. They are therefore in a position to control health and safety in a company. They are its controlling minds. They can determine how much is spent on health and safety and the priority that is placed on it. They can also identify unsafe working practices through their network throughout the company and are able to change them. In other words, directors have all the power within a company, especially over health and safety if they want it, but they have no responsibility under the law for health and safety.

Why do directors need statutory responsibility? Because, quite honestly, the law is not working. Over the past two years, there have been about 620 deaths in the workplace. The Health and Safety Executive, which is no left-wing think-tank of the Labour party or the trade union movement but an independent body, has said that

[Mr. Hepburn]

70 per cent. of those deaths and injuries in the workplace could have been prevented, because they involved management failures.

Mr. Forth: The hon. Gentleman mentions the HSE—he may get to this later in his speech—but can he tell me whether the Bill applies equally to the public sector and private companies with directors? Will the Bill apply, for example, to the HSE itself? A lot of its employees are often put in positions of risk and danger, so will those in charge of the HSE be covered by the Bill?

Mr. Hepburn: That is a very good point. With private Members' Bills, as the right hon. Gentleman is well aware, there is limited time and limited political movement. The likes of the right hon. Gentleman may try to talk out the Bill, but I would welcome such provisions being passed on to the public sector. If he is willing to support the Bill today and hon. Members allow its consideration in Committee, I would welcome an amendment from him to include the public sector, so everyone would be covered by these arrangements, but I have limited time and little political movement with the Bill.

Mr. Nigel Evans (Ribble Valley) (Con): I hear what the hon. Gentleman says about his desire to improve the Bill in Committee. As he knows, I introduced a private Member's Bill last week and I was hopeful that I could get it into Committee as well, but I did not have the Government's support. Have the Government given any indication of whether they support the Bill and want it to be considered in Committee?

Mr. Hepburn: Let us wait until the Minister answers. That is probably the best way to deal with that question.

Why do we need to impose statutory duties on directors? The law is not consistent. How can that be fair? How can we justify the fact that, if a director financially mismanages his company, he can go to jail for seven years, yet if through his gross negligence, he causes the death of an employee, he can walk away scot-free? That simply cannot be justified. The law is inconsistent and the law is not just.

Mr. Dismore: The Bill does not specifically refer to the offence of corporate manslaughter. Does my hon. Friend agree that it is very important that the Government introduce their long-promised proposals on the issue and that, of course, they should include the public sector as well as the private sector?

Mr. Hepburn: I welcome those comments. I welcome the Government's proposals, but I do not think that they go far enough, to be perfectly honest. The Government have turned around and said that they would introduce a corporate manslaughter Bill and reform company law. Although they may suggest that their Bill on corporate manslaughter will introduce harsher penalties, we will still be in the same position unless there are statutory duties. The point of the Bill is to introduce statutory duties for directors in the same way as there are the statutory duties on employees and even on the public. So why should companies and company directors not have the same statutory duties?

The law is not just. As I have said, the HSE report refers to 620 workplace deaths, yet only 23 directors were convicted. Throughout that period, the average fine imposed after prosecution was £6,500. The law is clearly unjust and unfair. Hon. Members may say that section 37 of the Health and Safety at Work, etc. Act 1974 states that, if a director is negligent, he can be prosecuted. In fact, that cannot be done under the current legislation because a director does not have statutory duties in the workplace. The company has those duties, and the director can hide behind that fact.

Jim Sheridan (West Renfrewshire) (Lab): My hon. Friend talks about directors' legal responsibilities, but does he agree that directors have moral responsibilities—particularly those Members of Parliament who have lucrative directorships? Would it not be helpful if they took the lead and supported the Bill?

Mr. Hepburn: I think that there would be a conflict of interest, but I appreciate my hon. Friend's statement and I agree with him entirely.

At present, the Government rely on a voluntary code. Although the code is laudable, as it was drafted by the Health and Safety Commission—excellent—it is not working. It is worthless. Fewer than half the companies in this country report health and safety issues to their boards, so thousands of companies are ignoring the HSC's voluntary code of conduct.

Mr. Tony Clarke (Northampton, South) (Lab): On companies not taking seriously health and safety matters, does my hon. Friend agree that it is an outrage that, when the HSE considered the amount of time that directors spent at board meetings discussing health and safety, it found that more than 50 per cent. of companies had not discussed health and safety in the past three years? Is that not the crux of what we are trying to do? We want to make them responsible not just for their staff, but for discussing health and safety issues at part of their everyday business.

Mr. Hepburn: I entirely agree with my hon. Friend. This is a very simple Bill: all we are trying to do is bring health and safety responsibilities and awareness into the boardroom, so that the controlling minds of the company can make a real difference.

Mr. Dismore: Following the previous intervention, I wonder whether my hon. Friend has had the opportunity to look at the Government's response to the Select Committee on Work and Pension's report on the HSC's and HSE's work, where the Government say that an estimated one in six organisations in which boards do not provide such direction or take such responsibility have no plans to do so either.

Mr. Hepburn: My hon. Friend makes a very good point that epitomises the Bill. The purpose of the Bill is to bring health and safety into the boardroom, where the controlling minds of the company are found, thus putting such issues at the forefront of business to safeguard workers.

Tens of thousands of companies are ignoring the Government's recommendations that they should adopt and comply with the voluntary code. Let us make no

bones about it. Even if every company in this country—there are about 3.7 million of them—signed up to the voluntary code, it still would not be worth the paper that it is written on, because at the end of the day, it is not backed up by law. A prosecution can never be brought against a director for negligence if it is backed by a voluntary code. The voluntary code needs to be backed up by the law of the land.

Last year, one person died every day in this country because of a workplace accident. I happen to be involved in the construction industry. I am a member of UCATT—the construction trade union—and I worked in construction some years ago. The construction industry accounts for about 7 per cent. of the work force in this country, yet it accounts for 30 per cent. of deaths in the workplace. That is absolutely disgraceful.

My hon. Friend the Member for Hendon (Mr. Dismore) mentioned employers' organisations and the CBI's warm support for health and safety matters. The Construction Confederation—the employers' organisation—has expressed support for the Bill's principles. It said that the Bill would "reinforce corporate accountability" and

"ensure that boards of directors take on ownership of health and safety management."

That is our purpose: we are here today to bring that about.

We are all aware of the headline-grabbing, tragic incidents and accidents that have happened in this country in the recent past: the King's Cross fire, where 31 people died; the Southall rail crash, where seven died; the Paddington rail crash, where 31 died; the Hatfield rail crash where seven died; and the Potters Bar rail crash, where seven died.

Jonathan Shaw (Chatham and Aylesford) (Lab): May I add to my hon. Friend's list the Herald of Free Enterprise incident, where 188 people died? This Sunday, its 18th anniversary memorial service will take place in Dover. I know that the relatives and survivors of that incident will be pleased to hear his words and support the Bill.

Mr. Hepburn: I appreciate my hon. Friend's comments and his thoughts on that tragic incident.

I gave the headline incidents, but every day of the week a worker dies in the workplace. Those people do not make the headlines.

Mr. Michael Clapham (Barnsley, West and Penistone) (Lab): The statistics show the devastating effect of work on ordinary people's lives, but another aspect is the way in which many people's health is affected by exposure to a variety of things, in particular asbestos. My hon. Friend worked in the construction industry, where asbestos was used widely. We know that at least 83 people die each week as a result of cancers or chest diseases that have been caused by exposure to asbestos. As a result of one of the latest studies, we know that the number of people who are likely to die between 2000 and 2050 as a result of exposure to asbestos is 186,000 in the UK alone, yet we have had legislation since 1974. He referred to section 37 of the 1974 Act, and it is clear that that has not worked, because many people were exposed negligently to asbestos after 1974. The Bill is important because it would tackle that problem.

Mr. Hepburn: I thank my hon. Friend for his comments and for his work on health and safety in exposing consistently the problems that workers face.

I mentioned the headline incidents, which are tragedies, but every week the number of workplace deaths add up to another Hatfield rail crash and every month the number of workplace deaths add up to another King's Cross fire. Rather than talking about the statistics, however, we should talk about the people: mothers, fathers, sons, daughters, loved ones and individuals. One of my constituents, Mr. Tom King, an elderly gentleman, came to see me. His only son went to work on an oil rig in Scotland and died in a tragic accident. He has explored every channel and gone down every path, and I have tried my best, but without justice. The sheriff at the Scottish fatal accident inquiry into the case of Richard King said that it was inexcusable that no individual had been prosecuted. In the light of that, how can anyone oppose such a simple Bill?

Since launching the Bill, I have spoken to many families and they have the same stories and tragedies to relate. We met some at a reception in Parliament last night. Simon Jones's mother, Anne Jones, gave a heartbreaking story about the trauma that she has suffered. We come across such stories every day.

Harry Cohen (Leyton and Wanstead) (Lab): I was at that reception and the relatives of people who had died had terrible stories to tell. Did my hon. Friend also discover the shocking fact that inquests are not held? Although the law is not properly in place to hold directors to account for health and safety problems, the bureaucracy goes through the process of considering the law as it is and, after years, nothing is done and directors are not prosecuted. In the meantime, inquests are not held, and it might take years until they are. That is not justice for the families. Did he hear about that from the relatives?

Mr. Hepburn: Absolutely. Part of the Bill's purpose is to bring justice to families by closing the justice gap. At the moment, families that have suffered tragedies cannot get justice. People come to see me and other Members of Parliament because their loved ones were killed in accidents that were later proven to be preventable. They see negligent directors escaping the law. Families have been broken emotionally and financially by their pursuit of justice, which they have never been able to get. If there are still doubters, they just have to read Mr. Justice Scott Baker's comments on the 1997 Southall rail crash. He said:

"it is virtually impossible to bring a successful prosecution against a large corporation"

in current law.

The HSE says that 70 per cent. of workplace deaths and injuries were caused by management failures. The logical step is to assume that they could have been prevented. That is why the Work and Pensions Committee, on which Opposition Members serve, recommended legally binding duties on company directors. It studied the evidence and facts, considered

[Mr. Hepburn]

the figures and interviewed the experts, and came up with that independent view. The report says that legally binding duties on directors would have a positive impact on the current levels of preventable workplace deaths and injuries. Unfortunately, the Government rejected that advice. I hope that in the light of this debate and the debate that has been going on around the country since that report was published, the Labour Government go back to the 2000 commitment to introduce legally binding duties.

The Bill is about preventing deaths in the workplace. It would also make economic sense. About 38 million working days were lost last year as a result of deaths and injuries in the workplace. That makes no sense to the individual who is injured, because he loses his wages. It makes no sense to the country, which has to pay benefits and sick pay. It makes no sense to the company, which loses out on both productivity, because that worker is off, and subsequent profits that that worker would create. The Bill would create a level playing field between those decent companies that comply with the voluntary code and those rogue operators that do not. Surely it is a good economic argument to raise everyone's standards up to that attained by decent companies, rather than lowering standards down to those of the spivs.

The Bill has given rise to many myths about red tape, bureaucracy and placing extra duties on directors. I cannot see that happening and nor can the Government. They are telling all companies to abide by the voluntary code, although companies do not seem to care to do it. If that is not red tape today, it would not be red tape tomorrow if it became the law of the land. Someone might say that extra responsibilities and duties would be placed on directors, but they already have responsibilities. They have legal burdens for finance because they have to return their tax and VAT forms. They have legal burdens because of equal opportunities law and the Freedom of Information Act 2000. Why then, when we talk about saving people's lives in the workplace, do people talk about placing legal burdens on company directors?

The Government's promised draft Bills have been mentioned. Draft Bills on corporate manslaughter and company law reform are due to be introduced later this year after a process of negotiation. Although any improvement in health and safety is welcome, it does not go far enough to address the problem. Even the Government say in their press release on the draft Bill on corporate manslaughter that it

"would not be a suitable basis for prosecuting individual directors."

All the proposed corporate law reform would do is codify existing commercial duties to shareholders, customers, clients, creditors and suppliers—everyone at the bottom of the balance sheet—but it mentions nothing about the worker and health and safety.

My Bill is simple. It makes two proposals and would not go as far as the voluntary code of conduct, which the Government urge companies to take on. It takes in only points 2 and 5 of that code. First, the Bill would place a legally binding duty on all company directors. That would be a general duty to take reasonable steps to ensure that companies comply with the health and safety law of the land. How simple. Those reasonable steps would not be outlined by the Government; they would be handed over to the Health and Safety Executive. Nobody could say that the Government's hands were all over business. There would be no extra regulation. The HSE could sort out the code of conduct—between directors' and non-executive directors' roles, for example.

Secondly, the Bill would require the appointment of a health and safety information director in a large company. Why a large company? Small and medium-sized companies might have only two or three directors whose roles are pretty transparent—they all tend to be hands on, everybody knows what is going on and they are traceable in a trail of events—but large companies might have up to 50 directors. As we have seen in the aftermath of some of the headline-grabbing disasters, one director of a large company might not always let another know what is going on. The job of an information director would be to spread health and safety information throughout the company to ensure that every director knew what was going on.

An information director would inform the other directors of the measures that needed to be taken for the company to comply with health and safety legislation and of any health and safety failures, and would ensure that any deaths and injuries in the workplace were reported to the board of directors. It is quite simple: an individual would disseminate information to directors throughout a company so that, in the event of disasters and tragedies such as those we have seen, nobody could say, "Well, I didn't know about that, because he was doing it." To anyone who might ask whether I am proposing a director for carrying the can, the answer is no.

Mr. Dismore: I want to follow up the point made by the right hon. Member for Bromley and Chislehurst (Mr. Forth). I know that my hon. Friend's Bill does not deal with the public sector, but if it makes progress, I would hope that we could address that matter. I give a specific example. As a lawyer, I represented the victims and bereaved of the King's Cross fire. The Fennell inquiry into the disaster criticised not only London Underground but the way in which, from a health and safety perspective, the London fire brigade firefighters dealt with the incident. That should also be covered by similar responsibility arrangements.

Mr. Hepburn: I agree, but as I mentioned, a private Member's Bill has limited political manoeuvring and parliamentary time. As I said to the right hon. Member for Bromley and Chislehurst, if my hon. Friend wants to bring forward such proposals when the Bill goes into Committee, we could take that on and improve the legislation even further.

Mr. Forth: I will return to this matter subsequently if I catch your eye, Mr. Deputy Speaker. On my reading of the short and long titles, it is extremely doubtful that we would be able to amend the Bill to meet the problem that I and the hon. Member for Hendon (Mr. Dismore) have outlined. I am sure that the hon. Member for Jarrow

(Mr. Hepburn) does not intend to lead us astray, but on my reading of the Bill—and my knowledge of procedure is imperfect—we could not do what has been suggested.

Mr. Hepburn: I appreciate those comments and the right hon. Gentleman's advice and experience in the Commons. If he is willing to support the Bill and for it to cover the public sector, I am sure that everybody on the Labour Benches would support him. I do not understand why you are raising the matter, because you have no intention of supporting the Bill—

Mr. Deputy Speaker: Order. I am sorry to have to correct the hon. Gentleman again on a small procedural point, but he must not say "you", as that means me. He must refer to the hon. or right hon. Gentleman.

Mr. Hepburn: Thank you, Mr. Deputy Speaker.

Mr. Jim Cousins (Newcastle upon Tyne, Central) (Lab): Does my hon. Friend acknowledge that the present Government have wisely introduced a procedure whereby every breach of health and safety regulation in the public sector that requires Crown censure must be brought to the attention of relevant Ministers? His Bill introduces a comparable procedure to the workings of large companies. In that sense, it is extending into the private sector improvements that the Government have already made in the public sector.

Mr. Hepburn: I appreciate those points and that clarification.

To return to the second principle of the Bill, the health and safety director would not be carrying the can in the company. He would not become the scapegoat director, because the first principle of the Bill is that there would be a legal duty on all directors to take cognisance of health and safety matters. So the Bill would create not a blame culture but a responsibility culture. We are trying to introduce to the boardroom a responsibility culture to try to prevent workplace accidents.

Tony Lloyd: Although my hon. Friend says that the Bill is about creating not a blame culture but a responsibility culture, there is significant merit in having a named director who is responsible for health and safety. One sensible amendment, on which I am sure the right hon. Member for Bromley and Chislehurst would want to support me—I know that my hon. Friend does not intend his Bill to do this, but it would move us in the right direction—would be to require a designated named director who would have responsibility, and who in breach of it would end up in the worst possible cases before the court. One problem is that there has never been the opportunity to prosecute the controlling mind or the mind at fault when great or less well known tragedies occur. Therefore although I totally support the Bill, I urge my hon. Friend to take it a little further in Committee.

Mr. Hepburn: I understand entirely my hon. Friend's point, but that is not the purpose of this Bill. The named director will be merely a facilitator of the dissemination of information to a number of directors throughout a large company, in order to ensure that everyone knows what is going on and that there are no health and safety slip-ups.

Mr. Tim Boswell (Daventry) (Con): Would the hon. Gentleman tell the House how he envisages the named director for information functioning in a company that is part of a group that comprises a large number of subsidiary companies? Does he have in mind—we could explore this in Committee—whether there would be a single person responsible for information on the entire group's activities, or would that be devolved to individual companies? Is there some uncomfortable join to be explored?

Mr. Hepburn: The hon. Gentleman raises a very good point. That is exactly what this Bill is about. He talks about disparate organisations in a large company, and that is why large-scale tragedies have occurred; the left hand does not know what the right hand is doing. The information director would work from the top, disseminating information on health and safety practices and on avoiding problems throughout the company.

All my hon. Friends and I ask is a simple thing. Let any director who is so negligent and irresponsible that he causes the death of one of his employees be held accountable under the law, just as a member of the public or an employer would be. What can be more simple and fair than that? It is a simple Bill that would bring about positive change, greater responsibility in the boardroom and increased accountability of directors, and would improve the safety of workers and deliver justice for victims.

The existing law is patently not working. It fails to impose legally binding duties on the one group of people in a company who can make a difference to workers' welfare and safety—the directors. The voluntary code is ineffective; it is failing to change the boardroom culture that the Bill is designed to change. The only way to make a difference is to impose legally binding health and safety duties on company directors. The health and safety experts say that, the Work and Pensions Committee says that, and the Bill says that; it is also what the Government once believed.

The Government have asked the Health and Safety Commission to report in December on the effectiveness of the voluntary code, but the code is not working at all. Between now and then, one person each day will die in a workplace accident. We have to ask ourselves how many deaths could have been avoided had the provisions of the Bill been enacted. It is time to think again about directors' duties—there is no doubt about that. It is time to ensure safety in the workplace, responsibility in the boardroom and justice in the courts. We must ensure that the Bill goes through today.

10.11 am

Malcolm Bruce (Gordon) (LD): I support the Bill, although I am concerned about one or two aspects of it. I shall share with the House my direct experience of accidents in which liability was established but prosecution of individuals was not possible under existing law.

In my constituency, there are many workplace accidents for which there is no directors' liability. I have in mind accidents on farms involving self-employed

[Malcolm Bruce]

farmers. In the past 18 months, a farmer in my village managed to get on the wrong side of a bale of hay—one of the rolled-up bales, which weigh about a tonne. It started to roll and he—foolishly, but probably impulsively—tried to stop it and was killed. Today in my village the funeral takes place of a 10-year-old boy who died in another completely unforeseen farm accident, albeit it was not a workplace accident. The boy was rolling snowballs on his friend's father's farm and a quarter-tonne snowball rolled down the hill on top of him, killing him instantly.

No one can be held responsible for such accidents—they cannot be foreseen. We cannot eliminate all accidents, but there are some accidents that raise clear issues that the Bill is designed to address. Many of my constituents work in the offshore oil and gas industry, in which, regrettably, accidents do happen. I do not suggest that the industry has an appalling safety record or a bad safety culture—quite the contrary. I can hardly recall a meeting with the directors and operational heads of any of the significant North sea operators in which safety has not been raised by the management and directors themselves, anxious to assure us that the safety culture is something that matters offshore. None the less, accidents happen.

Mr. Boswell: Does the hon. Gentleman agree that in almost all cases there is a strong business case for having an active safety policy? It is as much in businesses' interest as in their employees'.

Malcolm Bruce: I agree. The case that I intend to set out is an example of extremely bad business practice, which led to the company's being liquidated, but not before someone had lost his life.

Tony Lloyd: The hon. Gentleman will remember vividly the Piper Alpha disaster. Although I appreciate that it led to a change in attitude in the North sea oil industry, at the time the committee of inquiry found that, despite the business case for doing so, the oil companies did not have proper health and safety policies. It is important to recognise that when the oil companies that operate in the North sea operate in more marginal parts of the world—west Africa and the far east, for example—their safety record is nothing like as good as it is in their North sea operations. That is because public pressure and a legal framework to protect ordinary people are not present in such areas.

Malcolm Bruce: The hon. Gentleman anticipates my speech. I was going to say that there was plenty of evidence that Occidental did not have an acceptable safety culture, which is why the company no longer operates in the UK—indeed, it no longer operates. That makes the hon. Gentleman's point well, but it is no comfort to those who have been bereaved because of negligent practices. I agree entirely that good businesses and good business practices promote safety. Such companies have nothing to fear from the Bill, but in some cases good business practice does not apply, and negligence—wilful or otherwise—is a significant contributory factor in loss of life.

The Cullen inquiry into the Piper Alpha disaster examined various possibilities, including the Norwegian option, but decided, rightly, to propose an alternative regime, which has since been enacted in the UK. The Norwegians had tried to establish an extremely complicated legal framework to force everyone engaged in the operation of a platform to follow, in effect, a tick list, but the evidence showed that that did not produce as good a result as making the operator responsible for the safety case of its installation and for satisfying the Health and Safety Executive on how it was making the installation safe and what its procedures were. That was better than imposing a framework on operators, because they knew better than anyone where accidents were likely to occur and where risk was present. It was felt that engagement between companies and the HSE to produce an acceptable safety case was likely to lead to a better outcome, and experience suggests that that approach has been vindicated, although accidents have not been eliminated entirely.

Mr. Forth: If the hon. Gentleman will forgive me a moment of immodesty, he has probably forgotten that the Minister who took through the safety legislation following the Piper Alpha accident was none other than your humble servant.

Malcolm Bruce: I am pleased to learn that. Although I have to point out that the offices of the HSE in Aberdeen are called Cullen house, not Forth house, I give the right hon. Gentleman credit for having listened to a sound judge who produced an extremely good report, which was translated into effective law.

One case encapsulates one of my points of concern about—not opposition to—the Bill. I agree with the approach of creating a general responsibility, rather than imposing specific restrictions. My concern centres not on that general responsibility, but on the role of the health and safety information director. I shall share with the House the specific constituency case that, more than anything else, makes me believe that a Bill of this sort is necessary.

A knackery in my constituency was for many years run by a company called Dundas Brothers. I cannot think of a year, or perhaps even a month, of the 22 years in which I have been an MP when I have not been engaged in correspondence with constituents who were concerned about the plant—the offensive way in which it was operated, the dreadful smells, which spread for miles, and the general incompetence, appalling negligence and wilful mismanagement that characterised the company. In the past 12 months, the company has gone into liquidation. As far as I am concerned, it is a happy event.

One of the problems is that no one really likes talking about knackeries—they are not mentioned in polite company—but they are an essential component of farming. Our farming industry has suffered some appalling traumas in recent years: first, there was BSE, the consequences of which were devastating to my constituency; then, there was foot and mouth disease. No cases of foot and mouth and no significant incidence of BSE were seen in my constituency, but being a beef-rearing constituency, it suffered all the consequences of

the regulations and impositions that flowed from those dreadful problems, including the over-30-month scheme. Unfortunately, there was a clash between the urgent need for rendering capacity and the company's health and safety duties. I had numerous consultations with council officials and the Scottish Environment Protection Agency, who more or less acknowledged that the plant was not fit to operate. If they closed it, however, they were not sure where rendering could take place, because there was not any alternative capacity.

Against that background, a teenage boy—I cannot recollect whether he had just left school—began work in the knackery yard. On his first or second day of employment, he climbed on to a forklift truck, even though he had never operated one before, and managed to start it. Tragically, it toppled on top of him, killing him. The plant was relatively small, and the case is unavoidable—people responsible for that plant should never have allowed circumstances to develop in which a boy could behave in that fashion. There is no justification for their conduct, and although I do not have the report with me, I have paraphrased the words of the sheriff who dealt with the case. In the sheriff court, as in the lower court, the maximum penalty is a fine of £20,000, and that was imposed on the company. The sheriff regretted deeply that he did not have greater powers to impose a much more severe penalty.

Unsurprisingly, the boy's parents came to see me. I supported their representations to the procurator fiscal to ensure that a prosecution was brought, but equally, when they came to see me afterwards, I accepted their argument that this was not justice. The fine was not adequate and was not an acceptable maximum penalty for their son's loss of life. A criminal prosecution of a director should have been pursued. Interestingly, the evidence in the briefing notes suggests that there have been few prosecutions—indeed, there have been only one or two. None of the authorities in the case that I have outlined believed that a prosecution would succeed. I cannot think of anything more extreme than that case, but clearly there have been such circumstances for prosecutions to be successful.

The principle of requiring directors to have a general responsibility is a good one. I agree, however, that we must determine what that means. Clearly, we must address the apprehension among directors that they could be held liable for something that takes place far from them and about which they could not possibly know. I would like an assurance that the Bill would not make them accountable for such things.

Mr. Forth: I shall seek to return to that point later, but does the hon. Gentleman not agree that there is a paradox? The smaller the company, the more a designated director is expected to have direct knowledge of what is going on—that applies to the case that he mentioned. However, the larger the company, the more levels of management and the more dispersed its operation, the less likely it is that a director will have sufficiently detailed knowledge to take responsibility for what happens in every workplace.

Malcolm Bruce: That is true, but it does not deliver a hammer blow to the Bill, which seeks to ensure that directors take responsibility before tests of reasonableness apply. In Committee, we can explore those mechanisms.

Jonathan Shaw: The research paper says:

"Between 1992/923 and 2003/04 the number of fatal injuries to the self-employed increased . . . from 63 to 67."

It goes on to say that workers in smaller companies are exposed to more dangers than employees working for larger companies.

Malcolm Bruce: That has been borne out by the flow of my argument. I pointed out that safety measures for oil and gas companies do not stop accidents, but in most cases, accidents are investigated by health and safety officials, and in Scotland, if appropriate, there is a fatal accident inquiry. As a general rule, lessons are learned, but there is not a demand for a criminal prosecution. Officials look at what happened, what procedure was applicable and why it was not followed. However, I take an alternative view to the right hon. Member for Bromley and Chislehurst (Mr. Forth). In the case of Occidental oil management and Piper Alpha, for example, there was liability and negligence. Occidental board members in the United Kingdom should have been aware of the safety case for such an installation and should have known what could happen. The same is true of onshore refineries or any particularly dangerous plants.

The vast majority of directors and companies would, I hope, act responsibly. My experience post-Piper Alpha is that that culture is strong in the oil and gas industry, and I do not think that anyone wants a queue of cases in which directors are prosecuted and brought to court. The primary objective is to create an awareness mechanism to reduce the number of accidents, not to increase the number of prosecutions. Nevertheless, I agree with the right hon. Gentleman that, unfortunately, the worst practices may occur in medium-sized companies. They do not have the advantage of extensive training and corporate culture, but they should be aware of their responsibilities. They should be made aware that legally, if there is a serious or fatal accident in their company, they may be held liable, so they must ensure that they keep abreast of current practices in management techniques and operations.

Mr. Clapham: I worked for the National Coal Board when there were more than 250 collieries. The board had overall responsibility, but colliery managers had responsibilities similar to those in the Bill. Periodically, they reported to the board about the situation at their particular collieries, and as a result of the Mines and Quarries Act 1954, which laid down that practice, we had the safest deep mine industry in the world.

Malcolm Bruce: The hon. Gentleman has long experience in the coal industry, and we can look at examples of best practice. I suppose that the right hon. Member for Bromley and Chislehurst would want to know whether the chairman of the coal board had the same responsibility. I do not see why not, and that is why I support the Bill.

If general responsibility for health and safety could lead to criminal liability, directors need guidance about what that means. The Bill therefore requires directors to

[Malcolm Bruce]

inform themselves about health and safety practices and to take all reasonable steps to satisfy themselves that they know what they are. If there are any problems, they should support remedial action. In those circumstances, they should be able to satisfy the Crown Prosecution Service and others that they have followed all the relevant procedures and taken reasonable action, so a criminal prosecution is not justified.

I accept the argument of the hon. Member for Jarrow (Mr. Hepburn) that the health and safety information director should be charged with informing other board members about health and safety issues. I disagree with the hon. Member for Manchester, Central (Tony Lloyd), however, because if a particular director was the nominated health and safety director they could become a scapegoat for the board. In addition, it might be difficult to get people to accept that responsibility. There is a danger of undermining the main purpose of the Bill, which is to make all the directors responsible for health and safety, collectively and individually.

Tony Lloyd: The hon. Gentleman and I have the same philosophical view of the Bill. I agree that the board should be collectively responsible for health and safety, but the problem in areas such as financial irregularity in companies is that unless there is a designated finance director, no one has responsibility to drive through prudent financial policies. The health and safety case is the same, and there needs to be a controller who drives through a health and safety policy. That is not a blame culture, because those who do the job well will have a proper defence in law, as the hon. Gentleman described, by demonstrating prudent operation. Those who fail, as in cases such as the Herald of Free Enterprise and other tragedies, will end up in the dock.

Malcolm Bruce: That is one of the issues that we must explore to understand the thrust of the Bill. The hon. Gentleman extended his description of the function of the information director beyond what is stated in the Bill. The information director's job will be to direct and convey information to the board, not to disseminate it throughout the company. I would be concerned if there was a huge responsibility to disseminate the information, not least because it would be expensive and bureaucratic. The Bill introduces a specific responsibility, and as long as the hon. Member for Jarrow takes on board the hon. Gentleman's intervention, I am less concerned than I was, although I still think the issue should be explored further in Committee.

Mr. Boswell: Does the hon. Gentleman agree that there could also be a serious conflict of interest between the directors in relation to the health and safety information director, because the obvious defence after something has gone wrong is to say, "If only he had given me the information, I would have exercised my directorial duties and acted on it."? There could then be a further conflict of interest.

Malcolm Bruce: The counter argument is likely to be that the information director would be anxious to ensure that he shared problems with the rest of the board, to offload his responsibility. It would be a two-way process. I am not saying that this is the wrong approach or that it will not work, but we should explore it a little further. I support the Bill, and those are issues that could usefully and constructively be explored in Committee. I share the reservations of the right hon. Member for Bromley and Chislehurst about the long title of the Bill and the public sector. It is interesting that Labour Members agree that it should be parallel, but that would probably require further legislation.

No doubt the Minister will explain the Government's position, but the briefing suggests that they are less than wholehearted in their support, which seems to be a slight change in their position, as Labour Members have said. I am not trying to make mischief, but I want to press the Government to be consistent and logical, because they have rowed back from their initial position. They promised a Bill covering corporate manslaughter, but we are not sure whether their proposal amounts to that or whether it is just an extension of the existing regime. People are looking for criminal penalties in extreme circumstances, which one hopes will be rare, but may arise. If the Government are serious that corporate manslaughter should be an offence on the statute book, it is difficult to see how they can avoid adopting something like the Bill as part of the framework in which liability for corporate manslaughter can be established. A duty of care must be clear and explicit before a director can be accused of having breached that duty to a criminal extent.

There is a lack of clear, coherent momentum in the Government's approach. Not only have they backed off, they are not fitting everything together. The Minister should take a more constructive approach and work with the hon. Member for Jarrow to take the Bill through. If, for reasons we understand, it does not get on to the statute book, the Government should take on board the points raised in this debate, and in the discussion that would take place in Committee, and incorporate them into their legislation on corporate manslaughter. That would be the right way forward. I assure the Minister that my party would be willing to work constructively with the Government on that. They know that we believe that there should be an offence of corporate manslaughter. We all want prosecutions and convictions to be rare, but we want to create a climate in which people accept their responsibility. We also want to be sure that in circumstances such as those that I described in my constituency, directors are left in no doubt that they could face a prison sentence for criminal negligence if it led to the death of one of their employees. That is right and proper for victims and their families and would be accepted by the wider public.

Mr. Clapham: I am listening intently to the hon. Gentleman's argument. The Government may wish to consider another argument. As we move to risk management for fire and rescue, all premises will have to carry out risk management exercises. Fire and rescue services are often called to premises when an accident has happened, so that will have to be taken into account. The Government may see a connection between what will be required by the fire and rescue services and how the Bill might fit into that.

Malcolm Bruce: I am grateful for that intervention.

I am bringing my comments to a close, but I want to reinforce my case. The Government have a responsibility to respond to their own Members and to our concern that they are not receiving the Government's full support. However, I shall not speak for Labour Members, because they can speak for themselves.

The Government have given positive support to the principle of corporate manslaughter and criminal liability of individual directors in extreme cases. My party has backed that constructively and consistently. It would serve the Government well to take a constructive view of the proposals in the Bill. If they cannot support those proposals in their present form, they could give a commitment to incorporate the ideas, as well as the role of the public sector, into one Government Bill. The hon. Member for Jarrow is making a constructive attempt to take the matter forward. It fits in with the corporate manslaughter Bill and the Government should respond in that spirit.

I hope that my speech, with its reservations, demonstrates a constructive engagement and a desire to make effective and workable legislation that is not excessively bureaucratic. We are keen to put responsibility where it lies and leave people to make their own judgment within a framework and guidance that everyone can understand. If we can do that, we will help to reduce the number of accidents at work, which everyone wants and which would benefit business.

On the point made by the right hon. Member for Bromley and Chislehurst, I am not sure that leaving the matter to a voluntary sense of good business is sufficient, because although many businesses have a culture that delivers that, others—I have identified one—do not, and they must be confronted with the law to make them understand the risks that they take if they are negligent.

10.39 am

Mr. Nicholas Brown (Newcastle upon Tyne, East and Wallsend) (Lab): It is a pleasure to follow the hon. Member for Gordon (Malcolm Bruce) on the Second Reading of the Bill proposed by my hon. Friend the Member for Jarrow (Mr. Hepburn). I welcome especially what the hon. Gentleman said about the broad approach adopted in the Bill. He was right to place the Bill in the context of the Government's proposals for legislation on corporate killing, which we expect to be brought forward shortly. I certainly welcome that.

I also appreciate the consensual approach to the Bill which the hon. Gentleman adopted. The Health and Safety at Work, etc. Act 1974 was introduced by the then Labour Government at a time of bitter industrial dispute—there were two miners' strikes in 1974 and the three-day week. The bitter divisions between the parties were set aside in an attempt to find a consensus on health and safety issues that was acceptable to the Conservative and Liberal parties, as well as to the Labour party. The structure of the 1974 Act has been remarkably successful. It is general, rather than specific, and regulations come from the Health and Safety Executive and are supervised by the Health and Safety Commission. Ministerial oversight is exercised with a light touch.

I welcome the Minister for Work, my right hon. Friend the Member for Liverpool, Wavertree (Jane Kennedy), to her place today. It is right that ministerial oversight of the work of the HSC and the HSE resides with the Department for Work and Pensions and sits alongside the family of organisations that have oversight of the activities of our fellow citizens of working age.

The Bill has been widely welcomed, and nowhere more so than in the communities that we represent on Tyneside. Our communities have a proud industrial history, but we also have more than our fair share of the legacy of that history. We have rates of industrial deafness much higher than the national average. Indeed, it is possible to visit branches of the boilermakers' union, now the GMB, where every single member is deaf because of the working conditions in the industry. The members grew up together, they were made deaf together and have now retired. The same is true of mesothelioma cases, of which we have a disproportionate number on Tyneside. That is why the Bill has had a warm welcome in our area.

My hon. Friend the Member for Jarrow was fortunate in the ballot, although he was less fortunate in the year in which he was fortunate, as other events may interrupt the progress of the legislation. Nevertheless, I strongly believe that he was right to have proposed his Bill and I am proud to be here to support him today.

The general duty approach in the Bill is right. It parallels nicely the structure for health and safety at work and sits happily alongside the Government's proposals on corporate killing. Corporate citizens have an important role in our life, and that is recognised in our legislative structure. Specific responsibilities are placed on the shoulders of those who run our great corporations and those who have small businesses. It is sometimes argued that legislation on health and safety is disproportionately burdensome on those who operate small businesses, but from my experience—both as a Minister with responsibility for the issue for two years and as an official of the GMB before becoming a Member of Parliament—small businesses are also disproportionately victims of the lack of activity in the area.

Some industrial sectors are more dangerous than others, of course, and reference was made earlier to the disproportionate number of serious and fatal accidents in construction. Other industries have more than their fair share of accidents. I am familiar with the problems in agriculture, which is one of the eight target areas for a reduction in accidents, but it is not usually a case of a large employer who is remote from the day-to-day activities of the work force. In many agricultural businesses, the employers are a substantial proportion of the work force and, because their homes are often sited alongside the business, the accidents occur close by. The main accidents are caused by people falling off things, dropping things from a height or getting trapped in machinery. Those accidents are avoidable, but that requires thinking about working practices that should be adopted, such as ensuring that ladders are properly secured before being climbed. That is not complicated, but it needs to be done. In other words, all sizes of businesses should focus on the importance of health and safety.

It is a cliché to say that most accidents are avoidable, but they are if only someone will take the responsibility for avoiding them. That is the main thrust of the Bill and it is right. It should not be an issue that divides the

[Mr. Nicholas Brown]

political parties. There are two broad arguments against activity on health and safety issues. One is that it is a burden on business and the other is the question of the public sector. Why should legislation be imposed on private sector companies, but different arrangements or even Crown immunity apply to the public sector? In an intervention, my hon. Friend the Member for Newcastle upon Tyne, Central (Mr. Cousins) mentioned the duty in the public sector to report to Ministers, but as Minister with responsibility for agriculture for three years and a Minister in the DWP for two years I never saw such a report. They may have gone to other Ministers, but it seems unlikely that I should have survived five years in government without seeing such a report.

Tony Lloyd: My right hon. Friend will agree that few Labour Members would not want to bring the public sector firmly within the framework of this legislation. One of the interesting reasons for the lack of progress on legislation on corporate manslaughter is blocking by senior civil servants who are concerned that they will end up in court. As the Government, we should make it clear that we expect to see senior civil servants in court, just as people from the private sector would be in court if they were responsible for putting the health and safety, or even the lives, of their employees at risk.

Mr. Brown: My hon. Friend will know that I am sympathetic to that approach, and I will come to the issue of the public sector shortly. In a Second Reading debate, it is permissible to talk about matters that are not in the Bill but are related to it.

I have two constituents, Mr. and Mrs. Stewart, whose son Paul tragically fell to his death in a construction accident at the age of 24. Members of Parliament have many tasks to perform, some of them very difficult, but in 22 years I have found nothing harder than dealing with constituents whose grievance is real but for whom there is no effective remedy, because the law does not provide one. Mr. and Mrs. Stewart were heartbroken at the death of their son. They knew that the accident in which he died was avoidable. The case was prosecuted and financial penalties imposed on the large corporate citizen employer. The defence barristers said that the firm had genuinely attempted to have a proper system of work, and there was no deliberate disregard for safety, but no one realised what measures were needed.

That is unacceptable. The responsibility for overseeing a job lies with the employers and those acting as their agents. It is not a defence to say, "We did not realise." Four men died unnecessarily. All that Paul Stewart's mum and dad want is their day in court. They want the person who should have properly supervised the system into which their son was sent to work to explain in court what he did and to admit the negligence that was so clearly there. They will not get that, and until the courts provide such a remedy we shall have constituents—I am not saying that there will be a large number—who have the loss of a son, for example, overshadowing their lives until the end.

Mr. Forth: The right hon. Gentleman has used the term "properly supervised", which I think is key. In the case to which he is referring, where, in his assessment, did the proper level of supervision reside? Does he accept that, depending on the size of the company and its range of operations, locating the proper level of supervision may in some instances be obvious but in others it may not, and that it will not always be at director level?

Mr. Brown: I strongly agree with the right hon. Gentleman. Responsibility operates at different levels and works in different ways. The first controlling line is clearly the main contractor. There rests responsibility to have a policy on health and safety and to make that explicitly clear to the subcontractors. Once that has been made clear, the subcontractors are under an obligation to ensure that what they are contracted to do is done, and done safely. In other words, it is not a defence to say that no one knew what measures were needed.

The case to which I referred concerned a specialist subcontractor. A galley was hanging about 100 ft above the ground. There was a professional obligation to know how to do the job, and to do it safely, and to ensure that the workmen who were sent up in its gantry were sent up safely. The gantry just slipped off the rails and plummeted. Thought should have been given to ensuring that everything that could be done to avoid that happening was properly done.

Responsibility would operate at different levels, but there would be a clear chain of command and a clear acceptance of responsibility. How that would work in practice would ultimately, in the proposed system, be for the courts to decide. That is the correct approach and it is the one, in terms of general duty, that the Bill would facilitate.

Nothing will bring back Mr. and Mrs. Stewart's son, but they know that their boy need not have died. In my opinion, they are entitled to their day in court. A good Government—Government—should be on their side. We all have constituents who could be faced with the same situation. We, as a Parliament, should be on their side. The consensual approach that the hon. Member for Gordon is adopting is, I think, the correct approach in these circumstances.

Harry Cohen: My right hon. Friend is making a powerful point in setting out the tragic case of the family of one of his constituents. May I put to him the point that I made to my hon. Friend the Member for Jarrow, who introduced the Bill, that the inquest system is not working in such cases? There are extremely long delays, if inquests are heard at all. I do not know whether there was an inquest in the case of Paul Stewart. We heard at a reception yesterday that coroners are incredibly inconsistent from one area to another in how they deal with cases involving health and safety and death. Is there not a case for the Government to examine closely how the inquest system works and improve it?

Mr. Brown: My hon. Friend makes an important point. At the heart of the matter is the need for Parliament to be clear about what it wants and to set a lead. We should be advocating that responsibility is clearly set out so that the courts can take their cue from that. Far too often the inquest system defines what has happened but does not go on to pinpoint the individual

who should have had responsibility for ensuring that the accident did not happen. It is that weakness in our system that needs to be remedied.

A sole trader could find himself held specifically responsible for shortcomings in this area. A company may be responsible as a corporate entity but the individuals—the so-called controlling minds in the company, or those who had a subsidiary responsibility because the responsibility was specifically delegated to them—are rarely held accountable under the present system. It is to ensure that individuals must accept responsibility for health and safety, just as they must accept responsibility for financial matters, that my hon. Friend the Member for Jarrow is introducing the Bill.

On the point about where responsibility lies, it would not be a defence for a director of finance of a great corporation to say that nobody told him that there was wrongdoing at a much lower level of the company and that he was not aware of it. All companies have a system in place to check what is happening to income and expenditure to ensure that money is being properly handled and properly reported. The same approach should apply to health and safety matters.

To complete the point about the burden-on-business argument, most of our corporate citizens strive to do these things properly. Construction, for example, is aware of the poor record in the industry and has made proposals to try to remedy the situation. Targets are being worked to along with the HSE. How dispiriting it is for those in the sector to know that they may be undercut by someone who does not take safety responsibilities seriously, or will cut corners to try to win a tender or to increase profit margins in a way that is clearly against the interests of the work force, and must be against the public interest as well.

Industry should see the HSE and the commission not as bodies that check and try to find fault, or are looking for an excuse to prosecute, but as advisers, allies, and institutions that are in place to help on health and safety problems and to set out good practice. Were the Bill to become law, it would be a defence to say, "We took the advice of the HSE and remorselessly followed it, but something still went wrong. There was metal fatigue in a component that failed, which no one could predict."

No one is advocating prosecution or holding people individually responsible for running a job in those circumstances. There might be a case against a manufacturer, but that would be a completely different matter. If advice is clearly followed and if thought has been given to how the lives of the work force can be protected, that would surely be a defence. In most cases that would have the effect of protecting the lives of the people whom we are trying to help.

Mr. John MacDougall (Central Fife) (Lab): My right hon. Friend is right to identify the crisis, especially in construction, where the level of fatalities is rising almost annually. In part, that is because of demands to get the job done, the demise of trade unions in the industry and the level of subcontracting. Like me, my right hon. Friend was at a reception last night at which it was illustrated how a young man, Simon Jones, died. He died because he was put on a job without having had any training. If nothing else, the Bill will place a responsibility on directors to give workers proper and adequate training.

Mr. Brown: My hon. Friend is absolutely right. If Parliament sets a lead and the law is clear, I think that most corporate citizens will follow. The best of those citizens do so now. Others do not, but should. We should move in that direction.

The point is often made about the involvement of the public sector—the civil service and local government, and it used to be said of the NHS as well—and anywhere where Crown immunity applies. Crown immunity is difficult to justify. It is outdated, and for those who passionately believe in not just paying for public services but having public services delivered safely in the public sector by public employees, surely it logically follows that we should set rigorous standards for protecting the health and safety of public servants, just as we are insisting on rigorous standards for those who work in the private sector.

The real debate is not whether this should be done, as it most definitely should, but how it should be done. In my role as a Minister—I am not sure whether one is allowed to refer to this, but I will—I saw notes going round Departments saying that permanent secretaries could be liable and prosecuted as individuals, and some panic-stricken hand had written in "Or maybe even Ministers", as if that would act as a sort of prompt to dissuade Ministers from introducing legislation in this area. Of course, it should not. All it means is that more energy must be applied to discovering a fair structure for the public sector, just as we are trying to find a fair structure for the private sector. The points that I made earlier about responsibility operating at different levels and in different ways, work just as well for a public agency, even for the civil service itself, as for the private sector, so the matter is not quite as difficult to resolve as is often said, but one can understand why some are worried about the consequence.

That leads me to the final point that I want to make. Yes, it is right to focus on those industries where accidents are most prevalent, such as agriculture and construction, which are at the heart of this debate, but it is also worth reflecting on the fact that by far and away the two largest areas that take our fellow citizens out of work or cause them to end work altogether are not the result of physical injury, in the sense of an industrial accident, but the twin areas of stress and back pain. It is not beyond the scope of human ingenuity to reduce the amount of back pain and to think far more carefully about how we manage stress in the workplace, which is the fastest growing area and can, in extremis, be fatal, leading people to take their own lives because they just cannot cope.

It should not be a facet of modern working conditions that those two forms of injury are increasing, but they are, so as we reflect on the important industrial areas that the Bill deals with pretty bluntly and directly, it is right to reflect also on those growing areas of predominantly white collar ill health, and to resolve to bear down on those as well. Steps can be taken in the context of health and safety, but that requires a recognition that the problem exists and a certain political leadership and resolve. It is admirable that my hon. Friend the Member for Jarrow has introduced his

[Mr. Brown]

Bill in this area, and is saying firmly and clearly that something should be done and we know what that is, so now let us set out and do it. I strongly commend his Bill to the House.

11.4 am

Tony Lloyd (Manchester, Central) (Lab): I should preface my remarks by saying that unfortunately I have to leave the Chamber early, so I apologise both to you, Mr. Deputy Speaker, and to my hon. Friend the Member for Jarrow (Mr. Hepburn), who has introduced this important Bill this morning, on which I congratulate him. It is part of the armoury that will improve health and safety in Britain, and my hon. Friend should be congratulated on picking up the challenge.

However, I must share a little frustration with the House of Commons. The right hon. Member for Bromley and Chislehurst (Mr. Forth) and I have been debating health and safety over a good part of the last two decades, off and on, and despite the fact that he and I often disagree in our conclusions, I share with him something that is perhaps one of his hallmarks—a degree of cynicism in these matters. I am cynical not for the same reasons as he is, but because I have taken part in many of these debates, which I have always found fascinating and sometimes quite uplifting, showing as they do that there is a real demand for change in the way in which we do these things. Over the years I have come to realise that I still come back, and back again, to the fact that we are not making the real progress in preventing the daily deaths in the workplace and the literally millions of days lost through ill health caused by workplace accidents and injuries.

I also share the right hon. Gentleman's cynicism about human nature, which goes back to my now rather distant youth when I worked in a number of highly dangerous industries, where people, perhaps not deliberately, but almost certainly by neglect, tried to kill me. I worked in the asbestos industry for a time and one of these days my final speech might be to say, "I leave this place because asbestos has finally got me after all these years," although I trust not, at least for a week or two—but it will not be because the company that I worked for did anything to prevent that. I worked in the demolition industry, which in those days was very dangerous. As my right hon. Friend the Member for Newcastle upon Tyne, East and Wallsend (Mr. Brown) said, people competed on the basis of undercutting, part of which involved undercutting on the health and safety of the employees, because there was no safety culture or adequate legal framework. Since then, legislation has improved matters, but I do not doubt that the same people who employed me then would still put the younger me, were there such a person, at risk in this day and age if they could get away with it, because there is the same attitude of mind. Bad employers must be constrained, to be fair to the good employers—but more importantly, to be fair to their employees.

One matter that we have not heard quite so much about this morning but which is still important in health and safety terms, is that those responsible for health and safety also have a duty to the wider public. The farm accidents in his constituency to which the hon. Member for Gordon (Malcolm Bruce) referred threaten not only the sole employee or the farmers' employees, but, potentially, members of the public who are on that same piece of farmland.

I have never made the charge that people wilfully set out to kill and maim in the workplace—that is just not sustainable—but I do make the charge that the business case argument that the very decent hon. Member for Daventry (Mr. Boswell) on the Opposition Front Bench would want to make does not work. The business case when P&O killed many people in the Herald of Free Enterprise tragedy, to which my hon. Friend the Member for Chatham and Aylesford (Jonathan Shaw) referred, was very important and should have scarred many of us. Lives were lost and the description of the company at the time was of a company riddled with sloppiness, right up to Sir Jeffrey Sterling, the most senior and controlling man, who clearly did not think that there was a business case for health and safety, which consisted in ensuring that the bow doors in an seagoing vessel were closed. I cannot trust the business case to be for the defence of employees and the wider public.

Mr. Boswell: I do not seek to comment on the Herald of Free Enterprise case, but on the general point that the hon. Gentleman has made, and in a sense attributed to me. In saying that there is an important business case, which I strongly believe, I do not wish to say that there is never a case for intervention through the criminal law if what has happened can be appropriately shown to involve criminality, and if it can be addressed to the appropriate guilty party. If that is done, I suppose that that is the substance of today's debate, so it is right that we should debate on that basis.

Tony Lloyd: There is probably not much between us on this, because the hon. Gentleman touched on the central points in the health and safety debate, and we are ensuring that we have a regime that defines where criminality ought to be considered. At the moment we simply do not have laws that make criminal the cases of reckless negligence that ought to be criminalised, and certainly would be criminalised if they were motoring offences, for example; no one would even want to dispute that.

My hon. Friend the Member for Leyton and Wanstead (Harry Cohen) made an interesting point about the inquest system. He is right to say that we do not investigate death and injury in the workplace with the same intensity as we would other accidents, such as motor traffic accidents, because in our culture it is not seen to bear the same level of moral opprobrium. We must change that health and safety culture to make it clear that putting people's health and safety at risk really matters, and that in serious cases of negligence and so on, the criminal law should be brought to bear.

I am fairly hard-line on these things, because I can think of almost no other debate in which people would stand up in Parliament, as hon. Members have done this morning, and say, "We are not trying to bring people into the court system." Well, I am indeed trying to bring people into the court system. The worst offenders should come before the courts and be locked up, as a salutary example to the rest. That is what would happen in other areas of the criminal law—nowadays even in the case of

gross violations of social behaviour, and it would certainly happen in the case of motor traffic offences, where we do expect the criminal law to give a strong signal about what is acceptable and what is not.

Malcolm Bruce: I think that we all recognise the cases where we think that there should be criminal prosecution. Indeed, I described one. But what I wanted to say, as I think other hon. Members did, is that if we have the right culture we will reduce the incidence of accidents and the need for prosecutions. I am not saying that there will be no prosecutions, but this is not just about prosecution but about lowering the accident rate.

Tony Lloyd: That is exactly the point, because in the end I hope that we would all want to achieve a reduction in the accident rate. But we have to accept that, judged by that standard, we did very well in the 1970s, when the health and safety at work legislation was introduced and the Health and Safety Commission was set up, but we have not done extraordinarily better since then. There are areas where we have done better, but my hon. Friend the Member for West Renfrewshire (Jim Sheridan) told the House this morning that in the construction industry things are definitely not going in the right direction at the moment. We need to remember that.

My hon. Friend played a tremendously powerful role recently with his own legislation relating to new types of working. We have to recognise that the world of employment has changed significantly in recent years. The days of the old factories and large institutions, which were easy to slot into a safety regime, are almost over, and the Health and Safety Commission is not geared up to the modern world of a work force with people are being shipped in—sometimes legally, sometimes illegally—to do types of work whose existence we scarcely even recognise. Those are the areas where we need to take a proper look at the whole safety case.

Over the years I have dealt with many cases—not simply the great tragedies such as the Herald of Free Enterprise or King's Cross, but cases such as that of the individual family who has lost a son, like the case that my right hon. Friend the Member for Newcastle upon Tyne, East and Wallsend mentioned. People in my constituency have suffered these individual tragedies, and they are not necessarily deaths. People may simply have had their life changed permanently because of accident, injury or other things that happen in the workplace through exposure to the wrong substances—things that really are life-changing, and life-changing always in the worst way. I believe passionately that in view of such situations, we need to alter the safety culture, because this is a cultural phenomenon. That is why construction and demolition always were more dangerous, because they do not have the safety culture that would operate in a well-regulated chemical plant, for example. Anyone who has visited such places would know that instantly.

My hon. Friend the Member for Barnsley, West and Penistone (Mr. Clapham) has spoken about the coal industry. Once it was not a safe industry; it was very dangerous indeed. That was felt to be unacceptable. The safety culture and nationalisation played a large part in improving safety, but the improvement was motivated by a demand for a changed safety culture, and crucially that process was driven through in a way that put responsibility at many different levels of the organisation. That is an important point, on which the right hon. Member for Bromley and Chislehurst was seeking clarification.

That culture in the mining industry transformed health and safety. But in the end, there had to be those at the very top of the Coal Board who drove through the safety culture and the safety case. Part of that was done by delegating responsibility for safety—making it clear that it could be delegated and that, having adequately secured the safety regime and established a proper work safety culture, it would be a defence to say, "I have discharged my duties as director"—or as a middle manager—"and the negligence applies somewhere else." The message was communicated that it would be a legitimate defence to say that the responsibility lay elsewhere in the organisation, but that it had to start from the very top of the organisation. That is why we have to define directors' duties, and it is why I always insist that only one person heads the health and safety effort. It might be the chief executive or the managing director; I do not mind whom we designate legally, as long as it is very clear that there is a controlling mind who takes the ultimate responsibility.

The hon. Member for Daventry said that if one person was responsible for the dissemination of safety information, others would say, "If only you had told me." That of course is a legitimate defence, because a designated person would be responsible for telling them, and for creating that safety regime. But things go badly wrong when everybody says, "If only somebody had told me." In such cases people feel that nobody is responsible, because everybody is responsible. That was what caused the Herald of Free Enterprise disaster, that is what killed Simon Jones and that is what maims people daily in workplaces.

Mr. Forth: But does the hon. Gentleman not think that there is at least a danger that if we appear to concentrate exclusively at the top level and keep talking about directors, those operating beneath directoral level, at management and supervisory level, will think, "Well, it's them up there who will get the blame and have their collars felt, not me," which could be counter-productive if we are not very careful and do not get it absolutely right?

Tony Lloyd: Well, let us get it absolutely right. The right hon. Gentleman remembers that when he took legislation through this place after Piper Alpha, many hours were spent in ensuring that we got that legislation as right as we could, to ensure that the responsibility for health and safety was diffused throughout the organisation. Nevertheless, if he looks at his legislation he will recall that it does in the end make certain provisions for certain controlling people, not simply within the oil companies but in different areas, to take responsibility. That is the important point.

Yes, of course I would always say that not only is it right to allow the defence of saying, "I operated and exercised my duties in a legitimate way," but it is important to go beyond that and say, "And in order to do that properly I had to make other people take their own responsibilities seriously." As my right hon. Friend the Member for Newcastle upon Tyne, East and

[Tony Lloyd]

Wallsend said, we certainly would do it when looking after pound coins, £5 notes, cheque books and electronic money transfers, because companies have been doing that for some time. It is not unreasonable to say that the wit of man or woman in our large and small companies can operate in the same way, and ensure that we drive that safety case through the organisation. That is what we ought to be doing.

Harry Cohen: On the point made by the right hon. Member for Bromley and Chislehurst, is it not the case that more workers than directors are prosecuted under health and safety legislation? If they are negligent it is right that they should be, but could it be simply that it is easier to prosecute the workers than the directors, although the directors might be much more to blame?

While my hon. Friend is making very good points about the culture of safety in big companies, will he agree that the Government's faith in the voluntary code has been misplaced? The code has not worked, and that is proven by the Health and Safety Commission, which when it released its figures for 2003–04 said that the previous year deaths had increased by 4 per cent. and injuries by 9 per cent. Do we not need to go further than that voluntary code, with the Bill that my hon. Friend the Member for Jarrow is proposing?

Tony Lloyd: My hon. Friend is absolutely right on both points. It is a statistical fact that more employees are convicted than employers. However, let me be absolutely clear: I take a hard-line approach on those who put the health, safety and lives of their work colleagues, employees or the general public at risk. Employees should be prosecuted when that is appropriate. A person who drives a lorry recklessly and kills a child should not be able to use the fact that he is an employee as a defence before the courts. However, dealing with people who allow employees to operate machinery unsafely is equally important. My hon. Friend mentioned the voluntary code, and I hope that my right hon. Friend the Minister for Work will pick up on that.

The Bill is important, but most of us are sadly reconciled to the fact that intruding events may stop it from completing its legislative passage. However, it is inevitable that my hon. Friend the Member for Jarrow and others will return to the theme. The Government must sharpen up their response to the whole health and safety debate. I am afraid that I must make the criticism that we have become complacent about health and safety, both politically and institutionally. We all talk the rhetoric that the existing legislation is sufficient, but it is not.

We know that deaths, injuries and ill health are preventable. We are all paying for the problem, because some 38 million working days are lost every year because of occupational illness and health and safety matters. It is outrageous that we waste so many of our national assets in such a cavalier way, given that up to 70 per cent. of such cases are preventable. Let us start the proper process of prevention and reinvigorate the Health and Safety Commission to do the job that many who work in it wish to do. Let us begin to drive through the safety culture, save lives and save the British taxpayer an awful lot of money.

11.22 am

Jim Sheridan (West Renfrewshire) (Lab): I am entirely convinced by the case for imposing legally binding health and safety duties on directors, so I shall fully support the Bill. As the House will know, I had the honour of steering the Gangmasters (Licensing) Act 2004 on to the statute book during last year's round of private Members' Bills. There are many parallels between that Act and the Bill that my hon. Friend the Member for Jarrow (Mr. Hepburn) is promoting. My call for a gangmaster's licence was backed by a respected House of Commons Select Committee, as is my hon. Friend's call for directors' duties. My Bill tried to bring irresponsible, negligent and unaccountable bosses within the reach of the law, and my hon. Friend's Bill would do likewise. My Bill was an attempt to protect the lives of vulnerable people in the workplace, and my hon. Friend's Bill tries to do exactly the same thing.

The passage of my Bill was set against the backdrop of the Morecambe bay tragedy in which 23 innocent people lost their lives because of negligence on the part of those employing them. The terrible events on the sands of Morecambe bay undoubtedly played a key role in focusing all our minds on the need not only to legislate but to regulate. It was against that tragic backdrop that the principles and objectives of my Bill won the support of the Government and the House.

I hope that hon. Members on both sides of the House will sign up to the principles and objectives of my hon. Friend's Bill, because with deaths in the workplace, there is a Morecambe bay tragedy in this country every month. Someone loses his or her life in a workplace accident every day, but according to research conducted by the Health and Safety Executive, 70 per cent. of those deaths are preventable. Why are they not prevented? The answer is simple. On one hand there is a voluntary code that bad directors ignore at will, and on the other hand, there is a weak law that hinders the prevention of accidents and fails to hold directors to account for their negligence.

In the 30 years since the Health and Safety at Work, etc. Act 1974 was passed, 10,000 people have been killed in work-related accidents. A mere 322 directors were convicted of any health and safety offences during that time. How many directors were imprisoned as a result of those 10,000 deaths? The answer is just four. In any other walk of life there would quite rightly be a public outcry. Imagine if 10,000 people had been stabbed to death in street robberies or burglaries over 30 years, yet only four people had been imprisoned for those crimes. The plain and simple truth is that negligent directors are literally getting away with murder, because they have no legally binding health and safety duties under existing law. Yet how about this for irony, Mr. Deputy Speaker? The workers whom directors employ—workers who lose life and limb as a result of directors' negligence—do have legally binding health and safety duties under section 7 of the Health and Safety at Work, etc. Act 1974. That is why in the 30 years during which the Act has been in force, more workers have been prosecuted and convicted than directors. Surely that makes a mockery of the law.

The law in its current form lets those with all the power in the workplace—the directors—off the hook, and punishes the workers, who have no say or influence over health and safety in the companies in which they work. As well as being unjust, the current law is also inconsistent. As other hon. Members have said, directors have legally binding duties on equal opportunities, financial matters and even data protection. Why on earth can directors not have legal duties on the most important matter of all—the prevention of accidents and the saving of lives?

Directors matter because they are the key to delivering safer workplaces, so directors' duties matter. The respected Work and Pensions Committee concluded that such duties would prevent accidents and save lives. However, directors' duties would also ensure that the victims of workplace accidents and work-related deaths would get justice. Such duties would enable the courts to do what has been almost impossible until now—to identify the controlling mind and will of a company. Directors' duties would allow courts to hold directors accountable for gross negligence that resulted in workplace accidents. Is that so controversial? Is it picking on or scapegoating directors? I do not think so.

If directors have been so irresponsible and negligent that people have been killed, surely they, like any other citizen, should not be above the law. Surely the law should be able to hold such people to account. If we want to reduce the number of workplace accidents, deaths and injuries, as well as getting justice for victims, we must introduce legally binding duties.

We also need to introduce legally binding directors' duties if we want the Government's promised reform of corporate manslaughter to work. Let me explain why. Hon. Members will be aware that the Government have promised a draft Bill on corporate manslaughter. That will be welcome, because reform of the corporate manslaughter law is long overdue. The Government have made it clear that the draft Bill will make it easier only to prosecute and convict companies; it will not address the issue of directors' duties, and will not make it possible to prosecute and convict negligent directors. Failure to introduce legislation on directors' duties will undermine any reform of corporate manslaughter law, because the law would be unable to hold to account any negligent director who was responsible for a workplace death. Victims of negligence resulting in death will never receive the justice that they deserve if a legal entity known as "a company" is found guilty and merely fined.

It is directors who make workplaces safe or unsafe, not companies. My views about the potential weaknesses of the Government's proposed reform of the law on corporate manslaughter are shared by the chairman of the Health and Safety Commission, Bill Callaghan, who, in the *Financial Times* of 24 February, was quoted as saying that in its current proposed form the legislation on corporate manslaughter would not result in many more convictions for workplace deaths. Asked whether the new law proposed by the Government would make a dramatic difference, he answered:

"I think the honest answer is no."

We have waited a long time for legislation on corporate manslaughter, so for the sake of all those who have lost their lives and for the sake of all the loved ones left behind, let us get the measure right. I am thinking particularly of the young man Simon Jones, who suffered a tragic death, as we heard from his mother last night. Getting it right means underpinning the new law on corporate manslaughter with a new law on directors' duties. They are two sides of the same coin. Let us do the right thing today. Let us back the Bill and get on with the job of delivering safety in the workplace, responsibility in the boardroom and justice through the courts.

11.32 am

Mr. Michael Clapham (Barnsley, West and Penistone) (Lab): My hon. Friend the Member for Manchester, Central (Tony Lloyd) made a number of points about injuries in industries in his area, as did my right hon. Friend the Member for Newcastle upon Tyne, East and Wallsend (Mr. Brown), who noted the great impact of industrial deafness on his community. My hon. Friend also spoke of the effects of the asbestos industry.

Similarly, there is a great deal of chronic obstructive pulmonary disease in my community. In 1997, a local authority survey of the community found that about one house in every three included a disabled person. That disability related to their work in heavy industry, such as steel and coal, much of which has now gone.

When the Health and Safety at Work, etc. Act 1974 was being considered, the then Government—a Conservative Government—called in Lord Robens to produce a report. The idea of voluntarism actually came from the 1972 Robens report, because the 1974 Act, which embraced the concept of voluntarism, followed from it. There is no doubt that the Act had a positive impact across industry, bringing to industry in general what was already available in the mining industry. Lord Robens had of course spent a 10-year stint, between 1961 and 1970, as chairman of the National Coal Board, so he knew how the coal industry worked, with its worker safety representatives and safety committees. They had access to what was called "covered accommodation", which was actually a small library at the colliery where the colliery plans and all the safety legislation were available for the local safety representatives, to ensure that they were up to speed with what was happening in the industry.

Lord Robens suggested that the same facilities should be made available to the rest of industry and that is what the 1974 Act did. Many benefits resulted, but they have now slowed down, so we need to revitalise health and safety at work. Indeed, a couple of years ago, the HSC produced a document, "Revitalising health and safety" and we need to pick up on that. The Bill presented by my hon. Friend the Member for Jarrow (Mr. Hepburn) will do that and he deserves congratulations. The measure will take health and safety forward. It complements the Government's proposals on a corporate manslaughter Bill while helping to reinvigorate the 1974 Act. That is most important.

Health and Safety Executive research shows that about 70 per cent. of all accidents at work are avoidable. They can be foreseen and we should work to avoid them. By placing a general duty on directors, with an added duty on directors of larger companies, the Bill will help to drive forward best practice. It will not radically change the present situation. At present, there is a

[Mr. Michael Clapham]

voluntary code of practice and, as my hon. Friend pointed out, his Bill takes points 2 and 5 of the code and makes them mandatory on industry. That will drive forward best practice. It will help to focus minds and ensure that we get to grips with preventable accidents.

When we remember that 70 per cent. of workplace accidents are foreseeable, it calls into question the idea that has arisen of late that we have a compensation culture, because if there really was one, the courts would be weighed down by the number of claims. In fact, people in industry in general, and especially trade unions, take a much more reasonable approach to health and safety.

It is important that we deal with some of the devastating failures. We heard from my hon. Friend about the number of accidents: one death for every day of the year. An enormous number of people are killed at work. About 83 people die every week from being exposed to substances that cause respiratory disease or mesothelioma cancer. That is an enormous number. As I mentioned in my intervention, asbestos or exposure to asbestos is likely to cause 186,000 deaths between 2000 and 2050. Unfortunately, there is little that we can do about that, because that bitter legacy is already with us, but we need to consider a treatment and care strategy for people who have been exposed to asbestos, and the Bill could have a connection to that. I hope that Health Ministers will think in those terms. We cannot avoid that legacy, but we can deal with it and make things better for its victims. Such a strategy for mesothelioma sufferers is enormously important for the future. By focusing on the improvements that need to be made, the Bill will connect with that issue.

Although the 1974 Act had certain benefits, it is estimated that, in the 30 years since it was introduced, some 10,000 people have been killed at work and 1.3 million have suffered major injuries, including amputations and crippling back injuries. That has placed an immense burden on the community. That is why business is supporting this Bill. Members who sit on the Work and Pensions Committee say that the CBI is favourable to such legislation because it recognises that those 1.3 million major injuries and 10,000 deaths impose an enormous burden, as do the number of people who have lesser injuries but tend to be off work for long periods of time. It is estimated that 38 million days a year are lost, at a cost to industry of £11 billion. Business recognises that we need to do something to revitalise health and safety to get to grips with those figures and energise industry in such a way that productivity increases. Those lost working days impose burdens not only on the community but on industry.

During that period since 1974, only 322 directors have been prosecuted, and of those only two were disqualified for health and safety offences. The Bill would take a reasonable approach to the way in which we work with industry to achieve the results that we want. It is clear that the voluntary principle that was imported into the current legislation from the Robens report is no longer working. Since 2001, when the voluntary code was introduced by the Health and Safety Commission, accidents at work started to increase in certain industries such as construction, where last year deaths at work rose by 4 per cent. and serious injuries by 9 per cent.

Mr. Forth: I defer to the hon. Gentleman's great knowledge of this matter and ask him to help me with a genuine point of information. Given the recent influx of many workers, mainly from eastern Europe and many of them into the construction industry, is it not possible that additional problem may arise through lack of mutual understanding, and that language barriers at the most basic level of the workplace might be a contributory factor in the figures that he cites? Even if managers and supervisors are making a genuine effort to maintain health and safety, problems will arise if they are unable to communicate effectively with workers who cannot understand them.

Mr. Clapham: I am grateful to the right hon. Gentleman for making that important point. The responsibilities set out in the Bill would ensure that the genuine problem that he mentions would have to be dealt with. For example, in the Simon Jones case involving the young man who was killed in an industrial accident on his first day at work, the banksman signalling to the crane driver on the ship did not speak English but Polish. The Bill provides a mechanism for dealing with that problem, because it would place a general duty on directors to ensure that they focus on becoming aware of the working practices that are being used in their industries, which would result in better training.

Jim Sheridan: In relation to the Simon Jones tragedy, does my hon. Friend agree that there was a lack of universal hand signals when the banksman was guiding the crane into the hold of the ship?

Mr. Clapham: I am grateful to my hon. Friend for making that point. When Simon Jones's mother addressed the meeting the other evening, she made it plain that there is no universal language of hand signals for crane drivers in the UK. We have a standard, but it is not universal. That needs to be considered, because hand signals could help to overcome some of the language barriers. We require better training and a full understanding that people speaking different languages must be able to communicate in a way that will result in safer working methods. The Bill deals with many of those issues and would allow us to take a much more positive approach.

I take on board what has been said about large companies. While placing a general duty on all directors, the Bill would have a greater impact on those in large companies. There are some 3.4 million companies in the UK, but the great majority are small and medium-sized, with around 8,000 larger companies. They present a different problem because of the way in which they are structured, but I believe that that can be dealt with. I mentioned my previous experience with the National Coal Board. In the 1960s, the NCB had an enormous structure involving an industry made up of around 250 coal mines, some of which employed as many as 3,000 people. We could use its health and safety structure as a model for how larger companies deal with directors' duties.

In those days, each colliery had its safety representatives and its safety committee relating to what we called a consultative committee at colliery level, which met regularly with the colliery manager and the safety officer. The consultative committee at regional level, which comprised representatives from the collieries who were on the safety committees, again met at regular intervals. That led up to the consultative committee at national level, which was presided over by a director with responsibility as the industrial relations director. That system worked in a way that resulted in our coal mines being the safest deep coal mines anywhere in the world.

Tony Lloyd: The mining industry at that time is a good example of how things can be done. It may help the right hon. Member for Bromley and Chislehurst (Mr. Forth), who raised the legitimate question of how we drive a Bill through without losing responsibilities at different levels, if my hon. Friend can confirm that, while rights were devolved to a low level in the National Coal Board system, very clear and binding duties were also imposed on people at all levels.

Mr. Clapham: They were indeed. The embracing legislation of the time was the Mines and Quarries Act 1965, which placed duties all the way down the line, right to the coal face. What was interesting was how production was arranged so that safety was a major part of the process. On each coal face, before the administration pact that came in the 1980s and 1990s, a deputy had responsibility for safety and an overman, or under-manager as they later became, had the duty of production. The one with the duty for safety had the overruling duty under the Mines and Quarries Act. The deputy responsible for safety could stop the production process if he thought that lives were being put in danger by the way in which the work was proceeding. There were duties all the way down the line, right down to the individual, just as individuals have duties under the Health and Safety at Work, etc. Act 1974. All that worked well throughout the mining industry and it provides a model for how directors' duties in large companies might work.

On the health and safety information director, who would work in large companies, the Bill says that he would have the responsibility

"to inform the other directors, not less than four times a year, of ... how the companies activities are affecting the health and safety of its employees and of other persons not in the company's employment".

We could, then, use the structure I referred to—the regular meetings of the consultative committee under British Coal that resulted in the annual report. Those meetings might have happened more than four times a year, and information, through the minutes of the meetings, was distributed down the line. That model fits well with what we are talking about in terms of the duties of the health and safety information director.

Duties other than those relating to employees are important, too. It will be recalled that companies such as Turner and Newell manufactured various things using asbestos. People who lived around the factories were subjected to emissions of substances from the factories to the extent that, we now know, they picked up asbestos-derived diseases, such as various types of respiratory problem and cancers. Indeed, women who washed their husbands' clothes that had asbestos dust in them later picked up cancers, too. We must consider that. The Bill gives an opportunity to focus directors' attention on how they would consider such matters and protect the public living near a factory. That would be an enormous step forward, I am sure we would agree across the piece.

Indeed, my friend, the right hon. Member for Bromley and Chislehurst may be encouraged to support the Bill. I had not realised until this debate that he was responsible for the legislation relating to Piper Alpha, which, as my hon. Friend the Member for Manchester, Central said, resulted in our getting to grips with that issue. It was good legislation, and I am sure that input from the right hon. Gentleman, if we can encourage him to give it, would result in the Bill's being much more—shall we say—considerate of other factors, but which would still be appropriate. I hope that we can encourage him to come on board. I think he may well be so encouraged, but we shall hear later whether that is so.

Some of the case studies that have been referred to are alarming. The briefs on the Bill refer to a large number, but I want to make the House aware of just two, which I think the legislation would let us get to grips with. In the first, a maintenance worker fell to his death through a roof. All that he had to work with was safety boards; he did not have a harness. The Health and Safety Executive held an inquiry after the death and found that the company involved had been warned by an inspector about carrying out high-risk roof work without enough safety measures. The company was found guilty on two health and safety offences. No director was convicted of manslaughter, but in a way, that is what that case was. The directors had a warning, and it was foreseeable that an accident of that type could happen. They ignored the warnings and they were not complying with legislation. But the legislation did not have the force that the Bill would have, and the directors ignored it with the result that a person at work lost his life.

The case studies also refer to two steeplejacks killed by a ball of fire while they were working inside an industrial chimney. Again, the company had been warned that that was likely to happen. In that case, the company was fined just £2,000. Two men were killed in the chimney, but the company was fined £2,000. No company director was convicted of manslaughter.

The Bill does not seek to be vengeful. It is about working with industry. Many trade unions support it, as does the Confederation of British Industry. Small and medium-sized businesses would get many benefits from it. We are seeing the development of a network of industrial advisers being built up around the country. There is an advice network in Liverpool and another in Sheffield. I understand that there are five advice centres. Indeed, a reception was held in Westminster only a fortnight ago to welcome some of the work that the network does. The network will become extremely important in working with small and medium-sized enterprises if the Bill becomes law.

In conclusion, I believe that the Bill will bring about improvements, and industry generally welcomes it. The Bill will reinvigorate health and safety and protect people at work.

11.59 am

Jonathan Shaw (Chatham and Aylesford) (Lab): I am pleased to make a short contribution to the debate. Like other hon. Members, I pay tribute to the hard work of my hon. Friend the Member for Jarrow (Mr. Hepburn). He has a proud record of fighting for workers' rights, and he has worked hard to bring the Bill to the Floor of the House for its Second Reading. I congratulate him.

I have personal experience of not being afforded proper health and safety training while at work. When I left school, I picked fruit in the farms of Kent and I later become a care assistant. Both jobs involved bending—either in lifting people or picking fruit. I was never given proper training, but that was not because the employers were wilfully negligent; it just did not occur to them.

My hon. Friend has forcefully made the point that we want to change the culture. We want directors to consider the issue so that health and safety permeates the whole organisation. That does not mean that if workers are negligent, they should not be prosecuted. We are not saying that. The Bill is not about bashing bosses, but about ensuring that we save the lives of ordinary working people. I know that the proposals are backed by many organisations, including the trade unions and, in particular, the TGWU, UCATT and Amicus. The e-mails that many of us received calling on us to support my hon. Friend's Bill came from all round the country. They were a powerful demonstration that the issue affects working people from every region of the United Kingdom.

As has been said, we are only too aware of high-profile cases such as Hatfield and Potters Bar. In my part of the world, Kent, we remember that, on 6 March 1987, 188 people lost their lives when the Herald of Free Enterprise sank just off the Belgian coast. That was the worst maritime disaster in peacetime since the Titanic went down in 1912. A memorial service will be held this Sunday in Dover, and it will be attended by my hon. Friend the Member for Dover (Mr. Prosser) and survivors and relatives of the victims of the 1987 disaster.

The inquiry into the Herald of Free Enterprise showed a failure of basic positive reporting methods to ensure that the ship's doors were closed. As we know all too well, they were not closed and a prosecution was brought by the families. However, it was impossible to identify those responsible.

We have heard that injuries and deaths take place all too readily, and I shall come to that point later. However, I now wish to refer to a subject in which I have a particular interest—the paper industry. It has had a very poor safety record, but in paper mills across the country, companies and unions such as the Graphical, Paper and Media Union, which has now merged with Amicus, are working together in a determination to drive up health and safety standards and drive out the dangerous practice that leads to lost time, accidents, serious injuries and fatalities.

My constituency has the largest concentration of paper and board manufacturing in the United Kingdom. As the chair of the all-party group on the paper industry, it is evident to me that the industry has made considerable progress. It needed to; it had an appalling record of safety despite a stable, skilled and well paid work force enjoying good industrial relations. All sides recognised that they needed to do more, and considerable improvements have taken place. It was one of the worst industries, but it is now performing better than most other paper industries in Europe.

In 1998, the industry experienced two fatalities and had an accident rate of 23.4 per 100 employees. The setting up of the Paper and Board Industry Advisory Committee brought together the unions and HSE representatives to set a target of reducing accidents in the paper industry by more than 50 per cent. over a three-year period. In response to that challenge, the number of reportable injuries started to decline. Although the target had not been reached by the end of March 2001, there had been a 27 per cent. reduction in fatal and major accidents and a 10 per cent. reduction overall. In broad terms, 174 fewer people have been killed or seriously injured during that initiative. As time has gone on, there have been further reductions since then. The result has been a 19 per cent. reduction in 2004.

We would all applaud such good practice, and the commitment came from the very top. The chief executive officers of all the companies devoted time and came together for six annual meetings on the issue. That shows a culture change which was achieved in that industry, but most workers do not work in such large organisations. To bring about such a change in the disparate types of company in which so many are employed is very difficult, and introducing the voluntary code, while welcome—it certainly helped to concentrate minds in the paper industry, which is grateful to the Government and the HSE for their support—will not necessarily assist many people in smaller industries.

What the Bill seeks to achieve is what my right hon. Friend the Chancellor was describing when he said that safety at work is

"the mark of a civilised society."

Last year, 235 workers were killed in work-related incidents. Many of my hon. Friends have reported that 70 per cent. of those fatalities could have been prevented. There are endless, appalling accounts. We heard a very graphic example from the hon. Member for Gordon (Malcolm Bruce) earlier, and my hon. Friend the Member for Barnsley, West and Penistone (Mr. Clapham) referred to the one that I was going to mention, so I will not repeat it.

The Bill is timely. It sits very well with the British sense of fair play. Hon. Members have given up their time and come along to support the Bill because the lives of too many of our fellow workers and people in the United Kingdom have been ended far too soon, when accidents could have been prevented. Let us change the culture. There has been a start—the Government are committed to introducing the draft legislation—but things need to be improved that bit more. My hon. Friend the Member for Jarrow has done very well. This has been a measured debate, highlighting good examples of where we need change, and the Bill will have the popular support of the vast majority of people in this country.

12.7 pm

Mr. David Crausby (Bolton, North-East) (Lab): When the Health and Safety at Work, etc. Act 1974 became law, I was a young shop steward working

in the engineering industry. It was a good piece of legislation, and my recollection is that many employers found themselves close to panic because the perception was that people responsible for unsafe working practices that led to injury and death could go to prison. Management reacted positively, in the main, in those early days of the Act by concentrating their minds on health and safety, and as a result, there were real and substantial improvements to health and safety standards, with untold workers' lives and limbs saved.

Before the 1974 Act, the industrial scene could often be described as a nightmare, with the most horrific and dangerous practices commonplace. There were no general duties, and if something was not specified in the Factory Acts, workers and employers did pretty well what they chose to do. The fear of personal prosecution made a fantastic difference, but 30 years have now passed, and the reality has been somewhat different, with the prisons not exactly full of managers and supervisors.

The truth is that tiny numbers of people have been prosecuted and convicted, and some of the fines imposed have been pathetic. The higher up the promotional ladder people go, the safer they get from prosecution, when the very opposite should be the case. The result is that the industrial establishment has become relaxed, those in it have felt increasingly secure from prosecution, so there is now a clear and urgent need to apply their minds again. Company directors and employers are, of course, not eager to hurt their employees, but the pressures of work and profitability often take precedence. They must never be allowed to do so.

Many years ago, I worked as a works convener in an engineering company that machined a material containing asbestos. There was no indication in the material's name that the substance was in any way dangerous. The men who processed it did so in ignorance, with no protection. There were no masks or extraction. They were sometimes covered from head to toe in the powder, which they washed off at the end of the day. They then took their clothes home and allowed their wives to wash them. They even blew the powder off their machines with compressed air and scattered it around the machine shop for everyone else to share.

When it came to my attention that the material could be dangerous, I quite properly contacted the factory inspector, who visited and insisted on extraction and respiratory equipment. The works manager was not at all pleased, to say the least. He considered it an inconvenience, but was forced reluctantly to comply. A short time later, he was moved to another factory some miles away in another town. The process of machining the asbestos material went with him.

I lost contact with the process, but some years later I learned to my surprise that the other factory was manufacturing the product without safety measures. The factory inspector came in again and imposed the same safety procedures. There was no prosecution. The manager did not even get his knuckles rapped. He fully understood the dangers, yet he kept his mouth shut and chose to put his productivity levels before his employees' safety, because for him, masks and extraction were too much trouble.

This was a man who went to church every Sunday, and in the eyes of the village community, he was a decent, God-fearing man. In my eyes he was a villain who should have gone to prison because what he did knowingly was as bad as, if not worse than, someone driving a car while blind drunk. He simply had no time for health and safety. He knew that nothing in the law could touch him. He was fully aware that the hidden killer—asbestos—was entering his workers' lungs and that it would take years to show itself. The man has since retired and died, but the men he harmed may have yet to die before their time as a result of what is, in my view, his criminal neglect. The truth is that no one will ever be brought to justice for their deaths.

I am sorry to say that that man's behaviour has been replicated over the years across our industrial scene. Too many men and women to mention have suffered and died without complaint. Middle management is often under so much pressure to produce that they are forced to turn a blind eye to health and safety, and I am afraid that some company directors allow them to get on with it. So when the Bill introduces duties on directors to act in the interests of health and safety, I say, "And about time, too." No one else should be allowed to suffer without redress. If the responsibilities contained in this proposed legislation had been in effect when we were machining that asbestos, I am confident that it would have been a different story, because the safety standards would have been transferred with the work.

To be fair, my experience of company directors and senior management is that they have no desire whatsoever to put their employees at risk, but the problems often lie lower down the managerial chain. Legislation that puts a clear duty on individual directors by insisting on good standards and good systems is bound to apply their minds to health and safety issues, and as such it can only do good.

The manager in my story who put production before safety was wrong in both moral and financial terms. As has been emphasised, it is simply not good business in the long term to run an unhealthy and unsafe workplace. The loss of productivity alone through sickness and absence, in addition to the poor morale that inevitably runs throughout a work force who are treated like cannon fodder, more than compensates for the small short-term gains of the unsafe working practices that kill and maim so many people.

This is a good Bill; it is an excellent Bill which is long overdue. My hon. Friend can be proud of this piece of legislation and should be congratulated on his work. I urge the House to support him.

12.16 pm

Mr. Tony Clarke (Northampton, South) (Lab): I add my congratulations to my hon. Friend the Member for Jarrow (Mr. Hepburn) on bringing this Bill before the House. It has been said that the ballot for private Members' Bills is very much a case of chance, but I always like to look at what Bills Members choose to promote, because it can be almost a window on the soul. In choosing their subjects, my hon. Friends the Members for Jarrow and for West Renfrewshire (Jim Sheridan) have shown not just their great empathy and sympathy for the working people of this country but that they want to right the wrongs which those who are left behind to pick up the pieces of the tragedies that have been mentioned so desperately want us to address.

[Mr. Tony Clarke]

I declare an interest as a director of a limited company—Northampton Town football club. On a lighter note, I sometimes wish as a director that I could do more to prevent the injuries of some of our staff. They tend to be quite highly paid, but I sometimes wonder why when I see them sitting on the bench not contributing to what we are trying to produce. On a darker note, and also linked to the world of football, my fellow directors and I take very seriously the health and safety of our staff and those who enter our premises. We all well remember the tragedy of Hillsborough. If we could turn back the clock and prevent that loss of life, we would all do so.

I mention Hillsborough for two reasons. The first is that this morning we have spoken a great deal about the impact on the work force, but we must remember that directors and their companies have a responsibility to members of the public. In many of the cases where lives have been lost because of the act or omission of directors, innocent members of the public have been tragically killed.

Secondly, I mention Hillsborough because it has been asked whether the Bill should apply to the public sector as well as to the private sector. It would be only too easy to transfer the Bill's duties to the public sector. To take Hillsborough as an example, there were of course no convictions, but members of the police authority involved, for example, should be responsible people and take seriously their duties in respect of health and safety. The same could be said of local councils and their executive boards, and of primary care trust boards. We could therefore transfer the responsibilities of my hon. Friend's Bill to the public sector quite easily. I repeat the challenge issued to the right hon. Member for Bromley and Chislehurst (Mr. Forth) and ask him to allow the Bill to go into Committee so that we may debate these issues sensibly.

Mr. Forth: I am grateful for the hon. Gentleman's generous offer, but I repeat what I said earlier, on which I have now taken some advice. Given its long title, it is most unlikely that it would be possible to extend the Bill to cover the public sector in anything approaching a meaningful way. What he proposes would not be possible in this case. We have to consider the Bill as it is, focused on the private sector and directors.

Mr. Clarke: I am grateful to the right hon. Gentleman for his comments, but I have to say that the fact that we might not be able to go as far as we want is no excuse for not putting the Bill on the statute book or for allowing 300-plus deaths a year to continue unchecked. Perhaps the Government will have to come back at a later date to extend coverage to the public sector; if so, so be it. We should not allow that to distract us from the need to take action in respect of the private sector.

Today, I wish to speak for the victims—for those who have been killed and for those who have been left behind. We all share the desire to get to the truth. When we lose someone close to us, we go through a period of grief and then one of anger. We all want to find out precisely what happened, why it happened, whether one individual is responsible and whether the tragic incident could have been prevented. In all too many cases, management action could have—should have—been taken to prevent the deaths. More than 70 per cent. of such tragedies could have been avoided and were the result of management inaction.

We have discussed language and communication and whether they have played a part in some of the tragedies. Although I accept that the overwhelming majority of directors are good, law-abiding citizens, I think that there is a problem in that sometimes some of the directors who are responsible for those acts or omissions speak only the language of profit and they allow profit to get in the way of their acting decently and providing proper health and safety protection for their employees. Last night, we heard Anne Jones speak passionately about the death of her son. Something she said that is worthy of repetition was that her son was working for an agency, which sent him to his death with no training, no information, no protective footwear or headwear, and no idea of what would be expected of him at that place of work. Through the Bill, we are saying that directors are responsible—not only directors of companies that employ workers directly, but the directors of work agencies. Such agencies operating in this country must take seriously the role that they can play in health and safety by ensuring that they do not send people into dangerous situations.

Do workers need more protection? Yes. If they did not, such a large number of deaths—one a day, hundreds a year—would not be occurring. Do directors need direction? Yes. If not, the Health and Safety Executive would not be reporting the outrageous fact that over a three-year period fewer than 50 per cent. of boards discussed health and safety. Do we need legislation? Yes. The voluntary code has failed; it has not delivered the reduction in the number of accidents and deaths that it was intended to achieve. I urge my right hon. Friend the Minister to give us some good news about the Government's intentions and I ask Opposition Members to think again about allowing the Bill to go to Committee unchallenged, so that we can continue the debate and ensure that we get proper legislation on the statute book as quickly as possible. Speed is of the essence. Every day that we do not act, another person loses their life. I commend my hon. Friend the Member for Jarrow for presenting the Bill to the House and wish him success.

12.24 pm

The Minister for Work (Jane Kennedy): I join other hon. Members in congratulating my hon. Friend the Member for Jarrow (Mr. Hepburn), both on his good fortune in achieving a high place in the ballot and on his wisdom in choosing to raise the important subject of company directors' legal responsibilities for health and safety. I congratulate him, too, on the weight of support that he has received in this morning's debate. It is a great pleasure to follow my hon. Friend the Member for Northampton, South (Mr. Clarke), and I wish his company success in all its endeavours.

I depart, however, from the majority view in one important respect, as I do not agree that the law as it stands is failing to work. Legislation can always be improved to make the workings of the law more effective, but we must discuss whether the Bill is the appropriate vehicle for doing that. I sympathise a great

deal with hon. Members' general comments, but they will broadly agree that we already have a health and safety record of which to be proud. In recent years, there has been much progress, which is the result of the hard work and dedication of the Health and Safety Commission, the Health and Safety Executive, employers, workers, lobby groups, and of course the trade unions. I congratulate and thank everyone who has contributed to that improvement in the health and safety record.

The House, however, will know that deaths and injuries continue to occur. Every death is a tragedy, and even one is too many. Indeed, only a fortnight ago, two construction workers were killed at a school building site when a crane collapsed on top of them. We must therefore strive constantly to drive up health and safety standards. Last week's construction health and safety summit was attended by the chief executives of some of the UK's biggest construction companies as well as trade union general secretaries in the field. They acknowledged that progress has been made but that, as has been argued today, much more could be done. As hon. Members will be aware, it has been the Government's long-standing policy to encourage all employers to take responsibility for ensuring that risks to their employees' health and safety are properly controlled. We consider it essential that boards of directors in all sectors and in organisations of all sizes play their part by providing the necessary leadership and direction to ensure the health and safety of their employees and of people affected by their activities.

There is evidence that a growing number of boards of directors have taken responsibility for health and safety and are providing the necessary leadership. There are differing views, however, about the speed of that progress. I acknowledge that in a significant number of organisations—one in six, it is estimated—boards have not taken on that vital responsibility and have indicated that they have no intention of doing so, so there is more progress to be made. We are doing a great deal already, and it is not all about legislation. A key theme of the Health and Safety Commission's workplace strategy is helping people to understand and benefit from sensible health and safety policies and practices. I agree with the hon. Member for Daventry (Mr. Boswell) about the business as well as welfare benefits that flow from sound health and safety practice. That includes publicising examples of best practice, the benefits of board-level corporate responsibility and the persuasive evidence of the benefits, both economic and social, of director leadership.

We have evidence that the guidance issued by the Health and Safety Commission in 2001 on directors' responsibilities has had an impact in raising the profile of health and safety at board level and in changing director behaviour. The Government welcome the recent action by the commission to make the case for director responsibility and leadership more persuasive. The House may be aware that the Health and Safety Executive recently published a series of director leadership case studies containing powerful messages about the social and business benefits of such an approach.

We are sure that the case studies, drawn from the private, public and voluntary sectors—employers such as Esso, Anchor Housing Association and Buckinghamshire county council—will attract considerable interest among peer organisations and will drive improvements. The Government will study carefully the impact of those and other measures in persuading reluctant directors to take responsibility.

Legislation is already in place covering such matters. The Government expect company directors to be fully aware of their legal duties and to discharge them seriously in the interests of their workers, customers and shareholders. The Health and Safety at Work, etc. Act 1974 imposes requirements, which are relevant and have an impact on criminal liability. Under sections 36(1) and 37, directors can, in specific circumstances, be found personally guilty of a health and safety offence in their capacity as directors in addition to the company being liable corporately. My hon. Friends have referred to that and have drawn attention to the low number of prosecutions. Under Section 7 of the 1974 Act a director may, in specific circumstances, be found guilty of an offence in his capacity as an employee.

The Government, the Health and Safety Commission and the executive would expect company directors to be fully aware of the criminal liability that they already face and to ensure that they and their companies discharge their statutory duties seriously. The commission's enforcement policy statement, published in February 2002, states that

"when the enforcing authorities are investigating possible health and safety offences, they should consider the management chain and the role played by individual directors and managers. Enforcing authorities should take action against them where the inspection or investigation reveals that the offence was committed with their consent or connivance or"

could

"have been attributable to neglect on their part."

The Health and Safety Commission and the executive are monitoring the impact of that policy statement on investigation and prosecution decisions in cases undertaken by the Health and Safety Executive.

Mr. MacDougall: Does my right hon. Friend agree that given the number of Members of Parliament who hold directorships, a decision today would send an important message of leadership in support of the Bill?

Jane Kennedy: Yes, not only would a message go out from the House but many of the relatives of those involved in those cases described to us this morning—they attended a reception last night—will be listening to the debate and watching our actions in this House. We must all stand accountable for the decisions that we take.

The Health and Safety Executive's health and safety offences and penalties report 2003-04, which is its most recent report, stated that the executive prosecuted 17 directors and managers of which 11 cases resulted in convictions. That is fewer than during the previous year, and the executive believes that that suggests progress rather than failure under the existing legislation.

A sanction of disqualification of company directors is also available to the courts under the Company Directors Disqualification Act 1986 and I assure the House that that power has been and will continue to be used. However, there are further calls for more

[Jane Kennedy]

legislation covering directors' duties involving health and safety, often with the backing of the trade unions, and the Bill promoted by my hon. Friend the Member for Jarrow is an example. I accept his comment that the weight of opinion in support of the Bill goes wider than the trade union movement, important though that is.

I referred at the opening of my remarks to the weight of opinion that has supported my hon. Friend's Bill. He has drawn into the Chamber for this debate experienced colleagues from throughout the House, including colleagues who have an experience of agriculture, the offshore oil industry, the construction industry and the mining industry. The right hon. Member for Bromley and Chislehurst (Mr. Forth), who has a distinguished record in the House as a Minister, has the experience of working for Ford, and therefore knows the manufacturing industry extremely well.

I assure my hon. Friend and supporters of the Bill that the Government are not deaf to these representations. I accept that the debate on the need for further legislation on directors' duties is an extremely important one, not only for directors who bear responsibility but for all workers and their families. It is one that is firmly on my agenda, as my hon. Friend knows.

The hon. Member for Gordon (Malcolm Bruce) described a case where regret was expressed by the sheriff that there had not been a heavier penalty available to him to impose. There are other occasions when my hon. Friends would probably join me in bemoaning the fact that the courts too infrequently impose the maximum penalties that are available. Cases have been described to us where the fines imposed have been at the lower end of the scale that is available to the courts. It makes a great impression on those of us who listen to the representations being made when it is reported to us that it is those in charge of the courts who are commenting on a lack of more severe penalties.

My right hon. Friend the Member for Newcastle upon Tyne, East and Wallsend (Mr. Brown)—it is a great pleasure to share this debate with him, and I know that he took a great interest in these matters when he held the post that I am now privileged to occupy—made some forceful comments. Indeed, he makes forceful representations outside this place, which have not been lost on the current holder of the post that he once occupied. He made a thoughtful and telling contribution, as did my hon. Friend the Member for Manchester, Central (Tony Lloyd).

The right hon. Member for Bromley and Chislehurst asked us to consider whether it would be possible, if the Bill were to become an Act, that those lower down the chain of authority might feel that some of the responsibility had been lifted from their shoulders. I think that there would be some hollow laughter if that were to be the effect of the Bill. The point has been made that a higher proportion of those who are prosecuted now seem to be at the lower end of the responsibility chain within management.

I was interested to hear about the former experience of my hon. Friend the Member for Chatham and Aylesford (Jonathan Shaw). I, too, was a care assistant. Far too many workers in the public sector, too, are left to learn safe practices by watching colleagues and emulating them, rather than learning from a structured programme of instruction on safe working practices.

We accept and recognise that a change in the law as proposed in the Bill may well assist prosecutions of errant directors of large companies. However, it is far from clear what improvements in health and safety would result from the proposed changes. We must be sure that such a change in the law would have a major impact on reducing injury and ill health in the workplace. At present, we do not have that confidence.

Reference has been made to the recommendations contained in a report of the Work and Pensions Committee's health and safety inquiry, calling on the Government to introduce proposals for pre-legislative scrutiny during this Session. In our response, we stated firmly our belief that there is already an appropriate balance of legislative and voluntary responsibility on directors in relation to occupational health and safety. We asked the Committee to note that we had no immediate plans to legislate as recommended. However, this might be an appropriate moment to say that we have a firm intention to legislate on corporate manslaughter and Crown immunity—two sides of the same coin—and the Bill will be published shortly.

The evidence to the Committee made clear the contentious nature of the research findings on what motivates directors to take responsibility for and to provide leadership on health and safety. We appreciate the views of those who consider further legislation and regulation as the only real influence on motivating directors to take responsibility, but we need to be convinced that making directors more liable to prosecution is one of those key motivators.

Will my hon. Friend the Member for Jarrow consider the regulatory impact of his Bill? When framing new law we must be clear about its costs and benefits, and we would be interested to know what, if any, information he has on that. Several hon. Members have referred to the fact that the Bill deals with the biggest companies, corporations and institutions in the UK. It is worth noting that fewer than 8,000 companies would be affected by the Bill's requirement to nominate a health and safety information director. It requires only large companies to appoint such a director. According to the DTI's figures, the UK has some 3.7 million businesses, of which 99.8 per cent. are defined as small and medium-sized, all of which are excluded from that requirement.

Hon. Members will also be aware that the Government, in their response to the Committee, reported that we have asked the Health and Safety Executive to undertake a further evaluation to assess the effectiveness of current measures on director responsibility. We have asked it to review all the available evidence and to report its findings, together with recommendations, by December 2005, and that work is under way. My right hon. Friend the Member for Newcastle upon Tyne, East and Wallsend described the good and healthy working relationship between the Health and Safety Executive and Commission and Ministers, such as he and I, who exercise the relationship between Government and the executive and commission. It is the executive and commission's firm view that the balance of the legislation is broadly right. However, the Government never seek to duck the opportunity to test our policy against firm arguments

such as those that have been advanced today. The Government are not able to support the Bill, but neither shall we oppose it.

12.43 pm

Mr. Tim Boswell (Daventry) (Con): The hon. Member for Jarrow (Mr. Hepburn) is to be commended on introducing his Bill to the House, and all hon. Members who have participated in today's debate, no doubt well informed by the extensive and generous briefing that we have received, have done so in a thoughtful and constructive way. That is perhaps the most important outcome, particularly in view of what the Minister has just said, which I am sure will come as a disappointment to the hon. Gentleman.

I understand the Minister's doubts. I notice that they have become rather more intense in recent years, and that there has been a certain backing and filling in the Government's position. But as far as I and I hope all hon. Members are concerned, the more of a political consensus we can get on health and safety matters and the less we bat it from side to side, the happier we shall be, and the more constructive the outcome, as has been evident today.

I go back to the remarks of the Bill's promoter at the beginning of the debate when he detailed the deaths and serious injuries that have occurred at work and the fact that this measure is about individuals and their families and successors, sadly. Almost all of us as constituency Members of Parliament, and, dare I say, quite a number of us as individuals, including myself, have had some experience of accidents to close members of our families and in having to handle the outcome of such situations.

I suppose it would be fair to say that the immediate need, beyond the period of grief, is to look at the issue of redress, including financial compensation—not that that is always well handled, or embraced in the Bill. There is, as has been said from a number of points of view, a need to try to get at the facts of what happened—a lot of people strongly want to do that—and sometimes legal process, even if it is designed to discover those facts, actually operates against that ready disclosure. People are not ready to put their hand up and say that they were wrong; it has to be dragged out of them.

Beyond that, I would simply say that in my experience many more constituents are interested in using the sad experience of their bereavement or loss for positive ends, to say that it should not happen again, than in punishing those who are guilty. It will vary, and perhaps it is right that people should have the privilege of taking their own view on it, but what we are concerned about here is to learn from what happened and see whether we can bring about an improvement.

Conservative Members are interested in any proposals that can be shown to make a significant contribution to improving health and safety at work. I am a small employer, although not a remunerated director, and I share that view. I have already made the point to the House that there is a strong business case, as a good employer, for doing that.

The House will know that ever since the Health and Safety at Work, etc. Act 1974, the obligation to address these issues has fallen equally on employers and employees in industry, and that is right. Good safety and good working practices should be the mutual responsibility of all those engaged in industry. Beyond that, there is an expectation that as experience of what is safe and what is not develops, as technology improves and new sensors, new warnings and new smart systems can be introduced, and as a new and safer generation of machines comes along, we should, collectively, generally be able to show a better record than we have in the past, and indeed we need to do so.

As the Minister of State has reminded the House, however, this has generally been the case in the United Kingdom. British industry has one of the best safety records among members of the European Union, and it is possible to go not too far beyond the channel to find cases where compliance and attitude are perhaps less intense. Of course, in saying that, I do not want to be caricatured as in any sense saying that we can be complacent. One death is still one too many, and we all want to struggle to see how we can effectively improve the situation.

I shall pick out two themes that have emerged from the debate. In a way they are rather antagonistic, as the details of legislation always are. The first theme is the developing nature of what has to be done in safety. I will except for the moment wider issues of occupational health, in which the Minister of State and the hon. Member for Barnsley, West and Penistone (Mr. Clapham) know that I am interested. There is an important issue about occupational health as well, but in this debate we are primarily dealing with the accident situation. I think that we are moving towards a more modern approach to accidents.

When I first came on the scene—I grew up on a farm; it is a dangerous industry—legislation introduced guards, in what was seen as a passive exercise to stop people doing silly things near moving machinery. That was in a sense rather simple, because either the guard was there or it was not; somebody had taken it off when they should not have done, or it had never been fitted in the first place. Now it is all more complicated.

In a separate context it so happens that I have recently taken one of the officers' positions in the recently established—rather late in the day, perhaps—all-party parliamentary group on patient safety, which had its inaugural meeting earlier this week. We were addressed rather compellingly by the chief medical officer. He spoke about patient safety in the NHS and made the point—I do not have the exact text of what he said—that we were moving towards a system of not so much operational safety in which one takes note of individual incidents, but of ensuring that systems are safe using a procedure of interlocking checks and balances. That is entirely sensible and consistent with what goes on in modern industry.

The second underlying theme of our debate is that we are all anxious to try to pin blame, if that is the most appropriate term, on those responsible for incidents. As several hon. Members have made clear, the problem is complex because there are different places where responsibility could operate, ranging from the workplace itself right up to board level, which is where the hon. Member for Jarrow argues that it should lie.

As an employer, I know that there is always a little disquiet when one comes away from the operational situation. As I am in Parliament, obviously I am not on my farm today. I have a well trained staff of one, who

[Mr. Tim Boswell]

has the necessary certification to apply agrochemicals and perform other procedures. I am confident, and need to be confident, that such procedures would be carried out properly and safely in my absence. Nevertheless, people sometimes do things wrong and disregard instructions, so central management might feel unable to control that situation, even if good safeguards were in place. I think that that problem lies behind the disquiet that is sometimes expressed in terms of scapegoating or corporate manslaughter. People say, "We'll get them," but we are never quite sure who they are.

It is clearly wrong for employers just to walk away from their responsibilities saying, "It doesn't matter; we're not interested," and the Minister referred to that in her speech. However, it is impossible to achieve some things at board level, so it is perhaps unreasonable to penalise people who have done their best to put safe systems in place. We must deal with a difficult set of legal issues. Perhaps mercifully, we have not heard too many legal contributions to the debate—I am not a lawyer, anyway—but we would have to try to work out where blame should lie. It would perhaps be more constructive to say that a common obligation exists and that that must be examined collectively by industry.

Let me turn to the Bill itself. It would amend the Companies Act 1985 and impose specific duties on people in their capacity as company directors. I do not think that a distinction has been made sufficiently clearly between executive and non-executive directors. Executive directors are likely to be employed by their companies, so they have health and safety duties as employees. Their companies will also have general health and safety duties. From my lay interest in law, I suspect that if one looks down the fiduciary duties of company directors under common law, one could get the whisper of an idea—a judge could run further with this—that directors already have a duty not to walk away from the interest of their employees. Perhaps that is a matter for later discussion.

As I have suggested, there is a worry that non-executive directors who do not have day-to-day responsibility for a company might find themselves put at risk by something over which they have no direct control. I can conceive of circumstances in which the negligence of a non-executive director could have contributed to a failure in safety, although I do not have a specific case in mind. However, I would be surprised if that was the norm. It falls to the promoter of the Bill and his colleagues to comment on that, including my constituency neighbour, the hon. Member for Northampton, South (Mr. Clarke), who spoke effectively on the matter and, indeed, my neighbour on the other side of my constituency, my hon. Friend the Member for Banbury (Tony Baldry), who is a sponsor of the Bill.

To be fair, I think that today we have largely avoided promoting a culture in which the response to anything that goes wrong—things do go wrong from time to time—is to press the blame button automatically and find someone to collar without examining the underlying causes of an incident. It is at that point that concerns arise about the public sector, as well as wider issues about corporate manslaughter. The right hon. Member for Newcastle upon Tyne, East and Wallsend (Mr. Brown) speculated about whether the permanent secretary or the Under-Secretary should do time for whatever went wrong. That is an interesting point, but whoever it was they would not be subject to the Companies Act 1985, at least not in that regard. However, they clearly have some general responsibility for the supervision of their operation.

It is not clear, and the fairness is questionable, whether a duty should be imposed on private sector directors under the Companies Act which did not extend to their counterparts in the public sector. That is all the more true as evidence shows that some performance in the public sector—for example, the NHS, where there is no longer Crown immunity—is from time to time the most disappointing in the whole sphere of health and safety. The NHS employs many people and there are some difficult procedures. As some Members know, I have taken an interest in issues of latex allergy; indeed, the DWP has helpfully responded, for which I thank the Minister. There are also patient safety issues. Many things go wrong in the health service and I am not sure that locking up the permanent secretary at the Department of Health will actually stop them happening.

There is a wider point on corporate manslaughter. If the Minister disappointed the House in her comments on the Bill this morning, she has equally disappointed the Labour party, given the manifesto it offered the electorate at the last general election. Will the Labour party be repeating its pledge on corporate manslaughter legislation? An underlying theme may be the reluctance of civil servants to assume responsibility, as well as some of the concerns about directors that the Minister expressed. As she knows, I share some of those concerns, although I understand the reason for the legitimate concerns of the supporters of the Bill.

These issues are interesting. They matter to individuals, but more generally they affect public policy outcomes for our citizens. The overlap between corporate responsibility, issues of corporate manslaughter, where the blame should lie and how that should be reflected in legislation is complex. In an intervention, I mentioned as an example the relationship between constituent companies in groups of companies.

I note that the Work and Pensions Committee suggested pre-legislative scrutiny. In a sense, the Bill is about pre-legislative scrutiny, but it is unlikely to reach a final conclusion, even with the eloquence of the hon. Member for Jarrow.

In conclusion, I strongly advise the House against over-reliance on the measure as if it were a magic bullet for such a real problem. We cannot guarantee to prevent accidents through the Bill. I am not sure that we can reinforce the need to encourage and celebrate individual excellence, nor am I absolutely sure how much we can achieve through the Bill on any improvement in collective attitudes to safety, although we should all welcome that. However, the hon. Gentleman has performed a service to the House by putting the issue on the table. Like the Minister, I shall not try to frustrate him in his efforts to get the Bill into Committee.

12.59 pm

Mr. Eric Forth (Bromley and Chislehurst) (Con): I do not need to say very much because I agree almost entirely with what was said by the Minister and by my hon. Friend the Member for Daventry (Mr. Boswell), a position that usually embarrasses me but to which I am happy to admit on this occasion. Although, of course, I acknowledge the motivation and sincerity of the hon. Member for Jarrow (Mr. Hepburn) and his friends in bringing the Bill to the House, I take the view, as those who attend regularly on Fridays will know—unfortunately, I do not see many of them in the Chamber today—that we must be even more careful with private Members' Bills than with Government Bills. That is simply because private Members' Bills often represent the dreams of this or that group and the proper aspirations of good-minded people, but are not necessarily very well thought through. I am afraid that the hon. Gentleman's Bill is an example of that, and that we would be foolish to rush into supporting it, especially given that the Government have indicated that they are seriously considering the matter in a much broader context.

I will seek to divide the House, Mr. Deputy Speaker, if only to test the amount of support that the Bill really has. I come here every Friday for private Members' Bills—I am that sort of person—and often listen to colleagues whom I have never seen before, and will probably never see again, arguing for a Bill that they think the most important thing that we can consider. They always say, as the hon. Gentleman did today, "There is huge support for this Bill inside and outside the House, and it has cross-party support from all these Members who have sponsored it." Then I look around, ever optimistic, to see where they are. All we ask them to do, as Members of Parliament elected to legislate, is to turn up on one Friday of the year to show physically their support for a Bill. That is not an awful lot to ask. Today we will see just how much support there is for this Bill in the very real sense of how many Members are here to demonstrate in the Lobby that they believe that it should proceed further.

I have expressed my reservations in a couple of interventions and need not rehearse them at this stage—I am anxious that my hon. Friend the Member for Mole Valley (Sir Paul Beresford), who has the next debate, should have an opportunity to get it started after we have our little Division—but I have a couple more points to make.

Sadly, the Bill is excessively narrowly focused on the private sector, and some people could think it almost vindictive. In picking out only directors of private companies, it appears to ignore other potential areas of difficulty. That was alluded to by my hon. Friend the Member for Daventry and other hon. Members. If we are to proceed along this track, I would much prefer to look more broadly at the parallel responsibilities in the public sector, where, after all, a very large number of people work, often in very hazardous conditions. We should also pause to consider whether legislation of this kind should focus so narrowly on directors alone. I believe that responsibility for health and safety rests at every level in every organisation, large and small, and that we should head in that direction instead of merely singling out directors.

The Minister was too modest, as always, to quote herself to the House, so I shall do it for her. The Work and Pensions Committee has frequently been mentioned, and I want to put on the record what she told it in evidence last May, which very much reflects my view:

"The evidence ... has shown that directors are giving leadership and direction, that increasingly companies are directing health and safety at board level, and that better guidance to companies is what is needed rather than legislation or further regulation. Des Browne was advised by the Commission"—

that is, the Health and Safety Commission—

"in January of this year that new legislation was not needed as a result of that and he, therefore, accepted that advice."

That is a very balanced view. The Minister has said that she is participating in the process and has instructed that an ongoing review be conducted by the end of this year.

This may sound odd coming from me—it will look all right if it is quoted in context, but pretty peculiar if not—but I believe that Government legislation has a better chance of being more carefully examined, more carefully structured and having resulted from broader consultation and consideration than is necessarily possible for private Members' Bills. For that reason, I come here when private Members' Bills are considered to try to make sure that we look more carefully at them than we able to do for Government Bills. All in all, I am content with what the Minister and my hon. Friend the Member for Daventry have said, but nervous about the Bill and the way in which it seeks to take us. I shall therefore seek to divide the House in order to assess the real support for the Bill.

Question put, That the Bill be read a Second time:—

The House divided: Ayes 28, Noes 0.

Division No. 113] **[1.5 pm**

AYES

Barnes, Harry
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bruce, Malcolm
Chaytor, David
Clapham, Michael
Clarke, Tony *(Northampton S)*
Cohen, Harry
Cousins, Jim
Crausby, David
Dismore, Andrew
Dowd, Jim *(Lewisham W)*
Field, rh Frank *(Birkenhead)*
Foster, Don *(Bath)*
Gerrard, Neil
Hepburn, Stephen
Illsley, Eric
Jones, Martyn *(Clwyd S)*
Linton, Martin
MacDougall, John
McIsaac, Shona
Mackinlay, Andrew
Pound, Stephen
Price, Adam *(E Carmarthen & Dinefwr)*
Quin, rh Joyce
Shaw, Jonathan
Sheridan, Jim
Strang, rh Dr. Gavin
Taylor, rh Ann *(Dewsbury)*

Tellers for the Ayes:
Mr. Tom Watson and
Joan Ryan

NOES

Tellers for the Noes:
Mr. Eric Forth and
Mr. Edward Leigh

It appearing on the report of the Division that 40 Members were not present, MR. DEPUTY SPEAKER *declared that the Question was not decided, and the business under consideration stood over until the next sitting of the House.*

Sexual Offences Act 2003 (Amendment) Bill

Order for Second Reading read.

1.15 pm

Sir Paul Beresford (Mole Valley) (Con): I beg to move, That the Bill be now read a Second time.

I start by thanking the Under-Secretary of State for the Home Department, the hon. Member for Wythenshawe and Sale, East (Paul Goggins) and his considerable team of officials, who will be seen filing in at any moment. Perhaps it is some credit to me that I have managed to take those who normally occupy about a quarter of a floor of the Home Office from their desks, especially at lunchtime.

The second reason to thank the Minister is that the long title would have to be adjusted if the Bill proceeded to Committee, as he pointed out. The long title refers to section 67 of the Criminal Justice and Court Services Act 2000, which has been repealed. That section, which previously made provision for the risk assessment of sexual and violent offenders, is repealed by the Criminal Justice Act 2003, with effect from April 2004. There is now a matching provision, involving a slightly broader range of organisations, in section 325 of the 2003 Act.

I shall read out a statement from the Metropolitan police practitioners—the men and ladies who have to carry the task out—that is included in the Library's research paper:

"This is an extremely important tool that will allow police and partners to assess and manage effectively those people on the sex offenders' register.

The majority of offenders comply with the registration requirements in terms of notifying police of their address (97 per cent.). There are however no real means of confirming that they physically reside at the address given, or assessing whether they are involved in offender behaviour without using extremely intrusive and resource intensive methods. A visit to the address at a reasonable time will allow us to perform some of the functions already incumbent on us through existing legislation.

The power will also allow us to police restriction orders imposed by courts and prevent the current problem of offenders refusing to speak to police during their period of registration.

In the main this will not affect those offenders who recognise the risk that they pose or have posed to the public. It will however provide us with legislative support to manage those that currently pose a risk and do not wish to stop."

To be fair, there follows a quotation from the Association of Chief Police Officers, which I shall address and on which I am sure the Minister will rely in replying.

It is worth pointing out that this is a fairly grim subject—indeed, I have yet to come across a subject that has cleared the House quite so quickly. When court cases involving such events are reported in the papers, one can watch people reading turn the page quickly, because the issue is unpleasant and the criminals are not particularly delectable individuals. So I need to explain my thinking and background.

One of the advantages of being a Back Bencher is that one can go on various schemes. I went on the police and parliamentary scheme with the Met police. Much of what I saw was intellectually testing and fascinating. I spent one day, however, with the Met's paedophile unit. At that stage the gentleman in charge was Detective Chief Inspector Dave Marshall, who was followed by Detective Chief Inspector Matt Sarti, with whom I have worked since, as well as their equivalents in some other police forces, particularly Surrey police.

I was shocked at what I saw. The public have no understanding of the individuals with whom policemen and women are dealing or of what they do to children. I am not talking about a few individuals. The police conservatively estimated that there were 230,000 active paedophiles in this country two or three years ago. One only has to look at the information on news broadcasts today to recognise that that is probably an underestimate. Even at that level, however, it is equivalent to one paedophile for every street in this country.

The other staggering statistic that I picked up from the police and the research that I have done is that 10 to 20 per cent. of those individuals are women. According to one or two other sources, the proportion is perhaps even higher than that. Rose West is an obvious example, but there are many others.

It was with that in mind that I decided to try to help the police to do the job that we expect of them. I am not alone in that. A Conservative Government started the activity, which has been followed up by other Governments. There has been considerable co-operation, and a few hon. Members on both sides of the House keep pushing the issue so that we can give the police the opportunity to carry out their task.

We need to understand the background of the individuals involved. Apart from the monstrous depravity of their crimes, one of the fascinating and horrifying things about paedophiles—those who commit sexual offences against children—is that not only do they frequently have a single-minded drive to have sex with children, but they have a number of other characteristics, which in some ways is helpful to the police. First, they have a need to collect data and memorabilia associated with their activities. In the early days, that would have been photographs on a box Brownie or some old 8 mm films. They keep clothes, especially of their victims, and records—perhaps written or verbal on tapes—of their grooming activities. Many of them collect vast amounts of literature, some of which is inexplicable until we listen and talk to them. For example, many collect Mothercare catalogues.

The video age came along, so they joined that. With great glee, they swap, spread and record their physical activities on videos. Latterly, with the digital age, they have moved into photographs stored on computers, including digital storage in the form of CD-ROMs, DVDs and storage pens. Even more worrying is the recent trend to use the internet to store remotely.

Any of those listening to the news today would have picked up concerns about the internet in particular. It is a fantastic instrument, and I would be lost without it, but equally, it is utilised by paedophiles, partly for their own stimulation, partly for stimulating others, partly to reassure themselves that they are not alone, and partly to stimulate their feeling that what they are doing is right and the rest of us are wrong.

It is a regular occurrence for them to sell photographs and information over the internet. Everyone is increasingly aware of that. By sale, I do not necessarily

mean a financial transaction, but an exchange of photographs. For them to join a gang or ring that is circulating photographs, frequently the requirement is to provide a new as yet unseen photograph, which means yet another child abused to provide that. One of the advantages from the police point of view is that some of those activities leave traces that can now be detected on computers. Data, either actual or otherwise, is available even if it is encrypted. That gives the police the opportunity to follow those individuals.

The second characteristic is that those monsters are not what many people think of as standard monsters. They are not old men in dirty macs. Many of them are extremely intelligent, and highly adept at grooming children, if not adults. Many of them, as part of their grooming of children, will keep toys, comics and sweets attractive to children. Those are significant details sitting in their homes for the police, if only they could get in.

Nowadays, much of the grooming takes place on the internet. When the police managed to get access, after conviction, to the computer of an individual who has recently been convicted and who I understand is now in jail, he was discovered to have been simultaneously grooming 58 British children with the ultimate intention of sexually abusing them.

The third characteristic worth mentioning is that almost without exception, paedophiles are the most adept liars. A senior defence barrister, whom I will not name, who was part of the team defending Rose West and has defended a number of paedophiles, said to me—I was surprised how vehemently upset she was—that paedophiles were the most untrustworthy, two-faced, lying, slippery individuals that she had ever had to deal with. She said that they made the worst fraudster whom she has ever had to defend look comparatively straight. That surprised me, because she was supposed to be on their side—at least in court.

The previous Conservative Government and this Government, aided and abetted by a number of Members on both sides of the House, have over the past few years greatly strengthened the law on sentencing paedophiles. Part 1 of the Sex Offenders Act 1997 imposed a requirement for convicted sexual offenders to notify the police of their names and addresses and any change of details, to ensure that the information on the sexual offenders list on the national computer was up to date.

The Criminal Justice and Court Services Act 2000 amended the law in relation to sexual offenders by placing a duty on chief officers of police and probation officers to establish arrangements for assessing and managing the risks posed by sexual and violent offenders. That is key to what I am asking for today. When this subject comes up in the consideration of various Bills in Committee, there is very close agreement between the Opposition and the Government; there are fine points around the edges, and I guess that I am pushing one of those, but it was the Government's intention, as well as that of just about everybody else in the House, that there be an effective and consistent public protection arrangement in every police and probation area, following national guidance but implemented locally, to suit local conditions and needs. I have certainly found that arrangements throughout the country have varied. The problems that I am trying to address apply more to the Met than they do to, say, Surrey police, although they tell me that the difficulties that I am trying to address are beginning to arise there, too.

Linked to the police and the probation service are a number of statutory and voluntary agents that have a role to play. The Conservative Government recognised that many of the offenders, particularly predatory paedophiles, had a long history that clearly indicated their propensity to reoffend. That meant that if society, represented by the courts, was prepared to allow those individuals to be released, placing them on the sexual offenders list and putting on the police a duty to risk-assess would in effect be an extension of the original sentence.

The annual requirement that offenders should confirm the details with the police and that the police should be able to check from prints and take photographs at all notifications is important, but at the moment, that is done in person at the police station by the individual on the list. It is left to the police to check. The statement from ACPO that I mentioned says that some 97 per cent. of those on the list co-operate—but they co-operate to the limited degree required, which if they are difficult, does not allow for the police to risk-assess. That 97 per cent. is a proportion of the whole sex offenders list, and of course, not all the offenders on that list are paedophiles.

The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins): The hon. Gentleman is demonstrating two things: first, his considerable personal knowledge of the area, which I freely acknowledge and from which I have gained a great deal during the two years in which I have had my present responsibilities; and, secondly, the fact that there is little difference between the political parties in this respect. We seek consensus. He has mentioned the improvements made to the sex offender registration arrangements following the passage of the Sexual Offences Act 2003; he was a member of the Standing Committee on that legislation, as was I. I hope that he will tell the House how successful he thinks our attempts to improve the arrangements have been. They are far more stringent now.

Sir Paul Beresford: I thank the Minister—I think. A reputation for having considerable knowledge of paedophile activity is something I would rather keep behind closed doors. He is right to say that the Standing Committee as a whole felt that we were making progress. Today, however, I am pressing a point on which I think we need to go a little further. We have landed the police with a duty that is extremely difficult for them to undertake because many paedophiles are intelligent and have learned that they do not have to co-operate. I want them to co-operate, as do the police; it would save us all a lot of effort and a lot of taxpayers' money if they co-operated—if they could be made to co-operate—but to an increasing extent they do not.

One of the reasons why, in my tiny Bill, I am specifically targeting paedophiles on the list is their strong propensity to reoffend. Some—very few—can accept and receive treatment that, while it does not cure them, enables them to resist the tendencies that they have come to understand society as a whole will not

[Sir Paul Beresford]

accept. From talking with the police, I suspect, but cannot prove, that the vast majority of the 3 per cent. of offenders on the list who in 2003 were reported not to have co-operated were convicted of sexual offences against children.

In the Standing Committee on the Sexual Offences Bill, the Minister correctly identified the 3 per cent. figure and pointed out that the police have a general power to apply for a search warrant when investigating whether the requirements are being met. What makes the police deeply worried is that the 3 per cent. includes the offenders whom the police feel are most likely to reoffend and who appear to the police constructively to be blocking risk assessment. The Minister said that a search warrant could be sought, but he will recognise that the police need good grounds on which to base an application, and that suspicion alone is not enough to secure a warrant. The mere suspicion that an individual is not living at the address at which he is registered is not enough.

In Committee, the Minister said that the multi-agency protection arrangements would assist the police in carrying out the risk assessment. Sex offenders leaving prison are required to attend appointments with probation officers, but those appointments do not take place at the offender's home or registered address, and there is no opportunity for probation officers to check whether there are clear signs—there often are—that the offender is likely to reoffend.

Paul Goggins: It might help the House if the hon. Gentleman confirmed that the 3 per cent. who do not comply with the registration requirements are committing a criminal offence, which carries the considerable maximum penalty of five years' imprisonment. By not complying, the people about whom he and I are deeply concerned are committing an offence for which they can be investigated.

Sir Paul Beresford: I accept that, and I am using that 3 per cent. to demonstrate the difficulties that are on the record. There are a dozen or two dozen individuals who comply with the regulations, but it has proved impossible for the police to risk-assess them.

Discussing my Bill, the Library research document says:

"ACPO and the Home Office feel that these amendments are a step too far and there is a very real risk that this new power will make notification requirements onerous, that they may become disproportionate in the terms of article 8 of the Human Rights Act."

That astonished police on the ground who have to do this work—I am referring to officers of the rank of detective chief inspector downwards and, in the case of the Metropolitan police, commanders above that rank. It is a risk given my Antipodean background, but I will tone down their comments, which were unprintable, let alone suitable for the House. The general feeling was that the ACPO suggestion was made by a desk clerk who had never arrested anyone and had never worked in the field. It was thought that he had fed the information to a poor ACPO member who had to pass it on. The police wished that that individual would come and try to do the job that he was making more difficult for them.

Like ACPO, I believe that that article 8 of the notorious Human Rights Act 1998 results in a disproportionate imposition. The Minister would expect me to ask him to look at the legislation that is going through Parliament at the moment. There is an argument in the other place about the Prevention of Terrorism Bill, but the Lords are also considering the Serious Organised Crime and Police Bill, which will permit investigation, perhaps detention, and entry into individuals' homes. If that Bill is enacted, a disclosure notice will give authorities the power to enter premises and seize documents relating to the investigation of drug trafficking, money laundering, intellectual property theft, pimps and brothels as well as tax and excise fraud offences. Third parties who may be quite innocent of links to the individuals under investigation will be forced to co-operate with the investigation, answer questions and provide papers. That will apply even if there is no likelihood or suspicion that the third party is involved in a crime or an alleged crime and is not under investigation.

The individuals I am targeting are convicted criminals—they are on the sexual offenders register because they have been convicted of an illegal act. They are, in effect, out on licence, and the police have a duty to risk-assess them, because we need to protect society, particularly children. The Metropolitan police, as I said, have given me a list of more than a dozen paedophiles who are on the register of sex offenders, and from whom they have failed to receive any co-operation.

Paul Goggins *rose—*

Sir Paul Beresford: Before the Minister has another go at me, while those people are strictly within the law, the police find it impossible to risk-assess them.

Paul Goggins: It is kind of the hon. Gentleman to give way to me a third time. He is focusing on a couple of dozen individuals, and I am trying to clarify whether they are part of the 97 per cent. who are complying with the registration, but about whom the police have further suspicions, or part of the 3 per cent. who are not complying.

Sir Paul Beresford: Looking quickly at the summary that the police gave me, I judge that many of them would come within the 97 per cent. That is worrying, and I hope that the Minister is worried. However, I will check that information and write to him because it may help us when we debate the matter after the election. With the prospect of an election, I recognise that the Bill will not get far, but it is worthy of consideration.

The people whom the Bill targets are convicted criminals on licence whom the courts and the police believe to be a risk—sometimes a considerable risk. I shall refer briefly to two. The first is Mr. P, who was convicted some time ago of indecent assault on an eight-year-old boy—his stepson—and received a prison sentence. I will not go into the details of the assault, because they are grim. It is worth mentioning that it is not uncommon for predatory paedophiles to marry or become involved with single mothers, because they are interested not in the mother, but in the children. In an area such as London, which has so many blocks of flats, that is seriously worrying.

Mr. P is extremely aggressive towards the police. He refuses to open the door to them and responds through an intercom. The police believe that he has a live-in girlfriend and that she may have children there. He may also have links with other flats in the same block to which the police cannot get access. Whenever the police visit Mr. P, he, or his solicitor, writes a letter of complaint. The police visit him not just to check whether he is living at the stated address—when he responds, it is clear that he has an association with the address—but to carry out a risk assessment. He seems to comply with the letter of the law, apart from the risk assessment.

The second individual has been visited on a number of occasions and access to his address is generally not available because he has a locked internal door. Attempts to visit him have usually received little or no response, although persistent requests are made for appointments through correspondence and so on. When he is finally contacted at the address, or what he claims is his address, the police meet him at the front door and he will not let them past that front door, or a second locked door.

I could bore or horrify the House by going through the other dozen or so cases, but I will not, because the point has been made. What must be emphasised is that it is the risk assessment requirement and duty of the police that enables them to protect our children.

One advantage of my having been with the police during that short period and subsequently is that I now recognise the huge task facing them. The figure of 230,000 that I referred to comes from three or four years ago; it is not one of the figures in today's press releases. We must understand that the duty of the police is to protect children and to give them their human rights. That should be the drive of the House throughout, but particularly in the case of people whose abuse of children is horrific.

1.44 pm

Mr. Tim Boswell (Daventry) (Con): The House owes a debt of gratitude to my hon. Friend the Member for Mole Valley (Sir Paul Beresford), both for introducing this Bill and—as the Minister has already generously acknowledged—for the undoubted body of expertise that he has developed in this area. It is for most of us, certainly for me, an area of which we have a passing knowledge. However, much of what we read is in somewhat tetchy constituency correspondence or in the pages of tabloid newspapers, and that does not always make for the most rounded of debates. It is important for us to take issues that arouse anger and fear, and provoke the universal wish to protect children, and put them into a manageable and acceptable body of legislation. We should not respond to the demands of the moment, but try to produce something that works.

I have four brief comments on my hon. Friend's speech. First, I wish to thank him for the reasonable point that he made about risk assessment. I am comparatively unfamiliar with the legal machinery in that regard, although in my days on my party's home affairs team I recall subbing for a colleague on an order connected with the sexual offences legislation. I had assumed that the main function of the sex offenders register was the passive one of satisfying the general public that the police knew where offenders were. As the Minister will know, that answers to a widespread public demand. My hon. Friend has informed the House of a more active element to that risk management. If that is to take place in any reasonable way, it has to do so on the basis of facts. As he told the House, the majority of convicted offenders comply with the rules. That is reassuring, and I have no difficulty with the assurances given by the Minister and in the briefing that is available to Members on this Bill about tightening matters up. Nevertheless, in some situations—graphically described by my hon. Friend—sex offenders do the very minimum required under the law or flout the law in relation to allowing the police to carry out a risk assessment. That is unacceptable, because we are asking the police to do a job without giving them the tools to do it.

My second point relates to article 8 of the human rights convention. For the avoidance of doubt, I can tell the Minister that I am one of the founder members of the new Conservative human rights group. I am pleased that we have got round to setting that up, and it is a reflection partly of a growing interest in such matters on this side of the House, for reasons that I need not expand on, and partly of the need not to see such matters as subject to party political controversy, left or right. My membership is reinforced by the fact that one of my daughters works for the Government legal service as a specialist in human rights. If I feel the need to say that that is not a contradiction in terms, the Minister will understand why. Issues of human rights matter terribly to us, as they have mattered in this House for many centuries. We need to get the balance right, but we now have a conflict between, on the one hand, the evidence that my hon. Friend has brought to the House on the Met and, on the other, ACPO. I should point out that I know well the chief executive of ACPO, Chris Fox, because he was the chief constable in Northamptonshire before his welcome appointment to ACPO.

I shall not go into the genesis of ACPO's view, at which level the decision was taken and whether it was well advised. There is a clear clash of views. However, as my hon. Friend pointed out, the Government have taken other powers—for reasons that may or may not be defensible, but which we need not debate today—that are far more sweeping in their threat to the traditional liberties of the subject than the question of the right of access to the premises of convicted sex offenders who have registered their presence.

To the impressive list given by my hon. Friend, I add my personal experience, which I have shared with the House before. About six weeks ago, while driving my car, I was pulled over by a group of uniformed police officers who said that they were from the Ministry of Defence and wished to search my car under the provisions of the Terrorism Act 2000. They did so perfectly correctly and gave me a chit for doing so. There was no question of a prior moving traffic offence, suspicion or anything else. It was a peremptory challenge. If that is justified in relation to, I hope, an innocent citizen, equally the sort of intervention proposed in the Bill is as well.

It would be desirable, although it may or may not be possible in practice, on this occasion or perhaps at a later stage, for these issues to be examined again in Committee, and in detail, and for the difference between the Metropolitan police and ACPO to be bottomed out. We could then ascertain whether there were any other

[Mr. Tim Boswell]

constraints in the interest of human rights that should be imposed within the proposals. For example, the use of the evidence obtained needs to be more tightly conditioned, that it should be for a limited period, or whatever. These are essentially Committee points.

If we ask the Met or any other police force to carry out this work, we need to give them the tools to do it in relation to risk assessment. There are occasions when it is proper—I use the word carefully—to derogate the human rights of the individual. We should never do that lightly. We should not do it beyond what is proportionate. It seems to me, however, that such an approach may be appropriate in this instance.

I conclude my remarks by setting out two other considerations. First, much of this, but not all of it, for the reasons that my hon. Friend and I have given, is about public reassurance. There is a feeling that someone is keeping tabs on these extremely undesirable, unpleasant and sometimes devious individuals. I think that that is what the general public want. They would take it ill if they were to become conscious—I do not say that this is the case, I am saying that if it became the case or, arguably, one or two causes célèbres might lead people to think that it was the case—that the sex offenders register was not working. As I have said, I am not suggesting that that is happening and I do not wish to alarm people. Clearly, it is no good—although it is a thing that successive Governments have done—just to do something and then say, "We have done it." The process must be continued to make sure that it remains viable and fit for purpose. My hon. Friend is entirely right in bringing forward the consideration.

There is another element that is the point on which I wish to close. There is no doubt that there is a strong sense of public anger and concern about paedophiles. That, in a sense, needs to be managed. The last thing that any of us in the Chamber would want is irregular action, vigilantes and violence—I record the point in the interest of their civil liberties, too—in relation to those whose convictions have been spent. Indeed, these people may even have undergone successful remedial treatment for their condition. We do not want such violence to arise.

I say to the Minister in all seriousness—I think that this is entirely consistent with the case put forward by my hon. Friend—that if public worry boils over, that will have consequences that we do not wish to see. It is extremely important, of course, that Ministers are cautious in assuming powers beyond those that they feel comfortable with or that they consider are justified, let alone powers that merely look good in a press release. However, it is essential that they have the powers that they need and that the sex offenders register can do the job that it is intended to do.

I believe that my hon. Friend, with his undoubted expertise, has made a constructive suggestion. It is worth consideration now, in Committee or on a subsequent occasion. I hope and feel that the Minister will not wish to dismiss it lightly.

1.54 pm

The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins): I assure the hon. Member for Daventry (Mr. Boswell) that I would never dismiss this issue lightly, and I believe that the whole House shares a deep concern to ensure that our laws, and the practices of our law enforcement agencies and other agencies, are effective in this area.

I congratulate the hon. Member for Mole Valley (Sir Paul Beresford). He and I have had a number of discussions in this Chamber, in Committee and elsewhere on the issues that he raised today, and it is perhaps typical of him that, having won a prominent position in the ballot for private Members' business, he chose this subject above any other to bring to the attention of the House in an attempt, in his view, to strengthen the law, although I hope that in my remarks today he will be reassured that we believe that the law is sufficient to provide effective action against the concerns that he highlights. Of course, it is right that the House rigorously and regularly reviews legislation in this area.

As the hon. Gentleman explained, the Bill would provide the police with a specific new power to enter and search the homes of registered sex offenders who have been convicted of sexual offices against children under 16, and he specifically highlighted that that was the group on which he wanted to focus. I freely acknowledge that he has so focused the Bill.

The hon. Gentleman made a similar proposal during our consideration of the Sexual Offences Act 2003 and, more recently, he tabled amendments to the Serious Organised Crime and Police Bill. He is certainly a persistent offender in this House, and he continues to pursue these issues with great vigour. I fully appreciate that he has given considerable thought to these issues and gone to considerable lengths, not least outside the House, to listen to those who operate on the front line of public protection in this area, so that whenever he speaks it is with great authority. It is clear from the way in which he has drafted the Bill that he continues to review and refine his views in this area.

Sir Paul Beresford: I thank the Minister for his kind comments, which cause me to think that he intends to talk out the Bill by filling the last 33 minutes with sweetness and light. However, I understand that he accepts the difficulties, and for that I thank him. Let me help him a little to fill those remaining minutes by asking him to obtain some help from the many officials who have been dragooned into coming along on an alternative means of achieving the same objective. I mentioned the Serious Organised Crime and Police Bill, drawing particular attention to the explanatory notes on clauses 57 to 60, which describe how the opportunity for regulation changes according to what is applied. If there are relatively few specific cases, it may be possible for that Bill, along with the regulations that will be introduced by secondary legislation, to be amended, allowing the objectives contained in my Bill to be quietly achieved but in a more closely targeted way. I wait for the scripts to come rushing across the Chamber.

Paul Goggins: I am grateful to the hon. Gentleman for underlining the fact that I am well advised in this area by officials from the Home Office, who share his and my commitment to improving legislation and effective law enforcement in this area, and I know that he freely pays tribute to them.

I cannot give the hon. Gentleman too much satisfaction on his intervention, although his speech today caused me to redouble my commitment to home

in on those few people who may be particularly difficult to police. If they are part of the 3 per cent., we know that the law enforcement agencies will be doing everything possible to make sure that they comply with the law, and that if they do not, that they face the penalties. If he is raising issues about a small number of people in the 97 per cent. who do comply with registration requirements, I will listen carefully to the law enforcement agencies and their concerns about that. I certainly commit myself and the Government to for ever being vigilant about those few people who might seek to manipulate and flout the requirements of the law in the way that he suggests, although I cannot give him any comfort in relation to legislation going through the House.

In the spirit of further warm words, let me tell the House that the hon. Gentleman has been a member of the taskforce on child protection on the internet. It has been my privilege to chair that taskforce during the almost two years that I have carried my current responsibilities. In addition to being an active member of that taskforce, he was personally involved in helping to frame the grooming offence that we were able to initiate through the Sexual Offences Act 2003. That was a major step forward, which is now enshrined in legislation. From 1 May last year, it has been a new offence for which people can be taken to court, convicted and face imprisonment for up to 10 years. It is perhaps rare in the House that Government are seen to be too meek and mild in this area. Our initial proposal for punishment for the grooming offence was up to seven years' imprisonment, but after urgings from all sides of the House in Committee and on the Floor, we increased that penalty to a maximum of 10 years and we felt on the whole that that reflected the seriousness of the new offence.

The hon. Gentleman is absolutely right that it is a grim issue, but we cannot ignore it. It is an issue that we have to stare in the face and deal with, and I believe that, because of the work of the taskforce on child protection on the internet, we have become a world leader in being able to deal with it. Indeed, on 26 January 2005 the Virtual Global Taskforce was launched. This is a new form of global co-operation between law enforcement in the United Kingdom, the United States of America, Canada and Australia, where law enforcement is beginning to work together on a global stage to ensure that those who seek abusive images of children, and to make direct contact with individual children through the internet, will be policed, found and brought to justice.

Through the work of a number of agencies, perhaps notably the Internet Watch Foundation, which has been established and funded by the industry as a mark of its sense of social responsibility and commitment to self-regulation in this area, we have been able since 1997 to reduce the percentage of websites based in this country that host abusive images of children from some 17 per cent. of sites to less than 1 per cent. That is a remarkable achievement in a relatively short time, and shows that, by working together with the industry, with law enforcement, with academics and with children's charities, we can really make a difference in this very difficult area.

The hon. Gentleman will be aware that not only did we give this matter consideration—at his prompting, of course—during the passage of the Sexual Offences Act 2003, but the issue of police powers in relation to the entry and search of registered sex offenders' homes was considered by the original review of the Sex Offenders Act 1997 in 2001, and that review concluded that such a power was not necessary. The Government continue to agree with that conclusion. These are not one-off, ad hoc assessments. The original review of the 1997 Act formed that conclusion. We reaffirmed that conclusion during the passage of the 2003 Act. We have continued to look, but our assessment remains the same—that the powers proposed by the hon. Gentleman in his Bill are not necessary, and we can be vigilant in our policing of this area without them.

I am simply not yet convinced that effective enforcement of the sex offenders register requires additional police powers over and above those already available. The hon. Gentleman paid tribute to the staff, particularly the front-line police officers, who have to deal with this area, especially those who staff the paedophile unit and those who have to investigate and police the use of the internet and the use of child pornography. That is a heinous area for any human being to have to work in, so I am sure that the whole House will want to record its deep gratitude to the staff who investigate such cases. The public do not have a full picture of such work or an understanding of it—perhaps that is a good thing, in many ways—but the police do a fine job in that area and I pay tribute to them.

The Association of Chief Police Officers continues to agree with our assessment that such a Bill is unnecessary. The hon. Gentleman suggested that there might be tension in the ranks between those who lead and those who do the hard slog on our streets and in our local communities. I have no doubt that the police will debate such tension among their own ranks. I am content with ACPO's strong and consistent advice that such legislation is unnecessary.

Let us be clear about what the Bill would achieve. It would introduce a police power that would apply to offenders who were subject to the notification requirements—registered sex offenders—and had received a conviction for a sexual offence against a child under 16. As I said earlier, I acknowledge that he is focusing on that specific group of offenders. Those offenders would have notified their address in compliance with the notification requirements and would be living in the community. The Bill thus does not address people who have not complied with the notification requirements.

All registered sex offenders must notify the police of their home address and inform them of any change to that. Such notification must now take place within three days under the more stringent regime introduced under the Sexual Offences Act 2003. The hon. Member for Daventry alluded to the fact that there is sometimes a misunderstanding about the registration requirements for sex offenders. They are not in themselves an extension of an offender's punishment. An offender who commits a sexual offence against a child or adult is punished for that in the courts. If people commit serious sexual crimes, they rightly spend a long time in prison. However, the registration does not form part of that punishment. It is an administrative procedure to help our law enforcement agencies to manage the risk that

[Paul Goggins]

those individuals might pose. It is important to make that distinction, because unhelpful confusion can sometimes arise.

Sir Paul Beresford: I do not agree with the Minister. Individuals have to confirm their address at a police station, where they can be fingerprinted and photographed. However, the police often wish to check whether they are actually at that address, which is where the difficulty arises.

Paul Goggins: I shall address that matter later. People who are subject to multi-agency public protection arrangements, many of whom are registered sex offenders, are visited regularly by the police and the probation service because that is an aspect of the way in which the risk that they pose is managed. People who are on the sex offenders register are not ignored by our law enforcement agencies and others—quite the reverse is the case. The hon. Gentleman presses us to give the police the power, as part of their normal procedures, to enter the home of every single person who is subject to the registration requirements, but that would be a step too far. If there are grounds to believe that a person has committed further offences or that a person who should have registered has not done so, the police have sufficient powers to act. Making powers available to the police regarding those who are complying with the requirements and committing no further offences is a step too far.

In addition to the requirement for offenders to register or change their address within three days, they must notify the police of any address at which they spend seven days or more in any 12-month period, if the police had not already been notified of that address. The seven-day period does not have to be consecutive; for example, if an offender spent every Saturday night at their parents' home they would have to notify that address. They might do that only once a week, but if it was 52 times a year it would exceed seven nights away, so they would have to notify the address to the police. There is a requirement to register not only their home address but any address at which they spend a significant period.

Under the Bill, a police officer could enter any such notified address—not only the home address but other addresses that might have been notified because the individual was spending more than seven nights there. The police officer could enter any of the notified addresses to ascertain whether the sex offender was there and could search the premises for information to assist the police, probation and prison services in managing the offender. The proposed section 129B makes it an offence with a maximum punishment of five years' imprisonment for the sex offender to obstruct the police officer in the exercise of those powers.

There are two difficulties with that proposal. First, it would not be an offence under the Bill for another person to obstruct the police officer in the exercise of those powers. Obviously, if the Bill were to go into Committee, we could begin to get our heads around that type of detail. We shall have to see whether we get that far. Such details are important, however, because we need to get our legislation right.

Secondly, it is likely that the offence of obstructing a police officer in section 89(2) of the Police Act 1996 would apply in such circumstances. For example, if a police officer needed to enter premises because he or she had grounds to believe that a registered sex offender was committing further offences or that somebody who should have registered had not done so, the officer would, quite properly, have the right to enter the property to investigate. If they were blocked in so doing, that would be an offence punishable under section 89(2). However, it would carry only up to one month's imprisonment or a level 3 fine, so there is a disconnection in the severity of punishment for the offence proposed by the hon. Gentleman and the existing offence of obstructing the police in the course of their duties. Those are two practical difficulties with the Bill as it stands, although I know that he would be generous enough to reflect further on them if we reached the point where we could discuss them in more detail.

The Bill would give the police powers to enter and search any premises in England or Wales, with no need for even the slightest suspicion that the notification requirements had been breached, that any offence, sexual or otherwise, had actually been committed or that there was any risk to the public. The provisions would apply for any address that had been notified by a child sex offender. That gives rise to the issue of disproportionality.

I was extremely interested to hear the hon. Member for Daventry announce to the House the creation of a new group in the Conservative party committed to the importance of human rights. He mentioned article 8. There was a challenge under article 8 to the effect that the sex offender registration requirements were disproportionate. However, when the case was brought and the test was made, the court agreed that the registration requirements were in fact proportionate to the type of risks that people pose. The Bill would, if successful, be subject to further challenge. It is arguable that it would add a disproportionate burden, in that people who might indeed have committed a serious offence but who were complying with the requirement to register, not committing further offences and trying to put their offence behind them and be law-abiding citizens, would still be subject to invasion of their home and private space, warranted only by the fact that they had been required to sign the register and give their details to the police. I am not saying that the hon. Gentleman's proposals would definitely lead to disproportionality, but we would run the risk of a claim to that effect.

Taking all those issues into consideration, the question that the House needs to ask, and indeed to answer, is not whether the hon. Gentleman is well intentioned—there is no question but that he is; he continues to pursue these issues with great knowledge and vigour—but whether his new powers would be justified and proportionate in every case. It is arguable that they would be disproportionate and might expose us to further challenge that undermined the registration system, which is working very effectively at the moment. As the hon. Gentleman said himself, we have around 97 per cent. compliance with the registration requirements. If we compare that with some of the states in the United States of America, the difference is compelling. In some states, registration is as low as

30 per cent.—more than two thirds of their registrable sex offenders do not comply with the registration requirements. It is very important to get the balance right, and with 97 per cent. compliance I would argue that we have.

Sir Paul Beresford: Does the Minister agree that part of the reason for the high compliance with registration requirements in this country is that we do not have what is commonly called Megan's law, and that if there is any incentive for an offender not to put their name on the list, or to disappear once on the list, it is a law like that?

Paul Goggins: The hon. Gentleman is right, and I commend him for making that point. My concern centres on the risk of being disproportionate. For example, if a compliant offender who seeks to put the past behind them feels that none the less the police will be knocking on their door to come into their home to interrogate them—in other words, not letting them put the past behind them—they may think at the outset, "The police are going to believe that I am an offender and cannot change, so what's the point in complying?" A compliance rate of 97 per cent. gives us something to be proud of and to build on.

Sir Paul Beresford: The Met police say that, in cases of clear compliance, they can make one check and then leave the person alone, but in the few cases where they have deep concern, they will need to check again, sometimes regularly.

Paul Goggins: I have already told the hon. Gentleman that I will pay close attention to his remarks about the two dozen or so people whom officers in the Met police suspect are complying on the face of it but not in reality. In the case of the compliant 97 per cent., the police are not required to go to check the offender—the offender is required to go to the police. It is no longer enough for them to write a little note saying, "My name is Joe Bloggs and I live at 3 Smith street"—registration now involves a photograph, fingerprinting, and much closer scrutiny of the individual. There are clear requirements on people immediately to tell the police if they move house or reside, even occasionally, at another address. If they intend to travel outside this country for a period of three days or more, they must tell the police seven days beforehand. Wherever they are going, they have to ensure that the police know about it.

Taking all those issues into consideration, we believe that the current system works, encourages close compliance, and is proportionate, and that it is therefore not challengeable under article 8.

Sexual offending against children is an absolutely despicable crime. Hon. Members on both sides continue to make that absolutely clear as we join together in various ways to try to combat it. We all want a rigorous response to such crimes. We have made considerable changes in recent years to protect children and, indeed, all members of society from the risk that sex offenders pose. The hon. Member for Mole Valley himself has played a commendable and considerable role in many developments.

In April, we will introduce a new sentence, arising from the Criminal Justice Act 2003. Where somebody has committed a serious sexual offence and has a history of that, or of violence, it will be open to the court to pass an indeterminate sentence for public protection, where a life sentence is not available. The individual will serve a certain tariff—perhaps seven or eight years—but will not be released until the parole board considers it safe for them to be released back into the community. Those sex offenders who currently receive determinate prison sentences and whom, in the end, we have to release even though we know that they still pose a danger to families and children in our communities will no longer have to be released until it is absolutely safe for us to do so. That is a huge strengthening of the law and of public protection, which I hope commands support on both sides of the House.

The hon. Gentleman was a member of the Standing Committee that considered the Sexual Offences Act 2003, in which we toughened the law in relation to rape and a number of other sexual crimes in order to make it absolutely clear that those who commit those types of offence will face ever increasing penalties as part of their rightful punishment for the wrong that they have done and to strengthen public protection arrangements. In that way, potential future victims will not become victims.

The multi-agency public protection arrangements that we have in place in the United Kingdom are a huge step forward from anything we ever had before. The police, the probation service and the prison service are the three leading agents within the development of multi-agency public protection arrangements at local level, and local authorities, housing providers, health authorities and trusts have a duty to co-operate with those arrangements. We can tightly manage all who pose a significant risk in our community so that we can protect our children and other vulnerable people.

The 2003 Act made considerable changes to the sex offenders register. For example, we reduced the time within which offenders must notify changes to their home address and other registered details. We provided that all notifications have to be made in person at police stations where the police can take fingerprints and photographs. We provided that every registered sex offender has to attend at least once every 12 months at a police station. Those are much more stringent requirements for sex offender registration than applied before.

Failure to comply with those requirements—this is an important point, and the hon. Gentleman and I discussed it briefly in an earlier exchange—is a criminal offence under section 91 of the Sexual Offences Act 2003 and under section 17(1)(b) of the Police and Criminal Evidence Act 1984. Under those provisions, a constable already has a general power to enter any premises for the purposes of arresting a sex offender for such an offence. In other words, where a sex offender is contravening the registration requirements, a police constable already has the power to enter at that person's address to conduct an investigation and to arrest the individual if they believe that there are reasonable grounds for believing that any offence has been committed, as well as the offence of failing to register. I believe that for the group about whom we are most concerned—the 3 per cent. who are not compliant—there are already grounds to take considerable action. The penalty of up to five years' imprisonment is fitting and severe enough to send out the clear warning that

[Paul Goggins]

those who do not comply will pay a considerable price for not doing so. Let us be clear: registered sex offenders commit a criminal offence if they do not comply with the notification requirements. Routine police powers of entry and search apply if there are reasonable suspicions that such an offence has been committed.

This amendment to the law would provide an additional power to enter and search premises when there is no suspicion that an offender poses any risk or that an offence has been committed. As I have said, I do not believe that that is justified. It is open to challenge as disproportionate. Those offenders who have committed an offence serious enough to warrant registration—and any sexual offence is a serious matter—and who are attempting to construct a new life and to put the offence behind them should not be subject to further intrusion when they are trying to move forward and there are no grounds to believe that any further offences have been committed.

I assure the House that we are always exploring new ways of managing the risks posed by serious sex offenders. I have already mentioned that we have taken through the multi-agency public protection arrangements to put them on to a statutory footing. Every year, each of the 42 MAPPA areas must produce a public report specifying the numbers of offenders for whom it is responsible and the ways in which local agencies are working together to manage the risk that those individuals pose and to make sure that those risks are reduced so that we avoid future and unnecessary victims of crime.

The hon. Member for Daventry was absolutely right.

Mr. David Ruffley (Bury St. Edmunds) (Con): He normally is.

Paul Goggins: Indeed, I have found that to be the case on many occasions. Not only is this a question of public protection—we all support that—but it is also a matter of public confidence so that individuals and groups of people do not feel it necessary to set themselves up as vigilantes and try to take power into their own hands. They can have confidence that the authorities and agencies working together will manage the risk and deal with people appropriately. It is therefore a question of public confidence so that we avoid the behaviour of unruly elements that we have seen from time to time and which does no credit to the individuals involved.

I understand the points that the hon. Member for Mole Valley has made, and I understand the frustration of some police and probation officers who find that a particular offender refuses to communicate or allow his property to be entered. The police and probation service visit all registered sex offenders on a regular basis and the majority of them comply with the visits. I am not convinced that there is a problem of non-compliance that has to be addressed by any new police powers.

We should remember that there are other ways by which we can improve the management of the offenders, and we are constantly looking at new possibilities. For example, we are developing a new database, ViSOR—the violent offender and sex offender register—and the hon. Gentleman will know about that. It is a shared database between the police, the probation service and, in time, the Prison Service whereby the characteristics of an individual—photographs, other distinguishing features and so on—will be shared on a database that is accessible to all those agencies. That will help us effectively to manage those violent or sex offenders who would otherwise pose dangers.

We are also exploring how polygraphy may be able to help us. Indeed, there are provisions in the Management of Offenders and Sentencing Bill, which was published a short time ago, to allow us to have a compulsory element in a pilot project that is enabling us to see how well we can use polygraphy as another method of helping to manage sex offenders after they have been released from prison.

We are also looking at how we can develop satellite tracking. In Greater Manchester—I represent the constituency of Wythenshawe and Sale, East—we are undertaking a satellite tracking pilot scheme, whereby sex offenders can be followed. We know where they have been and what their movements are—again, another piece of active support for our agencies, so that we can keep tabs on offenders and ensure that they do not pose a substantial risk to the communities in which they live.

Compliance with the notification requirements is, as we have said throughout the debate, very high—

It being half-past Two o'clock, the debate stood adjourned.

Debate to be resumed on Friday 18 March.

ARMED FORCES (PARLIAMENTARY APPROVAL FOR PARTICIPATION IN ARMED CONFLICT) BILL

Order for Second Reading read.—[Queen's Consent, on behalf of the Crown, signified.]

Hon. Members: Object.

To be read a Second time on Friday 22 April.

SUCCESSION TO THE CROWN (NO. 2) BILL

Order for Second Reading read.—[Queen's Consent, on behalf of the Crown, signified.]

Hon. Members: Object.

To be read a Second time on Friday 22 April.

ESTATE AGENTS (INDEPENDENT REDRESS SCHEME) BILL

Order for Second Reading read.

Hon. Members: Object.

To be read a Second time on Friday 22 April.

Horse Riders (Low-flying Aircraft)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Watson.]*

2.31 pm

Mr. John Bercow (Buckingham) (Con): I welcome the chance to raise the subject of horse riders and low-flying aircraft. It is a subject that is vigorously pursued not only by me but by my right hon. Friend the Member for Skipton and Ripon (Mr. Curry) and my hon. Friend the Member for Gainsborough (Mr. Leigh), who has secured an Adjournment debate on it next week. Naturally, I also warmly welcome the Minister and look forward to his response.

Mrs. Carol Lewis is from Gawcott in my constituency. She trains competition horses—warmbloods in her case—for dressage. Currently, she has three such horses. They are young—aged three or slightly over—and all are highly strung. The younger the horse, the more nervous or flighty it is inclined to be. Mrs. Lewis has planning permission for commercial breeding and the schooling of horses. Her involvement with horses is therefore not merely a pleasurable pastime but a business enterprise.

The problem is that RAF helicopters fly very low—typically 50 ft above the ground—directly over Mrs. Lewis's property, and over her. The helicopters are not merely low-flying: they are loud and fast. It takes little imagination to envisage the impact of those aircraft on the horses, not to mention the effect on Mrs. Lewis.

The reaction of the horses to the aircraft is hazardous. They buck, rear, leap and bolt. If one of those horses rears, it could topple back on to Carol Lewis, possibly killing her. She could also be thrown off her horse. The activity of the aircraft puts her life in danger if she is riding, and jeopardises the welfare of her animals. Cost—in the form of vets' bills and the reduced value of the horse—is also an issue if a horse injures itself. There may also be longer-term damage to the horse's temperament: for example, it could become more anxious and less able to compete. There could also be damage to the relationship between horse and rider, which is essential if she is effectively to train the horses. For example, one of her mares was so terrified by an incident that it now instinctively springs into panic mode at the sight or sound of a distant helicopter.

Since November 2003, Mrs. Lewis has lodged formal complaints on no fewer than 11 occasions about Hawk, Hercules, Puma and Tornado flights from RAF Benson, RAF Leeming, RAF Lyneham and RAF Marham. Make no mistake, her anxiety is not the result of paranoia: it is grounded in the grim facts, which are on the record.

There have, to date, been three deaths. In 1996, Alexandra Nixon died. In June 2003, Heather Bell was killed when riding along a bridleway when her horse was spooked by a low-flying Chinook. In December 2003, Melanie Dodds was killed when her pony was startled by a low-flying military helicopter and the horse ran into two cars. In 2004, the Ministry of Defence agreed to pay compensation to Sacha Jane Smith, an event rider who was badly injured when her horse was spooked by low-flying jets. Her gelding reared and fell into a ditch, badly damaging his legs, flattening her pelvis, breaking her ribs and injuring her back.

The Minister wrote to me on 19 January—my birthday—stating:

> "You may be assured that aircrews do not fly over horses or other livestock deliberately. Crews make every reasonable effort to avoid disruption to people and animals."

The assurance that Ministry of Defence aircraft were not engaged in wanton cruelty—I have never suggested they were—was not a generous present to me, and it offered no succour whatever to Mrs. Lewis. The Minister went on to state that low-flying training is essential and that the Ministry was investigating the recommendations made by the coroner for Louth and Spilsby following the death of Heather Bell. That coroner's report is important, and I want to focus on the five of its recommendations that I judge to be most relevant to my constituent's circumstances.

First, the coroner recommended reducing the area in which low-flying training in helicopters takes place in the United Kingdom. Currently, the whole of UK open airspace is available for such training. Instead, it is suggested, and I agree, that we should revert to the pre-1979 practice, whereby only 40 per cent. of the space was available and the majority of low-flying training in helicopters took place in sparsely populated areas. If the flying were restricted once again to such areas, manifestly the risk to the general public would be reduced and, in areas in which flying does take place, the smaller number of human beings living there and the livestock would inevitably become more familiar with it. The coroner suggested that a great deal of low-flying training in helicopters occurs in what are technically and officially known as designated user areas. He recommended that the capacity for increasing training in such areas should be explored. I hope that the Minister agrees and look forward to hearing what he has to say on the matter.

The coroner was also informed by a representative of the Health and Safety Executive that a ministerial edict already requires that 60 per cent. of fast jet training takes place overseas, most of it, I understand, in remote areas of Canada. I agree with the coroner that the Ministry should now seek to export a proportion of low-flying training in helicopters as well, investigating the possibility of using parts of Scandinavia, Australia, the United States of America and Canada.

Secondly, the coroner recommended an increase in the use of simulators. There are limits to their use, but there is scope for using them more widely. Currently, they are used for 40 per cent. of military training. By comparison, the commercial sector uses them for 99.9 per cent. of training. Stephen Jowell, the expert adviser to the coroner, stated that he

> "did not believe the culture in the RAF helicopter squadrons is one that encourages the maximum use of simulators."

The RAF, interestingly, and perhaps alarmingly, did not acquire simulators until 2000, much later than the Navy, which acquired them in the late 1960s, and civil aviation, which acquired them in 1978. I am sorry that the Minister is not attending to the debate at the moment. I hope that he will return to his seat. For his information, I was referring to the phenomenon whereby the RAF acquired simulators much later than the Navy and much later than civil aviation, which has had them for more than 25 years.

[Mr. John Bercow]

The coroner called for all low flying to be moved to dedicated areas of the country instead of taking place nationwide. He added that pilots training at 50 to 100 ft did not receive the correct training for war flying at 5 to 20 ft and that it would be better to use a simulator or operate in parts of the world where there would be no disruption.

Thirdly, the coroner advocated better communication with the public. In response to that very reasonable recommendation, the Ministry of Defence has this week launched a helpline. It is an encouraging first step, and I welcome it, but there are still problems, specifically, for the purposes of today's debate, as far as my constituent is concerned.

First, the information that is provided is valid only at the time that it is given—another flight might be logged as soon as one puts down the telephone—so one either has to keep calling back to secure updates or one must take a chance. It is not feasible for Mrs. Lewis to call the helpline every 30 minutes for an update. She rides for a substantial portion of the day, so she cannot keep using the telephone. Secondly, the area for which information is given is huge. The helpline is unable to provide more specific information, because it does not have access to it. Why, I reasonably ask, cannot the information be more precise? The man contacted at the helpline by my office said that he would be happy to give out better information but that he simply did not possess it.

Yesterday, 3 March 2005, at 10 o'clock in the morning, Mrs. Lewis was advised that flights in area 4 would be taking place between 9.50 and 11.10 am and between 11.5 and 11.45 am. In the afternoon, flights would take place between 1.30 and 1.45 and between 4 o'clock and 4.25. The message is clear: in the morning, she could not safely ride between 9.50 and 11.45. That would take virtually two hours out of her day. In winter, there are limited numbers of daylight hours. What is she supposed to do? If she takes a chance and rides, reasoning that the flights will not be nearby, and she proves to be wrong, what happens? Will the Ministry of Defence in its infinite wisdom then argue that she rode at her own risk and had been informed of the flights? How is she supposed to run a business that involves being in the saddle for significant portions of the day if there is a constant fear of low-flying aircraft?

The coroner's fourth recommendation was improved technology. Helicopter pilots are overly reliant on visually identifying horse riders to enable them to take evasive action. A tracker-type device could be worn by riders to warn helicopters, similar to the gadget worn by off-piste skiers to reduce the risk of being lost in an avalanche. The coroner recommended taking immediate steps to investigate that proposal. Mrs. Lewis has no objection to that recommendation, but it is not relevant to her case. She does not need to be tracked. She rides in a fixed territory. The ménage is on her property. The Ministry of Defence is well aware of who she is and where she lives. The helicopters fly over her land when she is training her horses on it.

Fifthly, the coroner focused on the subject of avoidance notices. Specifically, he argued that as Market Rasen, the town where Heather Bell was killed, is a horse-riding area, an avoidance notice should remain in place. Mrs. Lewis argues that Gawcott is also full of horse riders. There are five training arenas in the area. Judy Harvey, a local trainer, is a selector for the British dressage team and qualified to judge at the Olympics; I have met her and can testify to her experience in the field. David Trott, another local, is a chairman of selectors and was chef d'équipe for the bronze medal-winning team at the 2003 European championship. Why can the Ministry not issue an avoidance notice so that flights do not take place across Mrs. Lewis's property?

I have some specific questions to put to the Minister. First, to date how many people have been injured or killed as a result of low flying incidents? Secondly, what percentage of those deaths or injuries occurred through breach of regulations and what percentage occurred despite adherence to them? Thirdly, what is the view of the Health and Safety Executive and what plans are there for it to undertake risk assessments? Fourthly, what percentage of requests for avoidance notices derive from fear of death or injury and how many requests are granted? Fifthly, given that centres of riding for the disabled have avoidance notices issued, why should my constituent not receive similar protection in order to avoid death or disability?

As I hope is clear, Mrs. Lewis is both aggrieved and frightened. I understand why, and I share her concern. Too little has been done to protect her and others like her. The time has come for decisive action by the Government. I look forward to the Minister's reply to my specific inquiries. I hope that it is good. I know that he is standing down from Parliament at the forthcoming general election and that someone else will be responsible for these matters. I hope that that person will be a Conservative Minister, but whoever is responsible, I shall expect that Minister to protect my constituent and her horses. Be in no doubt: I will bang on and on and on about the matter until that protection is provided.

2.47 pm

The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin): I congratulate the hon. Member for Buckingham (Mr. Bercow) on securing time for this debate on an issue that has serious implications for the safety of members of the public. It is important at the outset to recognise that the necessary activities that we carry out in training our armed forces personnel to be ready for active service have an impact on the civilian population. I know that the hon. Gentleman accepts that. That is especially true of low flying, which, we acknowledge, can be disturbing at some times. I assure the House that the Ministry of Defence is extremely grateful for the forbearance of and general support from the public in this matter.

Let me explain why military aircraft operate at low level. Low-flying tactics were developed and refined to let aircrew penetrate hostile airspace while minimising risk to themselves: flying at low level means that aircraft may be masked from radar detection by terrain features and may pass more quickly through the zone of vulnerability from ground-based weapons. It is true that the tactics were developed for the cold war European theatre, where there would have been a high density of anti-aircraft defences and enemy combat aircraft to avoid, but the proliferation of latest generation surface-to-air missiles makes them equally valid today, even

when operating against nominally less high-tech or capable forces. As I said to the House in an Adjournment debate last July, low-flying tactics are not employed in all military operations, but military commanders must have the option to employ such tactics if the operational circumstances require them. As the hon. Gentleman accepts, the skills can be perfected only through rigorous and regular practice.

Low-level flying is demanding on our aircrew and is a highly perishable skill that requires continuous practice. No matter how important we consider it to be that fixed-wing aircraft have the capability to operate at low level, it is even more important for helicopters. Battlefield helicopters, whether in support, attack or observation roles, rely at all times on flying low. Being relatively slow, they rely on terrain features such as trees, hedges and so on to mask them from detection and hostile fire for as long as possible. Unlike fixed-wing aircraft, helicopters cannot fly at heights that would place them above hostile threats.

Low-flying support helicopters have played a vital role in recent operations in Afghanistan and Iraq. Battlefield helicopters from all three services manoeuvring at low level were fundamental to the success of our ground forces' operations. Crews currently on peace enforcement operations in Iraq by day and by night are advised by operational commanders to fly as low and as fast as is commensurate with the task in hand. Low-level flying tactics therefore remain as valid today as they always have been.

However, the substance of the hon. Gentleman's speech was the impact on horse riding and his constituent, Mrs. Carol Lewis. He has written to me on a number of occasions about the issue, and he has passed on her address. I could discuss the letters that I have written to him, but I do not think that we have time to do so. We need to consider whether avoidance measures are appropriate for Mrs. Lewis's dressage business. I undertake to look again at the issue, and come back to him in the near future.

Mr. Bercow: Can the Minister simply confirm that he will come back to me before the general election?

Mr. Caplin: The hon. Gentleman seems to know the date of the election, but I am afraid that it could be held at any time. I certainly intend, however, to come back to him in the next few weeks.

Mr. Bercow: Will he do so before 11 April, to be more precise?

Mr. Caplin: I undertake to give the hon. Gentleman a response by the end of March.

Now that I have undertaken to review the case of the hon. Gentleman's constituent I want to deal with some of the general issues about horse riding, because they are important. We do not, and cannot, ignore the fact that over the past nine years there have been three incidents, as he pointed out, in which riders lost their lives when their horses were startled by helicopters. It is the interaction between horse riders and helicopters that attracts the most criticism. The need to strike a balance between essential low flying and the requirements of the horse-riding community has come to prominence again recently as the result of some particularly tragic circumstances. The hon. Gentleman outlined three cases, the first of which took place in Yorkshire in 1996, when a young woman called Alexandra Nixon died after the horse that she was riding was startled by a pair of Chinook helicopters flying over the brow of the hill. As the horse bolted, Miss Nixon was thrown and, in particularly tragic circumstances, suffered fatal injuries.

The second incident has perhaps received the most publicity and occurred in Lincolnshire in June 2003. Three friends were riding along a bridleway when a Chinook helicopter flew at low level towards them, then passed over them. All three horses bolted and Mrs. Heather Bell was thrown from her horse. She died in hospital as a result of head injuries that she received in the fall. An extremely detailed inquest, to which the Ministry of Defence gave full its co-operation, examined her death, and I shall deal with some of the coroner's findings in a moment. However, we can deal with that case in more detail next Thursday, as the hon. Member for Gainsborough (Mr. Leigh) has secured an Adjournment debate on the matter. The third incident occurred in Gwent in December 2003, when Melanie Dodds was riding along a bridle path adjacent to the A48. A Puma helicopter flew over her, startling the horse, which bolted into traffic, resulting in Ms Dodd's death. The Ministry of Defence greatly regrets the events that gave rise to those tragic circumstances, and I should like to take this opportunity to express our condolences to the families of those three women.

All three cases were, of course, the subject of inquests, and it is important to note that in two of the three cases the finding of the inquest was accidental death. That may have given rise, after the death of Miss Nixon, to perceptions on the part of some people of an inadequate response by the Ministry of Defence. At the time, the accident may have seemed to be a one-off occurrence and the resulting actions of an internal review may have seemed to be limited. We now know, from the two tragic events in 2003, that we may not have fully appreciated the risks posed by the activities of low-flying helicopters. In light of these events, and particularly following the inquest into the death of Mrs. Bell, I assure the House that we are seeking to learn lessons and to ensure that they are properly applied.

I assure the House that our aircrew do not deliberately fly over horse riders. They try to avoid them whenever it is safe and practicable to do so, but horses are not as obvious from the air as people may believe and by the time an animal is seen, it is often too late for an aircraft to take safe and effective avoiding action. Sometimes that would risk creating more disturbance than simply continuing on an existing flight path. However, helicopter aircrew are specifically trained to deal with situations when they might unexpectedly encounter horse riders. The aircrew will observe carefully as they proceed on their flight path and if it is apparent that they will come close to, or overfly, horse riders they will alert the handling pilot so that they can consider taking avoiding action if it is safe and practicable to do so.

As I said earlier, we co-operated fully with the inquest into the death of Mrs. Bell. Subsequently, the coroner made nine recommendations, to which the hon. Member for Buckingham referred. They included reducing the areas in which helicopter low-flying

[Mr. Caplin]

training takes place, making more use of flying training simulators, improving communications with the public, and using improved technology to assist aircrew in detecting and avoiding horse riders. As part of our response to the recommendations, we have set up a working group to study the totality of low-flying helicopter training and to consider carefully the recommendations. We mean to ensure that we carry out the minimum amount of low flying necessary to maintain the operational readiness of our forces. We have sought to keep the coroner fully appraised of our actions and he recently attended a meeting with the assistant Chief of the Air Staff to discuss the progress that we have made.

On Thursday, I shall deal in more detail with the coroner's specific recommendations, but will refer now to one or two. On the use of simulators, to which the hon. Gentleman specifically referred, we already try to make as much use of them as possible, and more simulator training may be available for newer aircraft. For example, in the case of the Apache helicopter, approximately 50 per cent. of conversion-to-type training is carried out on simulators. However, although many existing simulators provide substantial training for our crews, technical limitations in the visual systems do not allow tactical low flying to be adequately replicated to provide satisfactory training. In addition, many other experiences, particularly relating to working with troops on the ground, cannot be adequately replicated in a simulator, and I hope that the House accepts that.

The coroner said that we should improve our communication with the public, and I am pleased to be able to tell the House that we launched a new public information telephone service this week. It enables members of the public to ring a freephone number—0800 51 55 44—which I hope hon. Members will make available to their constituents. There are limitations, and the hon. Gentleman has pointed them out this afternoon. For example, at present the information is available only for complete areas of low-flying activities, rather than sections of them. In addition, we are unable to provide information on that phone line in respect of low-flying jet aircraft because jets cover such large areas in the course of a flight, and at such speed, that it is simply not practicable to do so, but I hope the House will recognise the improvements that we are trying to make in this important matter. I confirm that we will keep the information provided on the hotline under review to see how it can be continually improved.

Horse riding is a hazardous activity, given that horses can be easily spooked. For instance, the National Farmers Union and the British Horse Society state that in the United Kingdom there are more than 2.4 million horse riders and an estimated 965,000 horses. Each year, there are 3,000 road traffic accidents involving horses, and in the last four years those have resulted in 34 fatalities and 221 injured riders. Although, clearly, it is incumbent on the Ministry of Defence to do what we can to reduce any risk that may arise from our activities, riders too have a responsibility for their own safety, and that of others. For instance, the British Horse Society gives good advice, in its "Be Safe, Be Seen" leaflet, for riders to wear high-visibility clothing, and we are now conducting research into how the use of such clothing may improve their visibility to helicopter aircrew. When our trials are concluded, we intend to discuss that in greater detail with the British Horse Society so that the work may be pursued in the future. Indeed, officials from the Ministry of Defence have been invited to participate in the British Horse Society's annual safety conference later this year.

Some ask if low-flying aircraft can avoid areas where horse riding takes place, or simply avoid all horse-riding establishments. Given the wide spread of such activity, that would be difficult, but we are sympathetic to the needs of the equestrian community, in particular the Riding for the Disabled Association's schools. We have more than 40 avoidance zones in place covering those areas.

I hope that I have demonstrated to the House that we are seeking to minimise the risk to members of the public from our low-flying activities. It is a difficult balance to strike, but the Ministry of Defence accepts that it has a responsibility to the public. However, we also have a duty to the personnel of the armed forces to ensure that they are adequately trained for the tasks that we ask them to carry out. Time and again, we ask our forces to be ready to defend our interests, and those of our allies, anywhere in an unstable and unpredictable world. I am sure that the House will join me in paying tribute to the professionalism of the men and women of our armed forces who undertake those duties. The ability to fly low is essential, particularly for helicopters. We will take every opportunity to make use of simulation, and other opportunities offered in the margins of overseas exercises—as the hon. Gentleman mentioned—but the majority of the training has to take place in the safe environment offered in the UK.

Question put and agreed to.

Adjourned accordingly at one minute past Three o'clock.

House of Commons

Monday 7 March 2005

The House met at half-past Two o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

HOME OFFICE

The Secretary of State was asked—

"Drinking Responsibly"

1. **Iain Wright** (Hartlepool) (Lab): What response he has received to his consultation paper "Drinking Responsibly"; and if he will make a statement. [219828]

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): The consultation closed on Monday 28 February. We have received more than 150 responses from a wide range of organisations and individuals, including the Local Government Association, trading standards departments, the Association of Chief Police Officers, alcohol trade associations and individual companies, Alcohol Concern and the Portman Group. We shall consider each and every response carefully, and will announce how we plan to proceed as soon as possible.

Iain Wright: I welcome the "Drinking Responsibly" document, especially the chapter on changing the culture. It is right and proper that we change the binge drinking culture that fuels violence and antisocial behaviour. Does my hon. Friend agree that an effective step towards changing that culture is the rapid introduction and implementation of strict drinking banning orders, whereby persistent offenders who cause trouble through irresponsible drinking are banned from town centre areas, and pubs and clubs that continue to sell to those individuals are fined or at worst closed down?

Ms Blears: My hon. Friend has led the campaign—from the front, dare I say?—in his local community and in the House. He is absolutely right; we need to change the culture for the long term and that is why our proposals are not just for drinking banning orders, which will target the minority of people who go out to get drunk and cause trouble, but also include alcohol disorder zones where, again, we are trying to change the culture so that we get people to drink responsibly, not irresponsibly.

Mr. Damian Green (Ashford) (Con): All the evidence is that people are drinking more and drinking more heavily. Is the Minister seriously telling the House that proposals to introduce 24-hour drinking will actually lead to a reduction in the amount of alcohol consumed, or does she accept plain common sense—that it will lead to an increase in the amount of alcohol consumed?

Ms Blears: What we are trying to ensure is that people drink responsibly, and for 90 per cent. of the public that is exactly what they do. They have a good night out with their friends and do not cause trouble. Our policies are designed to target the minority who cause trouble in our town and city centres on a Friday and Saturday night. It is not about 24-hour drinking; it is about flexible licensing hours, which means that we can allow companies to be flexible as long as they are responsible and, most importantly, those decisions will now be made locally by local authorities, in touch with their communities and able to make the decisions in a properly responsible way.

Mr. David Kidney (Stafford) (Lab): Does it worry my hon. Friend that all the good in the Licensing Act 2003 will be undone by uninformed criticism such as the one we have just heard? Is not the answer to that the alcohol harm reduction strategy, and would not that document be more effective if it had the same tough targets and the money to spend as we have for the drugs strategy?

Ms Blears: I am glad that my hon. Friend acknowledges the importance of the alcohol harm reduction strategy, in that it does not simply apply to enforcement but looks at health harms and includes action by the Department for Education and Skills, targeting some of our young people. It is an holistic, overarching strategy. I entirely understand my hon. Friend's point: he wants tough targets behind it. I can assure him that we will be pushing that forward, monitoring and evaluating our progress. He is right that the Licensing Act will help us in many situations. It makes it an offence to sell alcohol to under-18s anywhere—no exemptions—it increases the fine from £1,000 to £5,000, and it allows us to suspend and forfeit licences on the first occasion of an offence, not the second. The Licensing Act is not soft; it is fairly tough legislation.

David Davis (Haltemprice and Howden) (Con): Between 1997 and 2003, the number of people cautioned or convicted for being drunk and disorderly fell by 10,000. Why is that?

Ms Blears: The right hon. Gentleman raises an important point about the police using their powers to tackle under-age drinking and irresponsible drinking. He will be aware of the fact that we have had two major alcohol misuse enforcement campaigns—one in the summer utilised the new fixed penalty notices that we have brought into effect. I think that 4,000 fixed penalty notices were issued in the first alcohol misuse enforcement campaign. I am saying to the police that they need to use their powers, but that often it is better to use a fixed penalty notice—an on-the-spot fine, a short, sharp shock—rather than a formal prosecution.

David Davis: If I were the Minister I would not blame the police. The real reason for the failure between 1997 and 2003 is that the Government diverted police

resources and effort away from basic conventional policing and they let the problem get out of hand. Now, the 24-hour licensing laws that are coming along will make the problem worse. Not only did the Government fail by letting the number of drunk and disorderly charges drop by 10,000, but in that time the number of under-18s cautioned or convicted fell by 80 per cent. The Minister's gimmicks will not solve that. The chief executive of Yates said that her proposals for 24-hour drinking will lead to a dramatic increase in disorder. Why are the Government ignoring expert advice and pressing ahead with 24-hour drinking before they have found a proven solution to the problem?

Ms Blears: The right hon. Gentleman is wrong. I was not blaming the police for the situation; I was saying that the police have pressed us to introduce more appropriate powers so that they can deal with irresponsible drinking, and that is exactly what we have done. If he has complaints that officers have been taken off the streets, he need only look to the Conservative party's record—there were 1,100 fewer police officers on our streets while it was in charge. We now have 140,000 police officers and 4,000 community support officers, giving people that visible presence on the streets. I was with a borough commander in Scarborough on Friday who was one of the leading lights of the alcohol misuse enforcement campaign. He said that it was brilliant. The police were able to get out on the streets, do their business and make a real difference in their town centre.

Mr. Kelvin Hopkins (Luton, North) (Lab): Has my hon. Friend received any representation on foetal alcohol syndrome and the serious dangers to children posed by women drinking during pregnancy? If so, will she discuss these matters with her colleagues at the Department of Health?

Ms Blears: Yes, I am aware of the importance of that extremely distressing condition. That is why, as I said to my hon. Friend the Member for Stafford (Mr. Kidney), the alcohol harm reduction strategy involves not just the Home Office, but, crucially, the Department of Health, which is a joint sponsor of the strategy with us. Of course, I will continue to discuss these matters, together with the effects of chronic drinking, which is also a concern for us. We are now beginning to see people in hospital with liver diseases at an earlier age than ever before. Therefore, as well as binge drinking we also need to tackle chronic drinking.

Mr. Mark Oaten (Winchester) (LD): The Minister will be aware that the fees paid by licensed premises have been restructured so that large, city drinking venues pay more, quite rightly—but will she explain why nightclubs have been excluded from the new regime? Is she aware that the industry claims on its website to have "played a blinder" in the negotiations with the Government by avoiding paying the new fee? Surely it is not just pubs that cause problems on Friday and Saturday nights. Many of the problems relate to nightclubs. Why have they been excluded from the new fee arrangement?

Ms Blears: I am sure that the hon. Gentleman is aware that we had several revisions of the proposed licensing fee structure as a result of consultation with local authorities and the industry. We now have a fee structure that will meet the costs not just of administration but, importantly, inspection and enforcement as well. Certainly, my dealings with the LGA indicate that it is content with the current fee structure. We have undertaken to review it again in 12 months' time to find out whether it meets all those requirements. He knows that we have included factors to multiply the amount paid by those premises that are likely to cause the most harm and the most risk. That is an entirely proportionate way to approach the subject, and we have tried to get as much consensus as we can. I am delighted that my colleagues at the Department for Culture, Media and Sport, through negotiation with the industry and the LGA, have achieved such a satisfactory result.

Crime and Disorder Reduction Partnerships

2. **Ms Christine Russell** (City of Chester) (Lab): If he will make a statement on partnerships between local authorities and the police for the reduction of crime and antisocial behaviour. [219829]

The Secretary of State for the Home Department (Mr. Charles Clarke): The Crime and Disorder Act 1998, as amended by the Police Reform Act 2002, places a statutory duty on the police and local authorities, along with other agencies, to work together in crime and disorder reduction partnerships. Those partnerships have been a vital factor in reducing crime and antisocial behaviour, and their local strategies are available for consideration and improvement.

Ms Russell: I thank my right hon. Friend for that reply. He will be aware that good partnership working in my constituency between the local authorities, the police and the fire service has led to significant reductions in crimes such as domestic burglaries, which have gone down by 40 per cent. in the past 12 months, and vehicle arson, which is down by more than 30 per cent. Will he join me in congratulating Chester city council on making community safety its No. 1 priority and on agreeing to invest significantly in a city-wide community warden scheme that will be rolled out from next month with the full co-operation of the police?

Mr. Clarke: I will certainly join my hon. Friend in congratulating Chester city council on that initiative, and I would go further: I wish that every district council in the country would take the kind of leadership role that Chester has adopted. She would also want me to congratulate Chester city council's partners, who have worked in Chester and more widely in Cheshire to address these issues. The point that she makes, which is fundamental, is that it is through the working partnership that the reductions in crime and antisocial behaviour are being achieved. That cannot be done by the police or any other agency alone; it can be done best by real working partnerships, and I commend Chester for what it has achieved in those areas.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): I recognise the good work done by the National Neighbourhood Watch Association, and I am sure that

the right hon. Gentleman will agree with that. However, why are Crimestoppers, Crime Concern and Victim Support all supported by central Government, while neighbourhood watch schemes are not, although they do such good work? I cannot quite work that one out.

Mr. Clarke: I commend the neighbourhood watch scheme on its important work. However, the hon. Gentleman put his finger on the issue in the way in which he asked his question. He listed a range of organisations that are doing absolutely excellent work in the field. Sometimes, the organisations work in parallel with each other, and sometimes, there is even an element of competition. We want to ensure that they can work together, which is why a major conference is being held at the end of the week to try to get an agreement on how we can achieve joint working in such areas. Each of the initiatives is an attempt to increase community involvement in fighting crime, which, as the hon. Gentleman implied in his question, is absolutely within the thrust of the entire approach on crime and disorder reduction partnerships that we have followed.

Chris Bryant (Rhondda) (Lab): One of the things that takes up a great deal of police time these days is taking evidence from witnesses. Of course that process is vital if we are to secure more convictions, but it is often so laborious that an individual police officer might be tied down for an hour or an hour and a half simply taking one witness statement. Is the Home Office examining ways of speeding up the process and making it less laborious, so that we can free up more time for police officers to be out on the streets?

Mr. Clarke: The short answer is yes, and the type of partnership that I am describing is a powerful way of achieving just that. If a local authority housing department works with the police, it can strongly assist in the gathering of evidence of antisocial behaviour, which allows convictions to be secured. Yes, we are doing what my hon. Friend asks, but we will do more still.

Dr. Julian Lewis (New Forest, East) (Con): What effect does the Home Secretary think it would have on levels of crime, disorder and antisocial behaviour if the legal age for purchasing alcohol was reduced to 16, which was confirmed as the Liberal Democrats' policy in the House on 25 January?

Mr. Speaker: Order. We will not go into that.

Private Security Industry Act

3. **David Cairns** (Greenock and Inverclyde) (Lab): What recent discussions he has had with Ministers in the Scottish Executive concerning the extension of the Private Security Industry Act 2001 to Scotland.

[219830]

The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart): Since Scottish Ministers announced in March 2003 that they had agreed with Home Office Ministers and the Security Industry Authority that the regulation of the private security industry in Scotland would be achieved by the extension of the Private Security Industry Act 2001 to Scotland, there have been continuing communications at ministerial and official level. The necessary provisions are now in clause 166 and schedule 16 of the Serious Organised Crime and Police Bill. The Scottish Parliament consented to the extension through the Bill in a Sewel motion on 2 February this year.

David Cairns: I thank my hon. Friend for that answer and welcome the extension of the Act to Scotland. Although the vast majority of bouncers behave responsibly, the behaviour of a significant minority is no better than that of criminal thugs. Now that the Act is up and running in England and Wales, what evidence is there that its provisions are cutting down on the criminality committed by bouncers in pubs and night clubs and thus affording greater protection to our constituents?

Fiona Mactaggart: The evidence is contained in the fact that of those who have applied for licences, almost 1,000 have had their applications refused. People must undergo proper training and a Criminal Records Bureau check before acquiring a licence. As the Act rolls out, the uptake of training is increasing because more door supervisors are applying for it. We can deliver something that my hon. Friend has campaigned for determinedly in Scotland and drive out the connections with organised crime and criminality that have sometimes existed in the door supervision industry.

Asylum Seekers

4. **Sir Teddy Taylor** (Rochford and Southend, East) (Con): How many asylum seekers have been denied the right to remain in the UK over the past 12 months; and how many of these persons have left the country.

[219831]

The Minister for Citizenship and Immigration (Mr. Desmond Browne): In 2004, there were 51,300 cases—involving 62,700 people including dependants—of people who had been refused asylum or lost an appeal. Of that specific number, 3,500 principal applicants have so far been removed—that is 4,100 people including dependants—and others of course will have left the country without informing the authorities. As we do not have embarkation controls, it is not possible to determine whether that has happened. E-borders and identity cards will enable us to monitor that far more precisely in the future.

Sir Teddy Taylor: Although I accept that this is not an easy problem to solve, is the Minister aware of public concern that as of last year, it seemed to take an average of 20 months after people's final refusal to remove them from the country? Is the problem the redocumentation of people who destroyed all their papers before they made their applications and, if so, is there anything that we can do about it? I emphasise the fact that I am well aware that it is not easy to solve the problem, but how can we sort this out?

Mr. Browne: I am grateful to the hon. Gentleman for the manner in which he asked his supplementary question. He identifies one of a number of problems

with the removal of failed asylum seekers. There are, for example, administrative difficulties involving certain countries in redocumenting their citizens. There was a practice until November, which was accepted across the House, of not removing people, or enforcing the removal of people, to Zimbabwe. I think that hon. Members will know that there is a direct correlation between our ability forcibly to remove asylum seekers and the intake from certain countries. The hon. Gentleman is right to identify the question of redocumentation as being the principal concern. That is why, in the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, we criminalised the deliberate destruction of documents. We have been prosecuting people for that in significant numbers. The number of those who have been arriving at ports inadequately documented, since the introduction of the 2004 legislation in October, has been reduced by 50 per cent.

Keith Vaz (Leicester, East) (Lab): My hon. Friend will have been as shocked as I and others have been by the BBC film about Oakington. He will know that on the Global Solutions Ltd. website it is stated that the employees at Oakington have been screened by the Home Office and subjected to vigorous vetting. I know that my hon. Friend has set up an inquiry into these matters, and I am glad that he did so so quickly. However, for how long will the inquiry last? What implications are there for the way in which Global Solutions conducts the rest of the contract that it has with the Home Office in respect of other institutions?

Mr. Browne: I am grateful to my hon. Friend for his question. As I made clear at the time of the programme, I take these allegations extremely seriously. That is why, immediately after the programme, when I was in a position to have fuller facts than the BBC was able to give me prior to the programme going out, I announced an independent inquiry by Stephen Shaw, the prisons ombudsman, into the allegations contained in the programme. I am sure that my hon. Friend will appreciate that it would not be appropriate for me to comment in detail on the allegations until the investigation is completed and Stephen Shaw has reported.

First, while Stephen Shaw's inquiry is under way, the immigration and nationality directorate is examining how our procedures can be strengthened. Secondly, I have asked Stephen Shaw to report quickly. Once he has reported back and made recommendations, I will be able to consider any implications that there are for the remainder of the detention estate and, of course, our relationship with GSL.

Tony Baldry (Banbury) (Con): Does the Minister accept that there is cross-party disgust at any racist treatment of asylum seekers, refugees or migrants? Following on from the question of the hon. Member for Leicester, East (Keith Vaz), will the hon. Gentleman confirm that if Global Solutions is found to be wanting in Mr. Shaw's independent inquiry, the Home Office will consider suspending its contracts? The company has already been subject to an independent inquiry into the burning down of Yarl's Wood. It does not help to inspire any confidence in my constituents in and around Bicester that it is a fit and proper company to run an accommodation centre for asylum seekers when they see on their televisions refugees being treated so appallingly.

Mr. Browne: I am grateful to the hon. Gentleman for his question. I accept that he speaks for all parties in the House in his condemnation of racism. I have made it clear that racism has no part anywhere in our society, and particularly not in the immigration system. Detention and removal are an essential part of an effective immigration control system, but they must be carried out with humanity and dignity and in accordance with our laws, especially those laws designed to protect people from racial discrimination.

The point that the hon. Gentleman makes about our continued relationship with GSL will have to be considered in the light of the report from Stephen Shaw. GSL is a successful company in managing and carrying out many contracts with the Government. Until Stephen Shaw reports, I am sure that the hon. Gentleman will accept that it would not be appropriate for me to comment any further.

Mrs. Ann Cryer (Keighley) (Lab): How many immigrants with permission for permanent settlement on the ground of marriage have been removed for not staying within the marriage for two years? I ask the question because my constituents—the women concerned—are told that they have become third parties and, therefore, cannot gain information.

Mr. Browne: I commend my hon. Friend on her continued, consistent and appropriate campaigning in this area, which is of great concern not just to her constituents, but to many people throughout the country. We have made changes to the immigration rules to counter the abuse of marriage that she identified, and the practice should be abhorred by everyone. I am not in a position to give her the specific information that she requires at the Dispatch Box, but if it is collected in a communicable form I will give it to her. Since I have assumed responsibility for this area of work, I have done my best to increase the amount of information that can be communicated to women, including those for whom my hon. Friend speaks.

Mr. Tom Harris (Glasgow, Cathcart) (Lab): Is it not the case that the process of removing illegal immigrants who arrive in the country as asylum seekers and, indeed, the system for preventing them from coming here in the first place would be profoundly undermined if the immigration service suffered the cuts proposed by the Opposition?

Mr. Speaker: Order. It was a waste of time calling the hon. Gentleman.

Antisocial Behaviour

5. **Ms Sally Keeble** (Northampton, North) (Lab): What progress is being made in tackling antisocial behaviour. [219832]

12. **David Wright** (Telford) (Lab): What assessment he has made of measures used to tackle antisocial behaviour. [219841]

The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins): The national antisocial behaviour survey published on 28 October last year showed that an estimated 66,000 cases of antisocial behaviour were tackled in the 12-month period from October 2003 to September 2004, and ranged from early intervention to court proceedings. Between April 1999 and September 2004, 3,826 antisocial behaviour orders were issued, nearly 20 per cent. of which were issued in the most recent quarter between July and September 2004.

Ms Keeble: I welcome my hon. Friend's reply and would be grateful if he could provide a constituency breakdown of those figures and place it in the Library. Is he aware that the head of the Government's antisocial behaviour unit recently came to Northampton and received a warm welcome from people in Thorplands, who were keen that action should be taken to deal with antisocial behaviour in their area? What is his Department doing to make sure that there is a consistent application of the new powers by local authorities and police forces, and will it make sure that all areas take up those powers and use the orders, giving local communities the benefit of the peace and security to which they are entitled?

Paul Goggins: I am grateful to my hon. Friend for her warm welcome, and I am pleased that the Home Office and the authorities in her local area are working well together. That occurs throughout the country—positive relationships are developing. One Home Office initiative is the Together campaign academy, which has made sure that 6,500 local officials are fully trained and know what powers they can use to ensure that antisocial behaviour legislation works in practice. It is one thing to issue an order, but it is another to make sure that it is properly enforced. It is vital that the message goes out: these are serious powers and they need to be used to deal with this serious problem.

David Wright: One of the strands of antisocial behaviour about which people in Telford are particularly concerned is the illegal use of motorbikes, particularly the new small mokes. What work has my hon. Friend done with the Department for Transport to clamp down on that particular form of antisocial behaviour?

Paul Goggins: I am grateful to my hon. Friend, who takes these issues very seriously and works with his local authorities to make sure that the fight against antisocial behaviour continues in his area. It is vital that the police take appropriate action to deal with the illegal or dangerous use of a vehicle, no matter how big or small. In the case that he mentioned, it is possible to confiscate such a vehicle if it is used illegally, and I am confident that he will encourage law enforcement agencies in his area to take such action if necessary.

Mr. Colin Breed (South-East Cornwall) (LD): The fight against antisocial behaviour is often hampered by the lack of fully staffed custody suites, particularly in rural areas. Would the Minister review the availability of such suites, particularly on Friday and Saturday nights, so that police are not sent a long way to other custody areas? At such times they are off the streets and cannot return to policing duties in the evenings.

Paul Goggins: The police locally are always looking at those issues, but I am grateful to the hon. Gentleman for his support for the fight against antisocial behaviour. He was, perhaps, a little late in coming to the fight, but his support is very welcome none the less. It is essential that we make sure that the resources required are available, and that the police use them appropriately in taking out antisocial behaviour orders, developing acceptable behaviour contracts and working with parents to prevent the kind of antisocial behaviour that blights our community, as well as dealing with the symptoms of those problems.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): My area in the west midlands has been in the forefront of the campaign to get antisocial behaviour orders, and has been helped considerably by the Together campaign. However, I am getting reports that there is a certain inconsistency on the part of the magistracy, particularly in upholding antisocial behaviour orders when there are reported breaches of them. Has my hon. Friend considered holding special antisocial behaviour courts in order to build up the consistency and expertise needed to make the policy fully effective?

Paul Goggins: I can offer my hon. Friend some reassurance. There are now 100 antisocial behaviour courts, and there are prosecutors whose job is specifically to deal with antisocial behaviour. It is important that we have a consistent approach, so I am pleased that he mentioned the Together campaign, as it is an essential way of making sure that we get a consistent approach across the country. There is a Together website and action line. We have had the Taking a Stand awards, which again highlight the important role that local people can play in the campaign. In the end, although an antisocial behaviour order is a civil order, breaching it is a criminal offence that carries a hefty penalty.

Mr. Andrew Mitchell (Sutton Coldfield) (Con): Is not the Minister's response stunningly complacent? Does he not know that, according to his Department's own figures, there are more than 15 million acts of antisocial behaviour every year—that is, one incident every two seconds? How does that square with his 1997 manifesto pledge to

"tackle the unacceptable level of anti-social behaviour . . . on our streets"?

Paul Goggins: I do not know whether to take "stunning" or "complacent" as the most important adjective to describe my performance—but let me leave the hon. Gentleman in no doubt whatever that this is an important issue for our communities throughout the country. We know, as Members of Parliament, that it is a serious issue. The Government have put in place the powers and the resources to deal with it. We are dealing with it. People recognise the difference that the antisocial behaviour legislation is making and the action

that goes with it is improving our local communities. It is about time the hon. Gentleman got behind the campaign, instead of criticising it.

Drug Traffickers

6. **Tom Levitt** (High Peak) (Lab): What measures he plans to take to deal with drug traffickers. [219833]

The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint): We are targeting class A drug traffickers at every stage of the supply line, from source to street.We are creating the Serious Organised Crime Agency to bring a new focus to tackling drug trafficking and other forms of organised crime. We are also providing new powers for the law enforcement authorities, including the power to compel individuals to co-operate with investigators, in addition to existing powers to shut down crack houses and seize criminal assets, both of which, I am pleased to say, are proving effective.

Tom Levitt: I am sure that my hon. Friend would wish to join me in congratulating Chief Superintendent Flint and B division of Derbyshire constabulary on two big drugs raids recently, which resulted in the seizure of more than £1 million worth of drugs plus other assets, and over a dozen arrests in two towns in High Peak, New Mills and Glossop. Those arrests would not have been possible without, first, the information coming from members of the public, and secondly, work not just by the police, but with other agencies as well. Can my hon. Friend describe how she will help to promote a joined-up approach across all agencies towards tackling drug trafficking?

Caroline Flint: I am pleased to congratulate the force in my hon. Friend's area on significant operations with significant results. So far in 2004–05, Derbyshire police and prosecutors have obtained 63 confiscation orders with a total value of more than £2 million, and five cash forfeitures with a total value of more than £154,000, so I congratulate them on their success. My hon. Friend is right—it is about the agencies working together. From next year, all agencies involved in asset recovery will benefit from a new incentive scheme—50 per cent. of all the money recovered will be handed back to police and other agencies as a further incentive to recoup even more. We must make sure that we convict people and take away the profits of crime so that they cannot use them to fund their lifestyle or reinvest them in their criminal activities.

Mr. Julian Brazier (Canterbury) (Con): Does the Minister accept that a joined-up approach must include an examination of the demand side of the equation? The reclassification of cannabis has not helped, and the shortage of places for people with dual diagnosis—young people with drug problems and mental health problems—is lamentable. What is the Minister doing to address the demand side?

Caroline Flint: I know that the hon. Gentleman is sincere, but unfortunately he has got the facts wrong, and as long as people keep distorting the facts, we cannot form a clear picture of how to handle the matter. Cannabis use among 16 to 24-year-olds has fallen since 1998 from 28.2 per cent. to 24.8 per cent; the level of use of other drugs is stable, and we need to deal with that. We must ensure that we have not only the will but the resources to tackle traffickers, and the issues around supply and demand. From April, we will invest £1.5 billion to create the necessary places to treat those with dual diagnosis. Around 1,500 offenders a month are currently entering treatment, which is a 54 per cent. increase on previous years.

Mr. Tam Dalyell (Linlithgow) (Lab): Does the Home Office recollect that it has had a good deal of evidence from Inter-Parliamentary Union delegations, such as those that I led to Bolivia and Peru and others, and from some of my hon. Friends who have been to Afghanistan, about the difficulties caused by money laundering? People in such countries say, "You western Europeans had better do something about money laundering in the Turks and Caicos Islands, the Cayman Islands, the Channel Islands and heaven knows where."

Caroline Flint: My hon. Friend has raised an important issue. Last week I was in Bulgaria and Romania, where I discussed issues related to organised crime such as drug trafficking and people trafficking. My hon. Friend's question highlights how criminals launder money from their criminal activities through financial institutions or by purchasing property or land. Whether it be on a global level or through our influence in the European Union, we should encourage countries such as Bulgaria and Romania, which want to join the European Union, to make sure that their systems include effective legislation on money laundering. I congratulate Bulgaria on recently passing its asset recovery legislation, which follows the path set by the United States, the UK and Ireland.

Angela Watkinson (Upminster) (Con): In Upminster, two separate shootings have occurred in the past week, and the police suspect that both of them relate to drug turf wars. Will the Minister reflect on that fact, and then will she reflect on the following: gun crime has doubled, this country is now known as the drug capital of Europe, and this Government's drug policy has been an abject failure?

Caroline Flint: Gun crime is very low in this country. It has increased in recent years, but the rate of increase has gone down, and the number of fatalities caused by handguns has decreased considerably—*[Interruption.]* There has been an increase in incidents involving imitations. The use of weapons by drug gangs raises some issues, which is why we launched Operation Crackdown this year. We have made sure that not only are drugs seized and drug dealers arrested, but firearms are taken away. For the hon. Lady's information, in the first four weeks of Operation Crackdown, the 33 forces taking part arrested nearly 1,000 people for class A drug supply, closed 42 crack houses and seized nearly £1 million in suspected drug cash, 71 firearms and 86 replicas. We are taking a joined-up approach to that serious matter and, although we are not complacent, we are making progress.

Community Policing

7. **Dr. Nick Palmer** (Broxtowe) (Lab): If he will take steps to introduce a policing career structure specialising in community policing. [219834]

The Parliamentary Under-Secretary of State for the Home Department (Fiona Mactaggart): We are in discussion with the police service about the development of career pathways for police and police staff, including community support officers. It is important that officers who remain in front-line neighbourhood policing are valued and have a clear career structure that reflects their commitment.

Dr. Palmer: I am grateful for my hon. Friend's reply. In teaching, when the best teachers used to be promoted to department head they no longer did any direct teaching. The position is similar in community policing, because the best community support officers become beat officers and the best beat officers become detectives, so we lose that base of expertise in the community. Will the Minister consider creating the police equivalent of the super-teachers who dealt with the educational problem? We would then have community policing specialists, and officers would feel that such policing was a long-term career, for which they would be rewarded if they stayed in the community.

Fiona Mactaggart: My hon. Friend is right to highlight the issue. We want to ensure that, in the words of Lord Scarman 25 years ago, beat officers should be seen

"not as occupying the bottom of the police pecking order . . . but at its apex, in the forefront of the police team".

The development of a career pathway has been made more achievable through the development of teams of community support officers, which gives neighbourhood police sergeants and constables the chance to lead a team. Those are some of the ways in which we are developing a career pathway at neighbourhood level. I know that that is much wanted in my hon. Friend's constituency, because that is what I was told when I met a group of community support officers in Broxtowe last year.

Miss Anne McIntosh (Vale of York) (Con): How can a county such as North Yorkshire fund a structure for community policing when we are so heavily dependent on targeted grant funding? If that aspect were removed, there would be an extra £1.25 million in the police precept each year.

Fiona Mactaggart: I know that my right hon. Friend the Home Secretary has visited the hon. Lady's police authority and discussed the matter with the chief constable. The main issue concerning funding of our police service is that on police funding, the Labour party does what it says on the tin. We have increased the number of police officers on the streets to 140,000. The former Prime Minister from the hon. Lady's party promised in October 1995 that he had found the resources over the following three years to put not 500, but an 5,000 extra police officers on the beat—yet what he actually did was cut the police service by almost 500.

Lawrie Quinn (Scarborough and Whitby) (Lab): To the list of colleagues on the Government Front Bench who recently visited North Yorkshire may I add my hon. Friend the Minister for Crime Reduction, Policing and Community Safety? During her visit she saw community policing successfully deployed in North Yorkshire. I do not recognise the comments made by the hon. Member for Vale of York (Miss McIntosh) about the county. The core of the matter is to work closely with the community, so will the hon. Lady listen closely to the great messages that my hon. Friend will be able to play into the process, and into the Home Office, to help build a proper community support officer structure in the police force nationally?

Fiona Mactaggart: It certainly can be done. Within our current promotion and retention strategies, there is an opportunity to provide special priority payments and other mechanisms to enable police officers to stay in the front line in the community. North Wales police authority and Devon and Cornwall police authority have already used those structures to enable officers who are committed to being in the front line in the community for two or three years to receive additional payments in recognition of their work.

Mr. Mark Francois (Rayleigh) (Con): A vital component of community policing is the special constabulary which provides important reinforcement for regular officers. Special constables also need an effective career structure. Will the Minister tell the House how many special constables were serving in 1997 and how many are serving now?

Fiona Mactaggart: The hon. Gentleman is right to celebrate the fantastic job that special constables can do. I was proud to be part of a team giving awards to specials who had gone far in the course of their commitment to the police service, and I am pleased to announce that this year the number of specials has increased. I am also confident that in this year of the volunteer, their number will continue to increase. We will focus on the contribution made by volunteers in the justice system in the year of the volunteer in a couple of months, and that will give us a chance to build on and accelerate the progress that we are making in special recruitment. The hon. Gentleman and I share the ambition to use the talents of people who will commit their time voluntarily to our policing and work side by side with professional police officers.

Ian Lucas (Wrexham) (Lab): North Wales police have introduced a scheme whereby community beat managers commit themselves to a three-year term in a particular area of the town. As a consequence, Sergeant Darren Jacks and his team in the Caia Park area of Wrexham have achieved a huge increase in confidence in policing in the area. Will the Minister commend Sergeant Jacks and his team on that work and encourage other police authorities to look at the North Wales experience, because real community policing has a huge beneficial effect on confidence in policing in communities?

Fiona Mactaggart: In an earlier reply, I mentioned that the North Wales police service had introduced special priority payments. The example that my hon. Friend mentions is important, because Caia Park is a difficult place to police. However, fantastic strides have been made by using the present career structure imaginatively and intelligently. The special priority payments have been used to encourage officers to commit to the front-line role and achieve the ambition that Lord Scarman described of putting the neighbourhood police officer at the apex of our policing strategy.

Drugs

8. **Mr. Bill Wiggin** (Leominster) (Con): if he will reassess the merits of the private Member's Bill of the hon. Member for Ribble Valley (Mr. Evans). [219835]

The Secretary of State for the Home Department (Mr. Charles Clarke): The Government opposed that private Member's Bill because its proposed measures are already available, so its three provisions are redundant. The Drugs Bill contains further provisions to strengthen the law against drug dealers, while aiming to offer prompt and effective treatment to all who need it. I hope that all Opposition parties will assist it in its passage through Parliament.

Mr. Wiggin: I am grateful for that answer, but it is a shame that Marjorie Wallace, the chief executive of the mental health charity SANE, commented:

"We would urge the Government to reverse its decision on classification, backing that with a multi-million pound education and awareness campaign on the dangers of cannabis for young people who are developing."

I hope that the Home Secretary will do that.

Mr. Clarke: I understand the point made by the hon. Gentleman, but it was not addressed in the private Member's Bill to which he referred. That Bill suggested that the Government set up a commission to examine the effects and classification of cannabis. Such a commission already exists. It is a statutory body that reviews the harm caused by drugs and it is called the Advisory Council on the Misuse of Drugs. That professional, statutory body considered the classification of cannabis in March 2002 and made the recommendation for reclassification to which the hon. Gentleman refers. We do need to debate these issues, but to suggest that the decision was based on anything other than professional opinion at the time is mistaken.

Mr. Nigel Evans (Ribble Valley) (Con): The United Nations figures show that the amount of heroin flooding into this country has increased. We have the third largest number of heroin users in Europe and the price has come down dramatically. The Home Secretary says that we have the powers on the statute book, but is he surprised that so few people have been given the mandatory seven-year sentence for being persistent class A drug offenders? Can he assure the House, and the country, that during the general election we will not hear anything about the Government being tough on crime and tough on the causes of crime?

Mr. Clarke: First, it is good that more drugs, in particular heroin, have been seized. Secondly, on the question of drug dealers, I remind the House that in 1994, 30 per cent. of dealers received custodial sentences of more than two years. Now, 66 per cent. of such offenders receive a sentence of at least two years, and the proportion getting five years or more has doubled. There has been a dramatic increase both in the numbers of drug dealers who get custodial sentences and in the time to which they are sentenced. That is a substantial contrast with what the Opposition did during their time in government. I agree with the hon. Gentleman that it would be as well to judge such matters on the facts—such as those that I have just described.

Mrs. Cheryl Gillan (Chesham and Amersham) (Con): During proceedings on the Drugs (Sentencing and Commission of Inquiry) Bill, the Under-Secretary of State for the Home Department, the hon. Member for Slough (Fiona Mactaggart) told us that arrest for cannabis possession had been cut by a third over the past year. During that time prices have dropped to their lowest level, the market is flooded, increasing evidence is showing the damaging effects on health, and more and more children are thinking that it is safe to try cannabis. When he was a junior Home Office Minister, the Home Secretary himself admitted in a written answer that

"most users of class A drugs, such as heroin and cocaine, started off by using . . . cannabis".—[*Official Report*, 31 October 2000; Vol. 355; c. 430W.]

When will he reassess the disastrous reclassification of cannabis and put the police back to work on stopping the spread of the drug that is the foundation stone of the drugs problem—or has he changed his mind?

Mr. Clarke: I welcome that question, from this point of view: I want to make it absolutely clear that nothing justifies the consumption of cannabis by young people or anybody else. All the education that we work on with the Department for Education and Skills and the teaching profession makes that clear. The reason for making such intelligence available is to make it clear that the consumption of cannabis is wrong, illegal and a mistake. Of course the hon. Lady is right to say that it is necessary to continue to prosecute that argument, and we will do so, but she should not seek to mislead in her description of the situation.

Stop Forms

9. **Mr. Mark Prisk** (Hertford and Stortford) (Con): When he next expects to meet representatives of police forces to discuss the implementation of stop forms. [219836]

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): Ministers have regular meetings with the Association of Chief Police Officers and other police representatives at which the recording of "stops" issues are discussed. We set up a stop and search action team to ensure that the police use their powers of stop and search fairly and as effectively as possible. The team has been working with both community representatives and police organisations through the independent community panel.

Mr. Prisk: Antisocial behaviour in Hertford and Bishop's Stortford is a serious issue, and the power of the police to stop youths engaged in it plays a crucial part in tackling the problem. It can take up to an hour for a policeman to stop a gang of youths, which is often at the heart of the issue. That is a real worry to our police officers. Does the Minister not realise how demoralising it can be for them to be caught in the dilemma of whether to spend an hour filling in forms or to spend it out on the streets making our communities safer?

Ms Blears: I do not know whether the hon. Gentleman has been out with his police officers—but I am sure that he has. All the evidence that we have shows that the vast majority of stops take less than five minutes to record; the longest time that it took to record any stop was 10 minutes. As he will be aware, not every encounter requires the recording of a stop, and there are now some practical examples in our stop and search manual. Conversations concerning, for example, general background or looking for witnesses do not fall within the definition of stops that need to be recorded. The definition of a stop that needs to be recorded is when a police officer asks someone to account for their activity, which is not necessary in the vast majority of cases involving the tackling of antisocial behaviour. As I am sure that the hon. Gentleman will acknowledge, we now have a far wider range of powers to tackle antisocial behaviour, including fixed penalty notices and dispersal orders. Those are all tools that the police are finding incredibly useful.

Prison Estate

10. **Peter Bottomley** (Worthing, West) (Con): What plans he has to ensure that the prison estate is able to accommodate the projected future prison population. [219837]

The Parliamentary Under-Secretary of State for the Home Department (Paul Goggins): Since 1997, the Government have increased the number of prison places by around 17,000 to the current usable operational capacity of 76,600. We plan to increase that by a further 3,800 places to around 80,400 by 2007.

Peter Bottomley: Is it not surprising that all these places are needed? Can the Minister check whether 2,400 people a week are still collecting for the first time a serious criminal conviction leading to jail for six months or more? Has he tried to cut the amount of crime and to get out of the prison system those who are mentally troubled and should not be there anyway?

Paul Goggins: Of course all our efforts should go into trying to prevent crime and reduce the number of crimes, and we are being effective in that. If the hon. Gentleman is making a plea for a more balanced approach to sentencing, whereby prison is reserved for the serious and dangerous offender, and less dangerous offenders are given robust community sentences or fined, I join him in arguing for such a rebalancing of the system. Indeed, the Government are doing that. We want prison to be reserved for the serious and the dangerous, while others should serve robust community sentences.

Mr. Brian Jenkins (Tamworth) (Lab): Does my hon. Friend feel as disappointed as me that we are discussing increasing the size of prisons to hold that projected population? Will he try to establish how many people remain in prison who were for release under the care in the community programme but had nowhere else to go? How many people who are in prison belong in secure hospitals? Instead of providing extra places, will he divert some of the money to the good prison programmes to prevent the 60 per cent. who reoffend from doing so? All we are doing is re-churning prisoners in our prison system.

Paul Goggins: I thank my hon. Friend for this thoughtful remarks. Nobody should be in prison because they have a mental health problem, but clearly there are people in our prisons who suffer such problems: we estimate that on any one day there are about 5,000 people who suffer from a serious mental health condition. That is why we have invested in the in-reach project, and 300 additional psychiatric nurses are working in our prisons. Last year more than 700 people were transferred from prison to secure hospital because of their mental health needs. Of course we need to get the balance right, but when people have mental health problems, we seek to address them.

Crime (Animals)

11. **Norman Baker** (Lewes) (LD): What guidance he issues to chief constables in respect of recording crime involving animals. [219838]

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): The Home Office issues general guidance on counting and classifying the offences that are included in the recorded crime statistics. Wildlife crimes are generally summary offences and are therefore not included. However, there is a category for wildlife crime in the new national standard for incident recording that is currently being developed.

Norman Baker: We need to know the exact extent of wildlife crime. Does the Minister accept that for many people, wildlife crime is important, and that in their view, the police do not give sufficient attention to disgusting practices such as badger baiting and hare coursing? Will she encourage chief constables to nominate a dedicated wildlife liaison officer? Will she also ensure that the police national computer registers offences detected not only by the police but by the Royal Society for the Prevention of Cruelty to Animals?

Ms Blears: The hon. Gentleman is right that wildlife crime is important and that many people are worried about badger baiting and the sorts of terrible crime that every hon. Member would want to condemn. However, it is an operational matter for police forces to decide their priorities. I should like to place on record my thanks to Mr. Richard Brunstrom, the chief constable of North Wales, who is the leading wildlife officer for the Association of Chief Police Officers and is doing excellent work on the matter. Many forces have dedicated wildlife officers, and that is why we are keen to develop the incident recording system, which will

enable us to keep a closer track on the sort of crimes that occur. Whether they are recordable depends on the sorts of punishment that are available. As I said, most are summary only offences and would not necessarily be recordable, but the incident recording system should enable us to keep better track of them.

Burglaries

13. **Mr. John Denham** (Southampton, Itchen) (Lab): What estimate he has made of the number of burglaries in 2004 and 2005 to date; and if he will make a statement. [219842]

The Parliamentary Under-Secretary of State for the Home Department (Caroline Flint): Figures for 2004–05 are not yet available. The most recent annual British crime survey data, which were published in July 2004, showed a 42 per cent. reduction in domestic burglary from 1997. The quarterly statistical update, which was published in January, reported that the number of domestic burglaries recorded by the police fell by 23 per cent. in the 12 months to September 2004.

Mr. Denham: I welcome those figures. On a constituency note, will my hon. Friend join me in congratulating Southampton police? Burglary figures for the past seven months were 36 per cent. below those for the previous seven months. That is a significant achievement. What is being done centrally to ensure that the lessons of good and effective policing practice, such as that in Southampton in the past six to seven months, are learned and shared in other parts of the country?

Caroline Flint: I congratulate my right hon. Friend's police force on its success. As he knows, from 1999 to 2002 we had the reducing burglary initiative, whereby 63 projects examined what worked and what was value for money. He is right to say that we need to spread good practice, and we are doing that by providing information that is accessible to all police forces and others in the community on our website and through seminars. We can work on many different fronts in policing, reducing crime and targeting especially vulnerable groups such as older people and students. We are making progress on all those matters. Overall, it is pleasing that the number of burglaries, recorded or otherwise, is down.

Patrick Mercer (Newark) (Con): The Minister will be aware that when I tried to introduce the Criminal Law (Amendment) (Householder Protection) Bill, a number of very senior police officers supported it, saying that it would deter burglary. Furthermore, convicted criminals, including the now infamous Brendan Fearon, said that it would have deterred them. Will the Minister explain why the Government continue to support the burglar rather than the householder, by opposing my Bill?

Caroline Flint: We certainly do not support the burglar. That is emphasised by the fact that the number of burglaries has gone down. We are getting a clear message across to the people who would enter our homes to steal from us that they will be caught and dealt with. We have looked at improvements in this area, including introducing a minimum sentence of three years for those convicted of domestic burglary for a third time. The reason why we did not support the hon. Gentleman's Bill is very simple: it became clear, after consultation with a wide group of people, that what was needed was to ensure that people understood the law as it stood. That goes both for the public and for the burglars.

Orders of the Day

Income Tax (Trading and Other Income) Bill

Motion made and question put forthwith, pursuant to Standing Order No. 60(8),

That the Committee of the whole House be discharged from considering the Bill.—*[Mr. Heppell.]*

Question agreed to.

Order for Third Reading read.

3.31 pm

The Economic Secretary to the Treasury (John Healey): I beg to move, That the Bill be now read the Third time.

I am pleased to open this debate on the Bill, which rewrites our legislation on the taxation of trading, property, and savings and investment income. The Bill has been produced by the Inland Revenue tax law rewrite project, which is a long-term undertaking to rewrite our direct tax legislation so that it is clearer and easier to use. This is the second rewrite Bill to venture into the realms of income tax and it does so in a significant way, by tackling schedules A, D and F in the current legislation. About 20 million people receive income of one variety or another that is taxable under these schedules.

Before I say more about the specifics of the Bill, it might be appropriate to remind the House of the work of the tax law rewrite project. The project was set up in 1996 by the former Chancellor, the right hon. and learned Member for Rushcliffe (Mr. Clarke). It is a project to rewrite the UK direct tax code, the provisions of which have been enacted over at least the past two centuries. The principal aim of the project is that the rewritten legislation should be accepted by all the main users as clearer and easier to use. While making the legislation more accessible, the project also takes great care to preserve the effect of the present legislation, apart from minor agreed changes, and it proceeds through careful consultation and consensus. It is beyond the remit of the project to make any change in the main tax policies. However, the rewrite can encompass minor changes where they will improve the legislation. Examples of such changes are the inclusion of extra-statutory concessions, the repeal of obsolete material and the correction of small anomalies. The explanatory notes list 159 such changes in the Bill.

In its consideration of the Bill, the Joint Committee focused in particular on the minor changes and satisfied itself, and reported to the House, that they were all within the remit of the project. It also heard that the project had dropped any proposed changes that did not meet the approval of its two external committees. The Joint Committee noted the widespread public scrutiny of the Bill as a whole, and of the minor changes in particular, which were flagged up very clearly at each stage in the consultation process.

In the run-up to the Bill, 18 separate consultation papers were published, and the Bill was published in draft form last March. All were published for public consultation. In addition, a response document summarising the comments made on the draft Bill and setting out how the project has taken account of them was issued last September.

Of course, consultation does not stop with formal papers. The project continues to consider other ways to involve users of tax legislation and keep them informed so, over the last two years, the project has made much more use of its website to publish work in progress in the form of early drafts or changes to previously published work.

It may be helpful if I say a few words about the content and approach of the Bill, which is the third of the tax law rewrite project. The charge to income tax is broken down into a number of schedules. Over the years, schedules have come and gone, but currently we have schedules A, D, and F. The Bill tackles income tax charged under those schedules. It brings the charging and calculation rules for the different sorts of income together in updated classifications, such as trading income, savings and investment income, and property income. Unlike current legislation, it integrates foreign income in the same parts as equivalent United Kingdom income, confining any special rules that apply to foreign income to a different part.

The Bill applies for income tax only. The project consulted at an early stage on whether to aim for separation of the income tax code from the corporation tax code. Users of the legislation favour making this separation, so where the legislation rewritten in this Bill currently applies to both codes, the current provisions will be repealed for income tax purposes, but will continue to apply for corporation tax.

The Joint Committee heard that this Bill is the first step in the separation of the income and corporation tax codes. The project will consult further on the extent to which corporation tax provisions should be rewritten in full or should cross-refer to income tax Acts.

Various techniques have been used in the Bill to make the legislation clearer and more accessible. The first and most important element is the imposition of a coherent structure. Instead of the haphazard order of provisions in the existing legislation, the Bill presents all the material in a logical way, with linked topics grouped together.

The Bill also contains plenty of aids to the reader, such as introductory scene-setting chapters and signposts to other relevant provisions. These are designed to help readers to find their way through what is, inevitably, a large body of legislation. Other features of the rewrite process include shorter sentences, modern language, more consistent definitions and greater use of other reader aids such as formulae, tables and method statements. All this combines to make a new style of tax law that is more accessible and altogether more user-friendly.

The project continues to enjoy the strong support of users of the legislation and I am also happy to say that it continues to command strong support from both sides of the House. I pay tribute to Members of the House and of the other place who have played a part in the scrutiny of the provisions to date. The comments made by the representative bodies confirm that this latest Bill from the project has indeed been well received. The Institute of Chartered Accountants in England and Wales said that the Bill, as published in draft last spring, "is well constructed and we commend its drafting. It covers important ground and ... facilitates taxpayers' easier understanding of legislation which will affect very many of them, it is a useful addition to the rewritten legislation."

[John Healey]

The Chartered Institute of Taxation said:

"we recognise and commend the huge amount of detailed work that has gone into the production of this Bill . . . please extend our congratulations to the entire Project for what is on balance a mammoth and an excellent product."

To sum up, this is an immensely worthwhile project that modernises our direct tax legislation, making it clearer and easier to use. This, the second income tax Bill, is another major milestone in the work of the tax law rewrite project. Work remains to be done to complete the rewrite of income tax, but the Bill is a demonstration of significant further progress and it maintains the project's excellent track record on improving current legislation. I commend it to the House.

3.44 pm

Mr. George Osborne (Tatton) (Con): As I said on Second Reading, the Conservative party very much welcomes the latest product of the tax law rewrite project, which, as the Economic Secretary said, was set up by the previous Conservative Chancellor, my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke). Anything that reduces the impact of the taxes that we impose on taxpayers, certainly in a regulatory sense, is welcome.

I cannot resist welcoming the Liberal Democrat presence, as it was completely absent from Second Reading, as the Minister might remember, which is strange given that the Liberal Democrats are particularly fond of income tax and want to increase the top rate, introduce a regional income tax, local income tax and so on. Under the Liberal Democrats, we would therefore have a lot more tax and a lot less income. Nevertheless, I welcome the hon. Member for Twickenham (Dr. Cable) to his place for Third Reading.

The Economic Secretary mentioned in his short speech the history of income tax and that it was set up at the end of the 18th century to pay for the war with France. At the time, it provoked an outcry in the House of Commons. Charles James Fox, no doubt speaking from this side of the House at the time, said that income tax

"tends to the immediate destruction of"

taxpayers'

"trade, the annihilation of their fortunes, and possibly to the loss of liberty of their persons".

William Pitt had personally designed the new tax system in his combined role of Prime Minister and Chancellor—an arrangement that I am sure that the current Prime Minister would look on with envy—to stabilise the country's finances. I wonder what would happen were Fox and Pitt to glimpse our proceedings today in this near-empty Chamber as we remove from the statute books what remains of the schedule structure of the Income Tax Act of 1803. We are witnessing a little bit of history. As someone who studied history at university, I think it is worth mentioning that.

Of course, the Bill also separates income tax and corporation tax law for the first time since corporation tax was introduced in 1965. That will have a significant impact on 20 million taxpayers, 5.7 million recipients of tax credits and 47,900 tax practitioners, as well as on the £22 billion of revenue collected by the taxes represented in this legislation. The fact that we can pass this Bill, with its 886 clauses, with some confidence that it only makes our direct tax law simpler, more consistent and easier to use, and is not being used as a stealthy tax-raising measure, is down entirely to the heroic work of the three committees that oversee the rewrite project mentioned by the Economic Secretary.

The first of those is the Joint Committee of both Houses, which scrutinises the Bill to make sure that the letter but not the spirit of the law is being rewritten. Like the Economic Secretary, I pay tribute to my right hon. and learned Friend the Member for Rushcliffe for chairing that Committee. It is appropriate that he stays involved, as the Chancellor who established the tax law rewrite project nine years ago. When it met last month, the Committee concluded that it was satisfied that

"the only changes that the Bill makes to the existing law are of such minor significance that they need not be referred to the attention of Parliament."

I am grateful for its work. I have read the proceedings and it is clear that it grilled the officials involved. Clearly, while I suspect that the Chancellor of the Exchequer is desperate to increase income tax revenues to fill his black hole, this Bill will not be his way of doing it.

Another important check on the process is the steering committee. I pay tribute to another former Chancellor, who chairs it—Lord Howe of Aberavon, who also sits on the Joint Committee. Lord Howe is a driving force behind the tax law rewrite project, and the Economic Secretary and I can attest to his personal interest in the Committee proceedings, as he sat in the public seats upstairs to listen to us, which is probably the first time that a former Chancellor has done so. His presence was very welcome.

I also thank my right hon. Friend the Member for Fylde (Mr. Jack) for his work on the steering committee. As I said on Second Reading, the whole project seems to be aimed at establishing a retirement home for former Treasury Ministers. I repeat my offer to appoint the Economic Secretary to it on 6 May.

Chris Bryant (Rhondda) (Lab): Guffaws of laughter.

Mr. Osborne: No doubt the hon. Gentleman is looking forward to his own lengthy contribution to the debate. I am sorry that he has moved back to his usual place in the Chamber, because I thought for a second that he had been promoted to the post of the Minister's Parliamentary Private Secretary—that he had finally reached the first rung of the ladder—but, sadly, he seems to have fallen to the ground. I think that I have advised him before to make more helpful interventions on Ministers' speeches if he wants to get on in life.

I also thank the consultative committee: representatives of lawyers, accountants and other tax practitioners and, indeed, representatives of taxpayers such as the Confederation of British Industry, the Institute of Directors, the Federation of Small Businesses and the London chamber of commerce. Theirs is detailed work. Those representatives are in the front line in dealing with the complexity and obscurity of tax laws that we pass here and I thank them for their help in trying to make legislation clearer and simpler.

Let me now deal with the substance of the Bill and specific issues. If the Minister does not wish to intervene, perhaps he will write to me if he thinks he could respond to any points that I raise.

The Minister mentioned the integration of foreign with United Kingdom income tax rules. That is, I think, one of the most welcome features of the Bill. Perhaps the Minister will now consider introducing a single tax form for foreign and UK income. A question was asked about that in the Joint Committee. I know that it is beyond the remit of the rewriting team, but it is very much within the Minister's remit. It might be of practical benefit to the whole rewriting process if people could fill in just one form.

Clause 882, which was also discussed in the Joint Committee, gives the Treasury power to alter the legislation by an order that is subject only to a negative resolution, rather than the affirmative procedure that we would expect. The issue was also considered by the Delegated Powers and Regulatory Reform Committee in the House of Lords. I understand why the power is necessary—technical changes may be needed to correct any mistakes or omissions in this complex legislation—but will the Minister now repeat his assurance to the Joint Committee that he, or other Treasury Ministers, would make such orders only after securing the agreement of the consultative and steering committees? That is, I feel, an important check.

Appendix 4 of the memorandum submitted by the Inland Revenue to the Joint Committee indicated that there were some extra-statutory concessions that had not been written, or rewritten, into the legislation. The reason given by the Revenue was that they were too complex. They include fairly important matters such as directors' fees, the profits and losses of theatre backers, compensation for the compulsory slaughter of farm animals, and wear and tear on furniture and the like in furnished lettings.

I know that the tax law rewrite team gave detailed consideration to what might be done in those areas, but decided that it could not make any great improvement—or that it was not worth trying to do so. Is the Minister satisfied with that conclusion? It seems a shame to leave some particularly complex parts of the law unrewritten just because they are particularly complex. Perhaps once the whole body of direct taxation has been rewritten, the rewrite team will look again at the bits that they have had to leave out. I know that there will only be a few, but it would be a shame just to leave them standing there, unrewritten.

Other clauses affect the tax paid by individuals, both in theory and in practice. The Joint Committee looked in depth at the 43 changes that may lead to the payment of less or, indeed, more tax by an individual. Examples include clause 412, on stock dividends, clause 150, on securities held as circulating capital, and clause 666—a rather inauspiciously numbered clause—on beneficiaries' income from estates in administration. The Joint Committee satisfied itself that the changes are sufficiently obscure as to be very unlikely to have a significant impact and I am sure that it is right. However, as tax law develops and as the courts and the Revenue interpret it, one would not want individuals to end up paying more tax as a result of a rewrite. I hope that the Minister will assure me that, despite the Joint Committee's having satisfied itself on this matter, the Treasury will continue to keep an eye on it as the various rewrite laws bed in and new tax practice develops around them. We do not want taxpayers to pay an unfortunate price for what should be a very welcome process.

I turn now to an issue that I raised on Second Reading, but which is worth airing again on Third Reading. The valuable work done through this process by the tax rewrite team will be completely pointless if it is to be undermined by subsequent legislation that is poorly drafted or inconsistent with the rewritten law's language, and which returns us to the very morass that the rewrite project is supposed to address. This is, as the Minister well knows, a real threat, because it has already happened. Large parts of the Income Tax (Earnings and Pensions) Act 2003 were superseded just a couple of months later by schedule 22 of that year's Finance Act, which was hideously complex, used language inconsistent with the rewritten tax law and, indeed, undermined the whole purpose of the rewrite project. That is not just my view but that of the Inland Revenue itself. Indeed, its "Tax Law Rewrite: Plans for 2004/05" address this very point, saying:

> "One issue which gave rise to a considerable amount of comment and discussion during 2003–04 was raised by Schedule 22 to the Finance Act 2003 . . . Critics argued that the style and format of Schedule 22 compared unfavourably with the quality of legislation produced by the project; and that it was highly unfortunate that a substantial part of the second Tax Law Rewrite Act had to be replaced so quickly by new legislation that was perceived to be of lower quality . . . The topic received considerable public airing. It was also discussed on several occasions by the project's Committees . . . this is an issue that will no doubt stay with us—to some degree—and on which we must continue to work. It will be a priority in 2004–05 to keep this issue in front of us and to promote further discussion about how best to tackle it."

I have quoted that passage at length because it is very important and it gets to the heart of the issue, which is whether this process is simply temporary or will bring about a real change in the way in which we produce tax law.

When I raised this issue on Second Reading, the Minister conceded that I had made a fair point. He said that the Government were learning lessons from the debate and from the criticisms that were received of schedule 22. His excuse was that it is difficult to produce good-looking legislation when it needs to be produced to tackle such problems in a fairly short time and under pressure. Of course, he is right, in that parts of the Finance Bill are often produced in that way in order to deal with what the Government of the day would describe as "tax-avoidance schemes". But given that that is a normal process in Finance Bills, the Minister must surely look at a way of ingraining into the team currently writing tax law some of the principles and language used by the rewrite team. Otherwise, we will shortly find that—under perhaps Governments of either persuasion—much of the rewrite team's good work is undermined as bits of the tax law are superseded by hastily and poorly drafted new tax legislation. I ask the Minister to look again into that matter and see what can be done. The Inland Revenue said that it wanted to promote further discussion on how best to tackle the problem in 2004–05 and time is rapidly running out, so this is probably my last opportunity to make the point.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): Does my hon. Friend accept that some of the most byzantine legislation emanates from Europe, and will he urge our European colleagues to reflect further on the lessons that we have learned from our tax rewrite system here to see if they can improve their legislation by writing it in that format? *[Interruption.]*

Mr. Osborne: My hon. Friend makes an excellent suggestion. The hon. Member for Rhondda (Chris Bryant) made the point that "Byzantine" does not relate to Europe, but one hopes that, with the Turkish accession, it soon will. The EU, which is now the source of an enormous amount of financial regulation, if not yet tax law, should certainly learn the lessons from our rewrite project, which has been a model of how to produce clear and consistent language. If those in Brussels pay any attention to what is going on in national Parliaments, I hope that they have heard my hon. Friend's point.

The Bill reinforces the determination of Conservative Members—I hope that it is reciprocated on the Government side—to ensure that the rewrite project continues—and continues to be properly funded. As I understand it, it has completed only about a third of its scheduled work and there is at least one more income tax Bill to come, before the team moves on to capital and corporation taxes. I can certainly give a commitment today that a future Conservative Government would ensure that it received all the support that it needed.

We would like the process to go even further and build on the work of the rewrite project by promoting tax simplification—*[Interruption.]* I see that that commands broad support on this side of the House. We believe that the UK tax system has become over-complicated and changes too frequently. It is riddled with inconsistencies, complexities and obsolete provisions and those inconsistencies impose a considerable burden on taxpayers and businesses, adding to the costs of complying with tax law. They also add to costs of the Inland Revenue and have led to a huge growth in demand for tax services in the past few years.

We have examined the proposals put forward by Lord Howe himself in his Hardman memorial lecture of 2000 and, indeed, the recommendations of the working party that Sir Alan Budd chaired for the Institute for Fiscal Studies. When we are elected to government, we would wish to proceed along the lines recommended and establish a simplification project to run in parallel with the rewrite project. We would also introduce a tax structure review programme to look into the existing primary direct and indirect tax legislation, which would identify measures to be modified, approved or abandoned. We would hope that, just as with the rewrite project embodied in the Bill today, the tax simplification project would command broad support throughout the House. It would follow in its structure many of the structures in the tax rewrite system and we shall shortly publish details of exactly how we wish to proceed.

Tax law has become more complex and I applaud the efforts to rewrite it in consistent and clear language, but we now need to take a further step to make the substance of our tax system altogether simpler and fairer for those who pay it. Having said that, I greatly welcome the Bill before the House today and wish it a speedy passage.

3.58 pm

Dr. Vincent Cable (Twickenham) (LD): May I add my support for what seems an eminently sensible and uncontroversial piece of legislation? I congratulate those who worked on the tax rewrite project and helped to produce the Bill before us.

Perhaps I should also congratulate the hon. Member for Tatton (Mr. Osborne) on managing to spin out to 20 minutes his contribution to a debate on legislation that we all agree is necessary and almost entirely devoid of controversial policy. He helped to fill in a couple of minutes of his contribution by referring to the Liberal Democrats' enthusiasm for income tax. I did not come here today to engage in party political banter, but I should be happy to respond to the point that the hon. Gentleman made. It is certainly true that one of our policies—our only tax-raising policy—is to increase the rate of taxation on earnings above £100,000 a year. We also propose that there should be greater reliance on the income tax mechanism by exchanging the council tax system for one based on local income tax. One consequence of working through the existing mechanisms of the Inland Revenue would be to show that there was less tax bureaucracy, because there would be no need for council tax benefit systems or valuation systems. We would thus be freeing up resources for more productive purposes. The hon. Gentleman is right in one sense: we are placing more reliance on income tax as a tax mechanism, rather than raising taxes.

Mr. Osborne: The hon. Gentleman's party claims to be the real Opposition. Does he think that real Oppositions should turn up to Second Readings of important legislation?

Dr. Cable: This is important legislation and we are here to respond and agree to it.

Mr. Osborne: What about Second Reading?

Dr. Cable: I am sure that I can give the hon. Gentleman an explanation. We all agree that the Bill is useful; it does not affect the course of parliamentary business. There are much more important issues when we do need to be in the Chamber and when we make an effective contribution.

At the end of the hon. Gentleman's speech, he made the entirely valid point that the fundamental problem is the extreme complexity of the tax system. Most of the complexity is not in the income tax field, but relates to capital gains tax and business taxes, where there is a case for major simplification. There are complexities in the income tax regime, however, and the measure will help with those.

On a personal level, I should like to mention a couple of points on which the legislation is helpful. Until recently, I had little experience of farming, but as I have just married a farmer I have come to appreciate some of the difficulties that many farmers face when dealing not only with the absurd bureaucracy of the Department for Environment, Food and Rural Affairs but also with tax complexities. The sale of a few bales of hay or the temporary renting out of a field to a neighbour for pasture cause enormously complex tax problems. The

attention that the Bill devotes to clarifying what trading income means will, I hope, make farmers' lives a little easier.

Another interesting example from the legislation relates to the rent-a-room provisions. The idea that to deal with homelessness one might encourage house owners and householders to let out a room and get some tax relief was useful and sensible, and we should make more use of it. However, the problems presented by the legislation are exemplified by the 20 pages of the Bill devoted to explaining how the various provisions and reliefs are applied. Anything that the legislation can do to clarify those matters will be much appreciated.

The key point, at which the Conservative spokesman hinted, is that the way to deal with both the difficulties of tax language and the complexity of the provisions is for as many people as possible to be lifted out of tax altogether. Last week, we made a small contribution to that through our proposals on stamp duty. Millions of people are on low incomes—pensioners and low-paid workers—and pay income tax, so it would be desirable to lift the threshold for them. We know how difficult that is, because lifting thresholds is expensive; or, if they are tapered, they create higher marginal tax rates. None the less, that is an important strategic objective.

In the meantime, as elderly, frail and poor pensioners often pay income tax, it is important to focus on the specific problems and to give them help through the Inland Revenue to complete the forms and deal with the complexities involved. That is still relevant despite the language improvements in the measure.

I am neither a tax lawyer nor a professor of linguistics, so I have nothing of great substance to contribute to the debate other than to welcome the Bill as a useful piece of legislation, which we support.

4.4 pm

John Healey: There have been constructive and supportive comments from both Opposition parties. I appreciate the shadow Chief Secretary's welcome for the Bill. He described the project as a model for approaching the challenge of producing clearer, easier, more comprehensible and intelligible tax legislation. I welcome that. I am sure that the House appreciates the sense of history that the hon. Gentleman brought to the debate. Some might say, however, that he and his party are backward rather than forward looking—the party of the past still struggling to become the party of the future.

May I tell the hon. Member for Twickenham (Dr. Cable) that, although it is not really my part to stand up for the shadow Chief Secretary, the hon. Member for Tatton (Mr. Osborne) was able to contribute to the debate for almost 20 minutes in large part because he and his colleagues have given rather more scrutiny to the content of the Bill and its progress through Parliament than the Liberal Democrats? Nevertheless, I welcome his general support for the Bill.

I turn to three or four of the specific issues raised by the hon. Member for Tatton, although this is Third Reading. He talked about the need for a single tax form that would allow taxpayers to declare foreign and domestic sources of income. Especially under Her Majesty's Revenue and Customs, we will consider how to improve the process, particularly the forms that taxpayers must use, but a separate entry for foreign income is still likely to be needed because of double taxation relief, which is confined to foreign income.

On clause 882, as the hon. Gentleman explained, the issue that he raised was one for the Bill's previous stages, both Second Reading and the consideration by the Joint Committee on Tax Law Rewrite Bills. The clause has been examined carefully during the Bill's progress to date and in the Joint Committee. It is designed to make technical changes. However, I am happy to confirm, as I did to the Joint Committee, that it is our intention and our undertaking to introduce regulations under that clause only with the agreement of the tax law rewrite project's steering committee.

The hon. Gentleman believes that some issues may warrant the attention of the tax rewrite project in the future. Of course, such work is for future decision, but the project consults widely on its future work, and I am sure that it will note the hon. Gentleman's comments.

We have discussed schedule 22 before, but the value of such tax rewrite Bills is that they make it easier to fit in changes to tax legislation, while keeping the tax legislation clear in the future. New or amending tax legislation will generally be fitted into the draft structure and the style set out in the Bill. Schedule 22 was introduced in unfortunate circumstances—they were not ideal—and in large part to deal with a severe problem of tax avoidance, but I assure the hon. Gentleman and the House that we do our best to produce a good standard of legislation in Finance Bills and to maintain the style and structure established in such tax rewrite Bills, and we will continue to do so in succeeding Finance Bills.

The Bill is a milestone in the work of the tax law rewrite project. There is widespread and well-deserved recognition of the work of all those involved in producing this income tax rewrite Bill, but in drawing this Third Reading debate to a close, I wish to pay tribute, in particular, to Lord Howe of Aberavon, who has chaired the steering committee, and to the steering committee, which oversees the project. There are representatives from the Labour party and from the Opposition—my hon. Friend the Member for Falkirk, West (Mr. Joyce) and the right hon. Member for Fylde (Mr. Jack).

I pay tribute to the members of the consultative committee—a crucial part of the tax law rewrite project's structure that reviews the project's work and contains leading representatives of accountancy bodies, legal bodies and representatives of taxpayers, too. I welcome the contribution that many other individuals and bodies have made to the consultations. I also pay tribute to the right hon. and learned Member for Rushcliffe (Mr. Clarke), who started the project in 1996. He has maintained his commitment to it and has recently chaired the Joint Committee, as part of the Bill's scrutiny.

Finally, the real work—the day-to-day, week-to-week and year-to-year work—is done by the project team. Dedicated, detailed work is undertaken with great care by Inland Revenue officials, led by Robin Martin, with great distinction. I pay tribute, as many others have, to the project's work and to his leadership. This is not a tax reforming Bill, nor a tax simplifying Bill, but it is, as

[John Healey]

hon. Members on both sides of the House have said, an important Bill. It will make things easier for everyone who uses tax legislation. I commend it to the House.

Question put and agreed to.

Bill accordingly read the Third time, and passed.

ESTIMATES

Motion made, and Question put forthwith, pursuant to Standing Order No. 145 (Liaison Committee),

That this House agrees with the Report [4th March] of the Liaison Committee.—*[Mr. Watson.]*

Question agreed to.

Future European Union Finances

[Relevant documents: Thirty-fourth Report of the European Scrutiny Committee, Session 2003–04, HC 42-xxxiv, paragraph 13; Seventh Report of the European Scrutiny Committee, Session 2004–05, HC 38-vii, paragraph 1; Ninth Report of the European Scrutiny Committee, Session 2004–05, HC 38-ix, paragraph 1.]

Mr. Speaker: I inform the House that I have selected the amendment in the name of Plaid Cymru and the Scottish National party.

4.10 pm

The Financial Secretary to the Treasury (Mr. Stephen Timms): I beg to move,

That this House takes note of European Union documents No. 11607/04, Commission Communication: Financial Perspectives 2007–2013, No. 11741/1/04, draft Decision on the system of the European Communities' own resources and draft Regulation on the implementing measures for the correction of imbalances, No. 11745/04, draft for renewal of the Inter Institutional Agreement on budgetary discipline and improvement of the budgetary procedure, and No. 11752/04, Commission Report: Financing the European Union—operation of the own resources system; supports the Government's efforts to refocus the European Community budget towards the Union's key priorities in line with the principles of subsidiarity and European Union value added and stabilise the budget at no more than 1 per cent. of European Union Gross National Income; shares the Government's concern over proposals for new flexibility instruments; opposes the Commission's proposals for a Generalised Correction Mechanism; and in particular supports the Government's view that the Commission's overall proposals are unrealistic and unacceptable.

I welcome the opportunity to examine the Commission's communications for the next financial perspective of 2007 to 2013, its draft proposals on the system and operation of the European Community's resources and on the implementing measures for the correction of imbalances, and its draft on the renewal of the inter-institutional agreement. Taken together, the documents outline the Commission's proposals for the policies and financial decisions that underpin negotiations on the future financing of the European Community budget. This will be the first full financial perspective for a European Union of 25 members, so we are at a significant point in the history of the EU. It is thus appropriate that the debate is taking place on the Floor of the House and at a time that will allow it to inform the negotiations that will take place in the next few weeks.

The Government take the view that the next financial perspective is an important opportunity to increase the effectiveness and transparency of EU expenditure and to consider how allocations within a limited budget can best be applied in support of the European Union's priorities, especially the Lisbon strategy. That is why we have proposed that all budget spending be focused on objectives, with an emphasis on policy outcomes rather than simply budgetary inputs. Decisions should be based on evidence with a proper evaluation of budgetary policy. The budget should be based on a proper assessment of both existing and new areas of spending. It should be decided whether the Union is the best institution to tackle specific matters. We have proposed that there be sound financial management and budgetary discipline, and we should make sure that spending throughout the EU is distributed equitably.

That view has put us at the forefront of calls for further reform. The budget should be stabilised at no more than 1 per cent. of European Union gross national income, or €815 billion over seven years on a commitments basis. That represents a 6.5 per cent. real-terms increase compared with the current financial perspective, and we believe that it is both realistic and affordable.

Mr. Ian Davidson (Glasgow, Pollok) (Lab/Co-op): Will the Minister clarify whether the 1 per cent. limit is a firm commitment? Will the Government refuse to budge from that and give an undertaking that, if necessary, they will veto any proposals that would take Britain's contribution beyond the present level and the budget beyond 1 per cent.?

Mr. Timms: The Government are making such a firm commitment, and I am pleased that that is gathering support from other member states—six countries signed the letter containing the 1 per cent. aim. As I shall say in a moment, there is a clear indication that several other member states are moving in the direction of supporting our position on that.

While we respect the Brussels agreement to press for a more liberalised and market-focused agricultural sector, including the reform of the sugar and dairy sectors, and support further modulation, we want to refocus the structural and cohesion funds of the lowest-income member states within an overarching framework agreed by all member states. Spending should be refocused within internal policies on a smaller number of initiatives with demonstrable added value, particularly research and development, freedom, security and justice. We also aim to improve the effectiveness of external actions in support of the EU and UK external objective—external to the EU—to which the millennium development goals are central, while retaining flexibility to cope with crises such as the tsunami if the need arises.

The Commission has not as yet responded adequately to the challenge that those aims present. In its communications of February and July 2004, which are before the House today, the Commission proposed a total budget for 2007–13 of more than €1 trillion. That is a real-terms increase of 34 per cent. compared to the current financial perspective, with little justification being provided for such a large increase and little prioritisation between the different elements. For example, despite the fact that, with enlargement, the richest parts of the Union would become more than 10 times richer than the poorest, the Commission proposes that less than half of the structural and cohesion funds go to the new member states, where they would have the greatest effect.

Despite our commitments at Monterey, the Commission proposes a regionally based policy approach to external actions—external to the EU—which would make it harder rather than easier to refocus the budget on low-income countries and the millennium development goals.

Adam Price (East Carmarthen and Dinefwr) (PC): Does the Commission not propose to focus the vast majority of structural funding on the poorest regions within the EU, including poor regions within relatively prosperous member states? It proposes that the vast bulk of the funding go to the poorest regions within Europe overall.

Mr. Timms: The hon. Gentleman will recognise that there is not much value in rich EU countries swapping funding between themselves in the interests of their own regions. It makes much more sense for the Governments of the better-off countries to fund their regional development. As the hon. Gentleman knows, we have given a domestic guarantee for regional funding in the UK.

For all these reasons, I suggest to the House that the Commission's current proposals are neither realistic nor acceptable. The proposals for increased flexibility instruments are not necessary, as they would hamper sound budget discipline. Responding to unforeseen needs is best done through reprioritising spending and agreeing appropriate budgets for each heading.

The Commission also proposes some major changes to the financing of the EC budget, with its suggestion of a generalised correction mechanism. The intention would be to replace the UK abatement and, according to the Commission, reduce differences between net contributors at comparable levels of prosperity. That is completely unacceptable. It is neither fair nor principled. As proposed, it would widen rather than narrow the disparities between the large net contributors, and would cost the UK €5 billion a year by 2013. The proposed mechanism would also institutionalise the failure to redress the inequities on the expenditure side of the budget. Large receipts are going to countries of similar wealth to the UK, which receives the least in per capita terms. This means that the abatement remains fully justified. The continuing inefficiencies and inequities on the expenditure side of the European budget and the resulting unfairness of the UK position mean that the abatement is not up for negotiation.

As I said to my hon. Friend the Member for Glasgow, Pollok (Mr. Davidson), I am pleased to tell the House that, as the negotiations progress, our views on both budget discipline and reform are gaining increasing support among other member states, including the newest members. The Dutch presidency progress report to the European Council in December showed that there is widespread dissatisfaction with the Commission's proposals among member states. The documents before the House contain information on the advances achieved by the Dutch presidency. The progress report also demonstrates that a budget of 1 per cent. of EU gross national income is viable, credible and affordable. As I have said, we are working closely with the other five signatories of the 1 per cent. letter—France, Germany, Sweden, Austria and the Netherlands—to make sure that the principles of budget discipline continue to form a central part of negotiations.

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): I am a little bemused. Since the Community's accounts have not been qualified by the auditors for the past nine years, how can we say that it is behaving responsibly?

Mr. Timms: My hon. Friend makes an important point. This is the 10th year in a row in which there has

[Mr. Timms]

not been a satisfactory statement of assurance about the EU accounts. However, there has been progress in the right direction, particularly after the reforms that Neil Kinnock initiated when he was a Commissioner. Since January this year, an accruals accounting system has been in place, and it is a welcome step forward. To be fair to the Commission, it managed to implement it much more quickly than was widely expected or than has been the case in the UK. From that point of view, there is evidence that the Commission is putting its house in order, but my hon. Friend is right that there is some way to go before people across Europe can be confident that member states' financial contributions are being used properly.

Mr. John Bercow (Buckingham) (Con): Does the Minister agree that one example of the absence of joined-up thinking in the Union is the disparity between what is said on the subject of development and poverty reduction by the European constitution and what is demonstrated by the composition of the European Commission and the allocation of responsibilities? Is he aware that Commissioner Michel, who is responsible for development, has good reason to object to the fact that important parts of what ought to be his portfolio and his responsibility for expenditure are, in fact, in the hands of the Commissioner for External Relations? Is that not an example of the way in which important objectives end up being watered down or compromised by the competing political ambitions of people within the Commission?

Mr. Timms: I would not want to take issue with the hon. Gentleman's expertise on the Commissioners' portfolios, but there are important concerns about heading 4 of the EU budget, which applies to external actions and to which there is reference in the documents before the House. In the next financial perspective we need an external budget structure that allows us to meet our priorities effectively and enables the European Union to be an influential and effective international development player. A number of issues need to be addressed if that is to be achieved successfully, and the hon. Gentleman may well have hit on one of them.

Chris Bryant (Rhondda) (Lab): Obviously, all hon. Members would want the vast majority of EU development budgets to go to the poorest countries, and the Government have held out for that strongly in discussions with the Governments of other member states. However, there is concern, particularly in Spain, Portugal, France and Italy, about the Maghreb. It is almost the 10th anniversary of the Barcelona protest, but there has been remarkably little progress. Many nations regard the Maghreb countries as our neighbours, who need close attention if they are not to become asylum, immigration and terrorism problems for us.

Mr. Timms: I agree that we need to give a higher priority to low-income countries to meet the millennium development goals. Those are objectives to which the whole world has signed up. The European Union needs to play its part and we need a budget structure to develop that. I also accept that there are issues around the European neighbourhood topic to which my hon. Friend refers, but my view is that those can be satisfactorily addressed within the parameters that we proposed—the 1 per cent. figure that I set out—by working closely with countries that have the characteristics that my hon. Friend mentioned. So I caution him against a view that large additional spending is required in order to address those concerns. I am not persuaded that that is the case.

Mr. Richard Spring (West Suffolk) (Con): Of great advantage to the countries around the borders of the Mediterranean, such as Algeria, are the Euro-Med agreements, which encourage trade and have a civil rights and democracy input. I am sure the Minister would agree that that is a valuable part of the role of the European Union in developing those countries.

Mr. Timms: Yes, I do agree. I had some exposure to that process when I was Energy Minister previously. I agree with the hon. Gentleman about the value of those arrangements.

The next financial perspective gives us a valuable opportunity to make sure that the future activities and priorities of the EU and the principles on which they are based are right for the Union as a whole and for each of its member states, and right for the EU's relationship with the rest of the world, as we have just been describing. We are determined that that opportunity should be realised. The proposals that have been tabled so far do not meet the bill. We are determined, however, that we will reach a satisfactory conclusion. The European Council aims for political agreement on the 2007–13 financial perspective by June. We would welcome that timetable being achieved, but hon. Members will agree that the priority must be that we end up with the right deal for all member states. We are ready, if need be, to take that work forward in the UK presidency in the second part of the year.

4.27 pm

Mr. Richard Spring (West Suffolk) (Con): I thank the Financial Secretary for his opening remarks and I share his concerns that

"the Commission's overall proposals are unrealistic and unacceptable."

However, this is an extremely important debate as it is not only the future nature of the European Union that is at stake, but the impact on Britain's public finances. Last year we paid £11.8 billion gross and £4.8 billion net after the £7 billion rebate. Even with the rebate, Britain has been a disproportionate contributor ever since we joined the European Community.

The Government have problems with that already, without the European Commission's proposals which would increase the amount that the UK must contribute to the EU, even if the Government succeed in defending their own budget. I therefore commend the European Scrutiny Committee for recommending the debate. The Committee recognised the significance of the documents before us.

The Committee tells us:

"The new Financial Perspective for the EU will determine the overall revenue and expenditure of the EU and the expenditure on each category of EU activity for the seven years from 2007 to 2013.

It will also largely determine the net contribution to the EU of each Member State, and the future of the UK's budget rebate. It will in practice be binding on the parties to it for those seven years. It is therefore one of the most crucial forthcoming EU decisions, with important consequences for enlargement and the draft constitutional treaty."

Because of the importance of the issue, we encourage the Government

"to adopt a robust negotiating position."

The Government have been high on rhetoric on this issue in the past. In a similar debate in June last year, the Paymaster General described the message being conveyed to EU Foreign Ministers by the Chancellor of the Exchequer as "uncompromising". She claimed that the Chancellor

"made it clear that, when each member state has to take tough decisions on spending and show fiscal discipline, it is unacceptable and unrealistic for the Commission to propose a 25 per cent. increase in its spending."—[*Official Report*, 15 June 2004; Vol. 422, c. 704.]

Nine months later, however, the same proposals are on the table in a more advanced form. It is time for the Government to translate their rhetoric into action at the European Commission, which is why we want a robust negotiating position to be spelled out. Words are not enough, because the matter is extremely important from a financial point of view.

To illustrate how little progress has been made—we seem to have travelled backwards since the issue was first debated in June last year—I shall briefly examine the history of EU financing. In the 1980s, tension between the two budgetary authorities within the Community, the European Parliament and the Council, disrupted the annual budgetary procedure, which led to a series of budget crises. The result was negotiations between the Community institutions, which led to the first financial perspective in 1988.

The framework lays down a maximum ceiling for spending under different expenditure headings. The current financial perspective, agenda 2000, covers the period from 2000 to 2006, so a new perspective is required. The European Union website states:

"Since the European Union's public finances underwent major reform in 1988 and the financial perspective was created, there has been little change: the financial framework has simply been carried over with a few alterations to accommodate new priorities. It was time to start afresh and think hard about the Union's policies and the nature and number of instruments at its disposal".

We do not doubt that logic.

Since 1988, the EU has expanded, with the accession of 10 new member states on 1 May last year. Enlargement, a policy instigated by Baroness Thatcher and John Major, and, to their credit, continued by the current Government, was an historic moment. Like the Government, we object to the nature of the reforms proposed by the Commission. The Commission's first proposals were published in February 2004 in the Commission's communication, "Building our common future—policy challenges and budgetary means of the enlarged Union, 2007–2013", which was debated on the Floor of the House on 15 June last year.

In "Building our common future", the Commission considers the enlargement of the Union, rather than proposing a reduction in the maximum size of the EU budget from 1.24 per cent. of gross EU income to 1 per cent., which is the figure that the Government and the Opposition want to see. The Commission proposes that the ceiling should remain at 1.24 per cent., and it cites commitments that have already been made, such as payments in the agricultural sector, cohesion policies in the accession states and accommodating Bulgaria and Romania, as an excuse.

In June, the Paymaster General told us that the Commission's proposals were "politically unrealistic and unacceptable". She said:

"It has failed to grasp the opportunity offered by the negotiation of a new financial perspective to increase the effectiveness and transparency of European Union expenditure and to consider how allocations within a limited EU budget can best be focused on adding value at the EU level, including underpinning the Lisbon strategy for European economic reform."—[*Official Report*, 15 June 2004; Vol. 422, c. 704.]

We agreed. My hon. Friend the Member for Hertford and Stortford (Mr. Prisk) stated:

"The Conservative party supports many of the stated aims of"

that day's

"motion, especially on limiting total spending and on the 'unrealistic and unacceptable' proposals for future spending priorities."—[*Official Report*, 15 June 2004; Vol. 422, c. 718.]

We can, and do, oppose and improve on the Government's mistakes in the UK Parliament, but by definition, as the Opposition, we cannot formally oppose or improve the European Commission's proposals in Brussels.

The Government promised that they would fight the Commission's proposals on EU financing:

"It is the Government's strongly held view that the Commission's current proposals are not a basis for negotiation. The Government are working with other member states that share many of our principles and areas of common interest".—[*Official Report*, 15 June 2004; Vol. 422, c. 712.]

What was the outcome of that work? Were the proposals deemed to be not even a basis for negotiation, and scrapped? No—they have been built on. The Government were forced to admit that the Commission's new communication

"fails to respond to the diversity of views held by Member States, including the group of six Member States, including the UK, that wrote to President Prodi calling for the budget to be stabilised at 1 per cent. of EU GNI. It also fails to recognise the need for reprioritisation, so that funds are redirected where they will have most effect."

We now have four documents before us. Two are reports—one on the EU's financial perspective for 2007–13 and one on altering the own resources decision—but two go a step further than mere reports. They are draft proposals. The European Commission is proposing a clear programme for a change that goes against the grain of thinking in Britain and on both sides of the House. Is that what the Government mean by "Forward, not back"? I hope not.

I would like the Minister to explain. Now that we have actual proposals before us, rather than the less concrete plans of "Building our common future", how does the Commission intend to take those proposals forward? What room for negotiation is there in the proposals? How long is the period for negotiation likely to be? When does the Commission plan to issue what I hope will, by then, be substantially altered proposals for agreement? To put it another way, what is the deadline for an agreement to be reached? Can the Minister confirm that, if the worst comes to the worst, the UK or

[Mr. Richard Spring]

any other member state will have the right to veto the proposals? I sincerely hope that that scenario will not come about, but if a member state used a veto, where would that leave the framework for financing the EU? Is there a fall-back position of annual negotiation of the EU budget? I hope he can provide us with answers to those questions. If not, I hope that the Minister will undertake to write to me.

Mr. Bercow: My hon. Friend will recall the intervention of the hon. Member for Crewe and Nantwich (Mrs. Dunwoody) who highlighted the disgraceful fact that for nine successive years—this year will be the 10th—the European Court of Auditors has refused to sign off the European Union's accounts. Is he aware that for the year 2003 the Court of Auditors' report found that no less than 89 per cent. of the EU's humanitarian aid expenditure to Zimbabwe was lost through currency manipulation by that corrupt regime? On that specific example of waste and misuse of public funds, what is the Commission doing to ensure that it is not taken for a ride in future, as it has been in the past?

Mr. Spring: I am grateful to my hon. Friend for making that point. I shall touch on the question of how international aid has been handled by the European Union.

On the essential point made by the hon. Member for Crewe and Nantwich and my hon. Friend, it is beyond disgrace that we contribute substantial sums of taxpayers' money to the functioning of the European Union when it is impossible to square the accounts. In any private company, that would quickly result in its bankruptcy or a lawsuit. It is greatly to our regret that, despite all the promises, that situation continues.

My questions are important because, as the Government freely admit, the Commission's proposals are unacceptable in their current form. It seems that no progress has been made on improving them since June last year, so it is useful to know what scope there is for achieving improvements and how long we have to achieve them. The crux of the matter is that it is essential that the Government explain how they will achieve improvements in the proposals. We need significant improvements on both the main issues at stake.

I want to speak about those two issues: the proposal for a new own resources decision and, first, the proposals for renewing the inter-institutional agreement setting out a new financial perspective for the period 2007–13.

I note that in the context of the new IIA, the Commission proposes a new classification of expenditure to increase flexibility by avoiding unnecessary ring-fencing, with five main expenditure headings. The explanatory memorandum to the European Scrutiny Committee states that

"The Government welcomes the Commission's proposal to retain the fundamentals of the previous IIA . . . breaking down expenditure by broad categories called headings".

Does the Financial Secretary agree with the headings proposed? Similarly, I note the Government's concerns regarding the new proposals for flexibility, expressed in the motion. I am a little perturbed that expressing concern is not exactly the same as expressing opposition. While in his memorandum he states that he rejects proposals for a procedure to revise ceilings through a trialogue meeting between the Parliament, the Council and the Commission, and states that there is no need for a growth adjustment fund, he appears equivocal on the issue of the replacement for the current flexibility instrument. He states that he

"will consider the Commission's proposals for a new reallocation flexibility, replacing the existing 'flexibility instrument.'"

Has he now carried out that consideration? If so, what were his conclusions?

Perhaps a bigger issue is the ceiling on the EU budget. The financial framework set out in the "Proposal for the renewal of the Inter-Institutional Agreement"—the IIA—sets a maximum ceiling on the budget of 1.24 per cent. of EU GNI. I believe that that is the same as the ceiling at the moment. Slightly alarmingly, the ceilings proposed by the Commission in December 2004 appear to be higher: the maximum is 1.3 per cent. and the Commission's proposed spending amounts to 1.26 per cent of GNI.

As the Financial Secretary has said, those ceilings are too high. We should be aiming at a budget of 1 per cent. of GNI. The letters sent from the Governments of the UK, France, Germany, Sweden, the Netherlands and Austria to Romano Prodi in December 2003 made the point that a 1 per cent. limit would still allow for annual increases in the EU budget above the growth rates of national budgets in most member states.

The issue of the EU budget is particularly thorny, because—as my hon. Friend the Member for Buckingham (Mr. Bercow) made clear—the EU has a reputation for spending its money badly. Fraud is one reason for that, but I will not dwell on that point as my colleague the shadow Paymaster General spoke on it in Committee very recently. Suffice it to note that for the 10th year in succession, the European Court of Auditors felt unable to sign off the European regional aid funds.

In the explanatory memorandum, the Government flag up four issues on which they think that the EU should reform its approach. The issues raised are the common agricultural policy, structural funds, the Lisbon strategy and overseas aid. I am unclear as to whether those are the priorities to which the Government refer in their motion calling on the European Community budget to be refocused

"towards the Union's key priorities."

Perhaps the Financial Secretary would confirm that or, alternatively, explain to which priorities the motion refers.

In any case, the four issues to which the Government refer in the memorandum are undoubtedly major issues and I shall make brief comments on them. As I understand it, under the Commission's proposals, the amount earmarked for the CAP reflects the agreements reached at the Brussels European Council in October 2002. That was the occasion when right under the nose of the British Government, France and Germany stitched up a deal to keep CAP spending unchanged up to 2013. We should not forget that more than 40 per cent. of the EU budget still goes on the CAP. *The Economist* noted on 5 March:

"Yet it may be possible to reopen the Chirac Schroder deal . . . it sets ceilings not targets for spending. In the Doha round of trade talks, the EU has offered to scrap export subsidies for farm

products. And, because past reforms of the CAP switch spending from production linked subsidies to direct payments, the case for financing these nationally, not at EU level is growing. If France's Government wants French farmers to have higher incomes than Greek farmers, why not pay for them themselves."

Mr. Davidson: What would be the Conservatives' target figure for expenditure on the CAP, if we were to have a Conservative Government?

Mr. Spring: I was about to move on to our policy, so I thank the hon. Gentleman for pre-empting me.

The Government claim to be a leading advocate of CAP reform. According to the Paymaster General, the Chancellor has

"told Finance Ministers that it would be wasteful and inefficient to increase spending on current Commission programmes that do not match the European Union's economic reform priorities and in some cases, such as the common agricultural policy, work against them."—[*Official Report*, 15 June 2004; Vol. 422, c. 704.]

Since the debacle of 2002, the Government have had some success in achieving reform, and we welcome that. However, the CAP results in artificially high prices for consumers, harms the interests of third-world producers and leads to low incomes and red tape for farmers. My party has long campaigned for its reform, and the recent decision to break the link between farm subsidies and production is good news. CAP reform must now be taken further, and cross-compliance conditions should be reduced. I would welcome a commitment from the Minister that that process is under way.

British farmers must be given the freedom to produce for the world marketplace. We will therefore press for the full decoupling of subsidy from production across the EU and for an end to trade-distorting export subsidies in all appropriate cases. Our first target will be the appalling waste of £600 million of taxpayers' money in subsidising tobacco production annually.

We support the new single farm payment and press for it to be implemented with a minimum of bureaucracy and red tape. We will simplify the rules on cross-compliance and work for the return of more local and national control over agricultural policy, and we will stop the gold-plating of European legislation by British officials in the Department for Environment, Food and Rural Affairs.

Mr. Davidson: Perhaps I missed it, but I failed to catch the figure that a Conservative Government would want to be spent on the CAP by the EU as a whole. Will the hon. Gentleman give us a figure that he believes that the Government should be aiming towards?

Mr. Spring: I have laid out what our policy will be when we win the next election in a few weeks' time—I am sure that that is why the hon. Gentleman is concerned about the issue. After that, and after the vote on the European constitution, which the good sense of the British people will reject, there will inevitably be a negotiation process about all the structures of the European Union.

Mr. Davidson: What is the figure?

Mr. Spring: I cannot give one, because we do not know exactly what the final budget will be. We have clearly set out the direction that we wish to follow. I cannot give a precise figure, and it would be absurd to try to do so when the budget has not been finalised, but the hon. Gentleman can rest assured that we will commit ourselves to fighting Britain's corner, as did a former Conservative Prime Minister, Margaret Thatcher, to return the rebate to this country. We will do that with all the energy that has ensured that although we have remained a very big contributor, our contribution would otherwise have been much greater. We will do the same on CAP reform.

Mr. Mark Hendrick (Preston) (Lab/Co-op): Although the hon. Gentleman, like everyone else, does not know the total of the budget that will be agreed, can he tell the House what percentage of the EU budget his Government, if they were indeed elected, would want to have as CAP spending?

Mr. Spring: If the hon. Gentleman would like to answer this question, we might find common ground: what is his Government's objective on that percentage?

Mr. Hendrick: I am happy to answer that it would be the minimum. During the time of this Government, it has fallen from about 60 per cent. of the EU budget to about 40 per cent. What would the hon. Gentleman's target be?

Mr. Spring: The hon. Gentleman and I do have something in common, as it would be the minimum.

On structural funds, I again welcome the Government's approach. I agree with their policy of taking back control of structural funds. More national control over those funds would enable us to target them where they are most needed and to reduce the bureaucracy that surrounds their use. Philip Bradbourne MEP, Conservative spokesman on regional policy in the European Parliament, summed up our view as follows:

"It is no surprise to me that the funds have yet again not been signed off.

With ten years of dodgy accounts, including €5.3 billion going unused into Commission coffers from the Regional Aid Budget in one year, devolving grant aid back to Member States seems the only viable solution to an ongoing problem.

This would allow British Ministers to properly determine where and how this money is spent."

However, I believe that the differences will begin to show on Lisbon and international aid. The Lisbon agenda's economic objectives can only be supported, but economic reform is proceeding slowly on some matters and is frankly non-existent on others. I appreciate that the Government acknowledge that. The Prime Minister has taken the trouble to recognise it every year since setting out the Lisbon process. In the 2003 Treasury assessment of progress on Lisbon, his foreword admitted that

"there remains a daunting amount to be done . . . Reform on this scale is never easy."

In the 2004 assessment, he claimed:

"We have made significant, but not sufficient, progress . . . we need to go further to meet the standards being set by our competitors elsewhere in the world."

[Mr. Spring]

The 2005 report was published last month. The Prime Minister commented that

"we need to go further and faster."

The Government produce many fine words on Lisbon, and have done so since the agenda was first agreed five years ago, but little or nothing gets done. I welcome the fact that José Manuel Barroso, the new European Commission President, has presented a programme to re-energise the Lisbon process. It is vital that national Governments get a grip and push ahead with economic reform, on which the EU's future prosperity relies. Ministers pay lip service to Lisbon while eroding the UK's competitive position at home through ever increasing burdens of taxation and red tape.

I want to consider aid. It is essential to make more effective use of the money that is currently spent multilaterally. There is a strong case for increasing national control over the aid funds currently spent by the European Union. In 1990, 70 per cent. of EU development aid went to the world's poorest countries, but that has now fallen to 52 per cent. Half the EU aid budget is spent on middle or high-income developing countries. That cannot be the best use of our overseas aid, which should help the poorest people in the world. To its credit, British aid does that; European aid, in many respects, does not.

The former Secretary of State for International Development, the right hon. Member for Birmingham, Ladywood (Clare Short) agrees. She said that

"anyone who knows anything about development knows that the EU is the worst agency in the world, the most inefficient, the least poverty-focused, the slowest, flinging money around political gestures rather than promoting real development."

I believe that the EU should commit itself clearly to devoting the great bulk of its budget to the poorest countries and the most impoverished citizens. We should not tamely accept the status quo. Britain should set an example and press other member states to follow it. I call on the Government to publish a detailed annual assessment of all EU aid expenditure, describing Britain's involvement, the procedure for monitoring each project and an assessment of the results.

Chris Bryant: I thank the hon. Gentleman for allowing me to intervene before he perorates—if there is such a verb. He makes the point that others have made in similar debates, that most international aid budgets should go to the poorest countries. However, does he accept that, in some instances, such as support for the Palestinian Authority or in the Balkans, some of the policies that we in this country tried to pursue ended up with commitments that the EU met on our behalf?

Mr. Spring: I understand the hon. Gentleman's point, but there are many mechanisms whereby the EU can deal with political and economic development in, for example, the Palestinian Authority, including Euro-Med agreements, which are helpful. I also believe that, in such a process, some assistance can be given. However, I think that he would agree that poverty and all that flows from it is the challenge of international aid giving in the 21st century, and that we should focus on that more than anything else. The problem is that the EU has not been efficient in doing that either managerially and functionally or in terms of the principles that underlie the aid programme. We handle these matters better in this country, and if that could be replicated in the European Union, it would not be the target of so much criticism.

Mr. Bercow: My hon. Friend makes a superb case, but he is characteristically inclined somewhat to understate it. Will he take it from me that an illustration of the problem in relation to the European Union aid budget came when I tabled a number of questions—admittedly about 300—to the current Secretary of State for International Development, asking him for his assessment of the efficacy and value for money of the European Union aid projects to which Britain was contributing? The Secretary of State could manage only to provide an answer that referred me to a website. Does not that demonstrate the paucity of accountability, and suggest that if any savings that we make in the agriculture budget by getting rid of trade-distorting subsidies are to be spent on aid projects, they should be spent on bilateral aid projects rather than on multilateral ones?

Mr. Spring: I am grateful to my hon. Friend for his intervention. A few minutes ago, I made the similar point that we needed greater transparency with regard to what exactly was happening to Britain's contribution to the EU aid budget. I pay tribute to my hon. Friend, whose knowledge and understanding of this matter greatly enhances the proceedings in the House. I agree that the focus that he describes commends itself to the House as we consider this important matter.

Mr. Davidson: Does the hon. Gentleman agree that aid spending ought to be about assisting the poorest, and that those who seek to divert money earmarked for aid into financing the development of an EU foreign and defence policy—however worthy that might be—are in fact distorting priorities? There is no way in which aid money should be going to any other than the poorest people.

Mr. Spring: I could not agree more with the hon. Gentleman. We all agree about giving aid to the poorest, and the governance of the countries involved is crucial in that regard. There is no point in giving substantial sums of taxpayers' money to the poorest if it is being skimmed off and not reaching them. The institutional underpinnings for economic development and human rights in some of those countries certainly need to be improved, and there must be a linkage between that and aid. On the hon. Gentleman's point about wasting money on some futile exercise in creating a foreign and defence policy under which we would lose our national control of such matters, I agree implicitly with what I believe he was saying: it would be absurd. I can assure him that when we are in government in a few weeks' time, that will certainly not happen.

I should like to conclude by saying a few words about the Commission's proposals for a new own resources decision and its plans to scrap the UK rebate. Hon. Members will know that member states' financial contributions to the EU are based on the provisions of

the own resources decision. The UK's contribution is adjusted by the rebate secured by Lady Thatcher, she of blessed memory, at Fontainebleau in 1984—

Chris Bryant: She is still alive.

Mr. Spring: Yes, and I hope that she will remain in blessed memory in hon. Members' minds for ever, whether she is alive or whatever, in the future.

Mr. Bercow: My intervention might be only tangentially related to the future of European Union finance, but before my hon. Friend digs himself in any deeper, may I assert that, in the minds of many, Lady Thatcher will never die?

Mr. Spring: I could not agree more with my hon. Friend. Indeed, as always, he has expressed so much better than I did what I was trying, however inadequately, to say.

The UK deserves the rebate, as it is ill suited to funding the EU through the current mechanisms. The Commission disagrees, however. Its report on "Financing the European Union" claims that

"in any event, granting a correction on an exclusive basis to one Member State appears to be unjustified, especially when taking into account the expected evolution of the net budgetary balances in the enlarged Union under unchanged conditions."

As a result, the Commission proposes to scrap the rebate, and to replace it with a general correction mechanism. As I understand it, that system would be available to any member state making what the Commission describes as "excessive" budgetary contributions", but, unlike the current system, it would be entirely conditional on the application of what is called "the threshold" and all member states would be required to contribute.

I am glad that the Government claim not to accept that. As the Secretary of State for Education and Skills said when she was Financial Secretary:

"The Government believes that the current UK abatement remains justified and necessary to correct for the UK's disproportionate budgetary imbalance."

Likewise, the Chancellor of the Exchequer has commented:

"The abatement rebate is fully justified. We made that clear in Berlin in 1999 when the last EU budget was fixed and that continues to be the British position."

Mrs. Dunwoody: I am grateful to the hon. Gentleman for allowing me to intervene. If the UK was unable to obtain a suitable arrangement whereby it retained exactly the same size of rebate, would he—if he were in government—cease to pay into the Community budgets money over and above the agreed sum? Can he make that clear?

Mr. Spring: I can assure the hon. Lady that this situation will not arise—I am confident, and I return to what will happen in a few weeks' time—because such will be the clear message from the British Government on these matters that it will be known that any attempt to move beyond this will be firmly and utterly rejected.

Most recently, the Financial Secretary stated:

"In terms of the Commission proposal for a new Own Resources Decision, the Government's view is that the proposals are unrealistic and unacceptable. The continuing inefficiencies and inequities on the expenditure side of the budget, and the resulting unfairness of the UK position, mean that the abatement remains fully justified and is not up for negotiation."

But these are all words. The Commission's proposals are still on the table. Nothing seems to have been achieved.

Recently, there have been worrying reports that the Government have secured a deal with European leaders to postpone negotiations on the rebate until after the general election. Why is this? What have the Government got to hide? It seems to me that the only possible reason for putting this off until after the election is that the Government are preparing for yet another possible surrender of British interests in Europe. I hope not. It may well be that Britain, holding the EU presidency, may have to take the leading role in resolving this issue, if, as seems likely, Luxembourg is unable to secure agreement by June.

In the unhappy event of Labour winning the election, British taxpayers will be landed with a bill not only for the black hole in the public finances, but potentially, although I certainly hope not, for the loss of the rebate. The Conservative party is as totally and absolutely committed to defending the rebate as a previous Conservative Government were to winning it in the first place.

5.2 pm

Mr. Doug Henderson (Newcastle upon Tyne, North) (Lab): Many of our colleagues in the House probably think that the relevant documents are somewhat esoteric. I am not one who would say that they are necessarily completely wrong on that matter, but, even if they are esoteric, that should not diminish their importance. I rather think that the issues contained in those documents and the policy outlined in the Government motion are central to the important debate that the country will have on the European constitution and, perhaps one day, on the euro itself.

There are more fundamental issues in those documents as to the size of the European Union budget and how the budget is spent than in all the constitutional changes, which I have always seen as methodological. I do not see them as fundamental to how the EU runs and what it does. Not just in Britain, but throughout the EU, people always say, "What are we going to get out of it?" In a way, we are all to blame in that respect, and I concede that I am as guilty as others, or I certainly was in the past.

I recall the public discussion in 1975 on whether Britain should remain in the European Union. In a sense, the earlier vote in 1972 on whether we should be in the EU was more honest. The issue got distorted in 1975 by the question of a little bit of money or a little bit of authority here or there. As a consequence, the British public—we are not unique, as other countries also have this approach—thought that the case for the European Union was wholly dependent on how much money we could get out of the organisation by belonging to it. Before the nationalist parties pursue their amendment, they should think a little more carefully about that. I shall perhaps mention later the importance of the EU to

[Mr. Doug Henderson]

Scotland and Wales. We need to be cautious, however, about arguing for the European Union on the basis of how much money we get out of it.

In my view, the European Union is about doing things together, not subsidising each other. Clearly, there must be an exchange of resources as different issues are tackled in different eras in the development of the European Union. As I think that the Financial Secretary said in response to an intervention, however, it is not about rich countries cross-subsidising each other so that the poorer parts of Germany subsidise the poorer parts of Britain and vice versa. That makes no sense at all. When considering the EU budget, we need to identify more clearly what are the priorities of the EU. We need to ask what the EU is for as we move forward in the 21st century. Until we do that, our arguments about the financing of the EU will be rather sterile. I shall mention later the context of public opinion, in which finances are important.

Before the public are asked to judge on the finances, however, they should be aware—we all have a responsibility to encourage that awareness—of what the European Union is. I believe that the most important thing for which the European Union stands is the binding together of European countries to protect, to bring stability and security in Europe and to contribute to world security and stability. That is why I am in favour of the European Union—it is absolutely essential that the countries of Europe bind themselves together, and there is no other organisation to do that.

The second argument, in my view, is that a large international organisation, which claims to have, and should have, a major security and stability role, cannot do that without having an important economic role, as the two go together. That is why the European Union must have a major economic role, too. That major role does not need to cost a lot of money, however. Some of the things that the European Union does are costly. Stability and security involve costs, but not colossal ones, because most of the contributions in that area are made by individual members. Some countries in the Union might be better at naval interventions, some at troop interventions, and some, in certain parts of the world—for example, the French in Africa and Britain in some other areas—at contributing to aid programmes and so on. A lot of the resources for that come directly from member countries, but those countries cannot work together unless they are bound by as common a policy as possible. We will not get international security and stability at all if the European Union cannot even agree on priorities in a relatively rich area of the world. Therefore, there are costs in relation to security.

Economic policy can have costs, depending on how it is designed. As long as there is agricultural support, whether in the current common agricultural policy or some other regime, common funds will need to be raised to be disbursed according to rules and regulations agreed by everyone. So there will always have to be discussions about the size of the agriculture budget. Other measures, however—such as the economic initiatives of which, perhaps, a few more should have resulted from the Lisbon agreements—do not involve much cost, apart from a measure of administrative cost. They involve no huge subsidies.

If the enlargement of the European Union is to fulfil the hope of many of us throughout the House that the countries that entered in the last wave will establish values and standards similar to those in existing EU countries, and will aspire to the same economic conditions—if they are to be brought into the house, as it were—there will be some costs to the rest of us. As one who represents a relatively poor part of the United Kingdom, I can say that there will be costs even to areas such as the north-east of England. The structural fund regime that we in the north-east may have expected in the past cannot continue for ever, because of other important priorities in some of the new EU countries.

Some may ask, "What is the point of our being in the EU if we in Tyneside are not getting the deal that we used to get?" They should bear in mind the importance to Tyneside's electrical and manufacturing industries not just of inward investment following active participation in the EU, but of defence contracts for such things as aircraft carriers, which are largely dependent on European security and stability. I do not believe that those contracts depend solely on NATO, although I am a strong supporter of NATO; I think that, in today's world, the EU must play a major role.

Chris Bryant: As my hon. Friend said, his area—like mine—has received considerable support from structural funds and from the EU. Perhaps he will also point out that by allowing greater economic prosperity in some eastern countries in the new enlarged EU, we are helping them to compete in the bargain basement and thereby to deprive areas such as his and mine of jobs.

Mr. Henderson: That is absolutely true, but when considering the economic consequences of Latvia, Poland or the Czech Republic joining the EU, we should bear in mind the opportunity that it gives the British economy to trade with them at a higher level in future. Some may say that that is pie in the sky, but that does not apply to trade flows between Britain and Portugal and between Britain and Spain. There has been a vast increase in activity in both directions, but to our advantage in many respects. If I were speaking from the Dispatch Box, I would check the figures before making that assertion, but I think it is broadly correct.

There are many other spheres in which we must act together, which I think are important to democracy and civilisation in Europe and which involve minimum cost. Costs are involved in asylum and border policy—another important issue—but if we are to have public support in the west of the European Union, the people in the west must be satisfied that the same standards of asylum and border control obtain in the east. If some of the eastern countries cannot fund those standards at present, there must be a degree of payment transfer in the short and, possibly, the medium term. Many important things that the EU does, however, do involve minimum cost.

Members are bound to mention aid, and they can make that as big an issue as they want. Of course aid involves cost, which must be kept in reasonable proportion—although I support a common European policy on some aspects of aid. I am involved in the sugar regime because of constituency interests in the chocolate industry. I think that it would be wrong to restructure that regime without considering the consequences for

the various poorer countries that are affected. If the European Union decides to restructure the regime—which I think it should—it must take account of those consequences. The process will not work if everybody in the EU is bound by the new sugar regime but not by the aid regime. So it is important to take common action within the EU on this issue and I strongly support doing so, although I recognise that there have to be limits. It is a question of bargaining with the other countries and of looking at what is acceptable to public opinion across Europe.

Mr. Davidson: I am grateful to my hon. Friend for giving way on this important point. He has spoken very sensibly on the question of solidarity within Europe and across the world as a whole, but surely the test of financing via the European Union is whether or not it adds value. The objection that many of us have to giving ever-increasing sums to the EU is not that we do not want co-operation, but that such money is sucked into a morass of fraud, corruption and inefficiency. As a result, we obtain less bang for the buck than would otherwise be the case.

Mr. Henderson: I thank my hon. Friend for his intervention, with which I partly agree. The EU needs to decide the borders of the territory within which a common aid policy is to be implemented. Such borders will be movable, depending on world events. For example, there is a need sometimes to be involved in, say, Bosnia, and it is perhaps worth considering funding such undertakings from a security budget, rather than from the aid budget.

I want such money to be audited effectively and spent well. I know from past examination of such matters that it has not always been spent well, which is why, often, the auditors will not sign it off. But that issue is separate from the question of whether we should spend such money; rather, it concerns ensuring that if we do spend it, it is spent properly, and that there is proper accountability. I hope that my hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) agrees that we need to draw that distinction.

Mrs. Dunwoody: But let us consider the example of a local authority supported by large sums of money, raised through taxation measures implemented by this House. If, over a period of 10 years, there was clear evidence that the people taking in that money were not conforming to proper auditing rules, were unable to account for much of it and were frequently making it clear that they had been involved in fraud and corruption, would my hon. Friend accept that?

Mr. Henderson: Perhaps my hon. Friend could clarify her question. Would I accept what?

Mrs. Dunwoody: Would my hon. Friend accept such behaviour? Would he accept such an arrangement in respect of any other organisation with which this House has dealings—or in respect of any other form of taxation, be it local or national—if there was clear evidence of fraud and corruption, and if the auditors refused for 10 years to sign off the accounts?

Mr. Henderson: Of course I would not, and as I tried to say in response to my hon. Friend the Member for Glasgow, Pollok, this issue must be tackled. There is a need to improve the EU's auditing process and its financial planning, but that is an argument not for getting rid of the EU or for curtailing its activities, but for ensuring that, once we have defined what its responsibilities and priorities should be, the budgets are fairly tightly geared towards them. That can be done, but such things are more difficult to do at international than national level.

On the point raised by my hon. Friend the Member for Crewe and Nantwich (Mrs. Dunwoody), if a local authority were questioned about auditing, there would be discussion and argument among the various political parties and institutions in the city in question as to whether taking serious action against the authority was worth the candle. Hopefully, the answer would be yes, but a lot of negotiation has to take place before such action can be taken. However, I hope that my hon. Friend understands that in the EU, one has to multiply that process by the large number of member countries within it, which makes such discussion and the decision-making process more difficult. I do not say that to defend inefficient procedures or unaudited accounts, which I believe should be dealt with.

Before finishing, I want to mention a few important aspects of what the EU does that do not cost much money. Technology exchange and university links are significant developments within the EU that can help to bolster our industries. The aircraft carrier provides an interesting example. It is now unthinkable that such a complex and costly project could be developed within one country alone. The aerospace industry needs to look at the broader sphere. Technology transfer can be beneficial not only to the relatively well-informed technological nations of the EU, but to the less well-informed ones. The costs are minimal, but the EU has a fundamental role to play. Those are the arguments that we have to put before the public.

Mr. Kelvin Hopkins (Luton, North) (Lab) *rose—*

Mr. Henderson: I may give way in a few moments.

The EU has also had an important role to play in respect of human rights. We cannot talk about human rights throughout the world unless there is a system based on human rights within the EU. Again, systems based on human rights do not cost a lot of money, just relatively low administrative costs.

Environmental issues can be costly if major improvements are being sought in either the private or the public sector, and that applies whether or not those improvements are being implemented at the country level or the EU level. I believe that we have to strike an appropriate balance over funding, but the rules governing power station emissions and all the rest of it must be determined at European level. The only organisation in Europe that is capable of achieving that is the European Union. Many other examples of projects that do not cost much money could be cited.

If the question is how much money should be spent, the answer is that, in a sense, we can never spend enough. All the issues that I have articulated in my speech—they have also been articulated by Front Benchers and others in the debate—potentially cost

[Mr. Henderson]

money, and the amount of money needs to be controlled. There needs to be an ongoing public debate to justify the importance of what the EU does and to gain public support for the funding. We should justify the EU in the same way as we continually justify the importance of the national health service. Very few people argue against the need to finance the NHS, though there may be arguments about the effectiveness of the spending, and we have to make exactly the same arguments in favour of the EU. We need to bring EU budgets to a level that is acceptable to public opinion.

I ask the Minister to tell us a little more about the timetable for taking the process forward—the hon. Member for West Suffolk (Mr. Spring) asked the same question—and to explain in greater detail what Britain intends to do during its six-month presidency.

5.23 pm

Mr. Paul Tyler (North Cornwall) (LD): I am delighted to follow the hon. Member for Newcastle upon Tyne, North (Mr. Henderson), who said many things that I agree with. His comments are made on the basis of greater experience than I have in this particular area of policy. What he said about the linkage between aid and trade was particularly important. I heard the Front-Bench spokesmen debate the matter earlier and I broadly concur about the national role in comparison with the Europe-wide role. That is a perfectly fair point, but we should all recognise that no one is blameless in the matter.

No country's aid programme under any Government has been as effective or as well targeted as we would like, not least because it has occasionally been supplemented by arms sales policies that definitely do nothing to promote the right relationships between Governments. On that score, I agree with what the hon. Member for Newcastle upon Tyne, North said, and I also accept what he said about the constitution. The sooner Europe has a constitution that limits and codifies the different roles and governance, the better. I hope that we will achieve that—*[Interruption.]* I can hear some sedentary contributions from the Conservative Benches. However, the argument that the hon. Member for West Suffolk (Mr. Spring) made on behalf of his party actually led to that conclusion; we need more effective codification of the different financial responsibilities in Europe.

The hon. Gentleman talked in most helpful terms about the context. I want to say a few words about the financial context. As I understand it, the EU budget is limited to about 1 per cent. of total national income in member states, compared to an average of about 45 per cent. for national Government budgets. That is a different cup of tea—a different scale of operation. Furthermore, the EU budget has risen about 8 per cent. since 1997, which is less than the rate of inflation, at a time when the UK budget increased by between 60 and 65 per cent. The common agricultural policy takes a whacking 45.8 per cent. of the whole EU budget—a point to which reference has already been made. That is a huge figure, yet in a sense it is outwith our discussion this afternoon. I shall come back to that point in a moment. Incidentally, those figures do not even include support for the common fisheries policy.

Built into the main document before us, "Financia Perspectives 2007–2013", is an implicit tug of wa between two distinct approaches to regional aid programmes—structural funds, which have already been a feature of the debate. I represent an area tha already benefits from objective 1 status. Other such Members are in the Chamber. I am well aware that i Cornwall, mid and west Wales, south Yorkshire and Merseyside we are subject to an explicit threat from th Treasury. It is for that reason that we have some sympathy for the amendment tabled by the hon Member for East Carmarthen and Dinefwr (Adam Price). Unfortunately, by excluding the whole second half of the motion, the amendment would remove any hope of retaining the UK rebate. I do not know whethe that was intentional. As the Minister said, the figur would be £5 billion by 2013. The Welsh nationalists ar prepared to sign that away, so I am afraid that w cannot support the amendment.

Mr. John Gummer (Suffolk, Coastal) (Con): Does th hon. Gentleman agree that the European Union has had a remarkably good effect both on regional developmen and because countries such as Ireland started off being in receipt of large sums of money but will soon becom net contributors? Is not that a remarkable achievement given how much more successful they were than th British?

Mr. Tyler: The right hon. Gentleman is right. I am delighted to agree with him. Some years ago—possibly when he was a Minister—some of my colleagues from Cornwall and I visited Ireland to examine precisely wha good use had been made of EU structural funds. W came to the conclusion that if we could complete th border between Cornwall and England by taking a bulldozer towards the Irish sea from the Tamar, to shif or tug ourselves over and attach Cornwall to Ireland w should be doing better than under the right hon Gentleman's Government.

Mr. Hopkins: The success of Ireland is welcome and have many Irish constituents who agree. However, given that the net contributions from the European Union t Ireland amounted to 5 per cent. of gross domesti product, which in Britain would be more tha £50 billion every year, and that Ireland joined the euro at a relatively low parity for its currency and had t reduce interest rates, it is hardly surprising that th economy boomed.

Mr. Tyler: I understand the point that the hon Gentleman is making. I was not suggesting tha England, or indeed Wales and Scotland, should joi Ireland and benefit—simply Cornwall.

At present, there is a clear plot to undo some of th good work that the right hon. Member for Suffolk Coastal (Mr. Gummer) and I agree is going on in som parts of the United Kingdom. The Library briefin shows that some real economic progress is beginning t come through from the objective 1 process. GDP pe capita in Cornwall, for example, is up from 70 t 72.6 per cent. of the EU average in just two years. Tha is more than the whole of the previous six years. Th situation is similar in other objective 1 areas although of course, we all started from a low base and th

improvement is painfully slow. To pull the plug on the objective 1 process in the period between 2007 and 2013 would deal a devastating blow to our economic and employment activity rates just when they are showing signs of sustained progress.

Unfortunately, UK Ministers constantly bad-mouth such programmes. In the debate in the House on 15 June last year, the Minister for Industry and the Regions said that she wanted

"to get away from the stifling effects of Commission bureaucracy on structural funds projects."—[*Official Report*, 15 June 2004; Vol. 422, c. 747.]

However, Members from all the objective 1 areas know only too well from our contact with the local communities, local authorities and their partners that the problem is not the bureaucracy in Brussels, but the bureaucracy up the road in Whitehall. We constantly face that problem. I accept that there is a trade-off because, of course, the bureaucrats say that they are monitoring and auditing everything that is going on, but to complain about the bureaucracy in Brussels is completely misplaced in this respect.

As a result of what is now proposed, there is a well-founded suspicion that the Chancellor has set his sights on the repatriation of regional support funding programmes, not so much to save taxpayers' money, but to gain control of the direction of such investment, first, to concentrate it where it can be of political benefit to the Labour party—regretfully that clearly will not be in Cornwall—secondly, to limit the Treasury's match funding commitments and, thirdly, to avoid longer-term investment in specific areas of the UK.

The Chancellor and his ministerial colleagues have done nothing to remove our fears, and almost all MPs from objective 1 areas have expressed serious concern about the complete lack of realistic guarantees. The objective 1 group in the House has, for example, pointed out that the EU programme lasts for seven years, but that the Treasury can promise only three years of assistance, with no commitment to match funding comparable with what we have experienced in phase 1. So are the savings sought by the Government, within the package and implicit in what we are considering now, real and realistic?

Incidentally, I find it odd that the Conservative spokesperson, the hon. Member for West Suffolk, assumed that we could do nothing about all this. He even seemed enthusiastic about what the Chancellor is up to in respect of objective 1 areas. It happens that Cornwall is a Tory-free zone—indeed, as are most of the other objective 1 areas—but to deny the useful contribution that objective 1 status has made to our economy and so on seems extraordinary.

My colleagues and I have met officials from the appropriate directorate of the Commission in Brussels who believe that such savings are neither real nor realistic. Unless the Chancellor is prepared to preside over a sharply reduced impact on regional development in the UK and is successful in persuading the majority of the other 24 member states to do the same, this attempt at a unilateral break-out is clearly doomed. Meanwhile, the effect of the Government's refusal to compromise is delaying vital decisions and leaving UK local authorities and their partners in a state of dangerous confusion—they simply have no idea what will happen or when—and the potential for avoidable waste and dissipation is immense.

We seek an explicit reassurance from the Minister. What will happen and when to such regional funds? What guarantee is he prepared to make? Frankly, given the Chancellor's obstinacy, there is little prospect of finding any solution to the problem before the end of June. If he thinks that he can bully his opposite numbers into agreeing with him during the British presidency, many MEPs, from all parties, are simply convinced that that is wishful thinking.

A great deal has already been said about the CAP. As I made clear at the outset, the CAP is the real meat of the EU budget. The 2002 deal, which was referred to earlier, struck between the French and German Governments has resulted in a continuation of many of the least satisfactory and least sustainable aspects of CAP expenditure. Reference has been made to the sugar and tobacco regimes, both of which are clearly undesirable in the medium to long term. The sugar regime is not finalised and could still be revised much more effectively.

I recall that the then Minister for Europe, now the Leader of the House, whom I shadow, said that the CAP's

"quick reform is imperative, and it will not bear the weight of enlargement without it."—[*Official Report, Westminster Hall*, 16 April 2002; Vol. 383, c. 121WH.]

We now have enlargement, yet the CAP is not fully reformed. That is unfinished business.

Where were the United Kingdom Government when the latest Franco-German CAP deal was struck? Did our Ministers, let alone the Chancellor, fight for effective restraint on that huge element of the overall Brussels budget? They seem to have been conspicuous by their quiet acquiescence.

Mr. Davidson: I agree with the hon. Gentleman about the need to reform the CAP. What is the amount he believes that the European Union should allocate to the CAP?

Mr. Tyler: If the hon. Gentleman has farmers in his constituency, he will know that we are in a difficult transition period. I think that he will agree that change should have taken place under the previous Conservative Government.

Mr. Davidson: What is the figure?

Mr. Tyler: I am trying to explain the situation to the hon. Gentleman because I am not sure how many farmers he has in his constituency. The process of transition is, by its nature, expensive—change is always expensive—so I do not expect a reduction to below 40 per cent. of the total EU budget during the transition period. However, we should certainly aim for such a figure after that period and thereafter I hope that we will see real improvements. I hope that that satisfies the hon. Gentleman. I also hope that he will note that the most important thing for both farmers and consumers is not the CAP, but tackling the problems caused by middlemen in the food process. Although it would be

[Mr. Tyler]

inappropriate to discuss that matter at length today, the processors and the retailers are creaming off money that should go to the original producers.

Mr. Davidson: I am just a simple country boy, so I do not understand from that long answer the amount that the Liberals want spent on the CAP. Can he just give me a figure?

Mr. Tyler: I do not think that the hon. Gentleman is listening. I explained carefully that the process of transition—it should have started much earlier and it is unfortunate that it did not happen under the previous Government—will be expensive. I cited a reduction to about 40 per cent. of the total budget by the end of the process and hope that it will come down further after that. I hope that that satisfies the hon. Gentleman.

Mr. Gummer: Is it not noticeable that Labour Members are extremely good at attacking the common agricultural policy without recognising the important changes that have taken place, the effect that those will have on farmers and the need for farmers to have a reasonable time to adjust to them? At the same time, those people expect to have farmers' votes.

Mr. Tyler: I entirely agree with the right hon. Gentleman, who speaks as a former Minister. The transition process is not easy. He has a big agricultural community in his constituency, as do I, so he will agree that if the process had been started earlier—I am not blaming him and his Government for that—things might have been easier, especially given what has happened over the past 10 years with bovine spongiform encephalopathy and foot and mouth. The livestock industry has suffered a lot of blows, although that might not worry him as much as me. The change process is not painless and will take time.

The European regional development fund to which I was referring is, frankly, small beer alongside the CAP. Only a small improvement to the application of the CAP would be effective, which is why those of us who represent objective 1 areas are worried, nay apprehensive, about the way in which the Chancellor seems to be targeting the development and structural funds rather than the CAP. We are far from convinced that the Government have either identified the right targets for reform and retrenchment, or secured the necessary allies to achieve that.

Anyone who doubts the wisdom of carefully extending the application of qualified majority voting should take a hard look at the way in which only a few Governments of member states have managed to stymie radical reform of the CAP and the common fisheries policy with the use of their vetoes. Surely such reform requires a consensual approach rather than unanimity.

Budgetary discipline is the subject of another of the papers before us. To a non-accountant, the paper seems to be dangerously complacent, and that was reflected by the exchanges between the Conservative and Labour Front-Bench spokesmen. The mechanisms might seem to be "an efficient tool" to those in Brussels, but the outcomes suggest otherwise. As hon. Members have said, the European Court of Auditors has refused to sign off the EU accounts for the 10th year. That is outrageous, as the hon. Member for Crewe and Nantwich (Mrs. Dunwoody) has reminded us several times this afternoon.

Surely the UK Government should concentrate on achieving an effective audit trail in all member states for all EU funds. Until then, it might be more reasonable to insist on a freeze on the budget as a share of gross domestic product in the Union. That would allow a real increase, but only in line with the growth of the EU economy. I find it difficult to understand why that explicit statement—using both a carrot and stick—is not deployed more effectively by European countries that are worried about the lack of effective budgetary discipline. It should surely be said openly—it should have been said in the famous letter of 2003—that until the EU gets a firm grip on its budgetary disciplines, there should be no question of an increase in overall expenditure.

Mr. David Heathcoat-Amory (Wells) (Con): If the hon. Gentleman is now so keen on budgetary discipline, why was it that no Liberal Democrats or their allies tabled or supported amendments to the European Convention to improve the scrutiny process or to strengthen budgetary discipline in the European constitution?

Mr. Tyler: I cannot answer that question because I do not know the details. I can tell the right hon. Gentleman that my colleagues on the Economic and Monetary Affairs Committee have been making a specific proposal to link any consideration of any increase in the overall budget to the issue that is before us. That is specific within the European Parliament. I cannot speak for the Convention, but the European Parliament has the same sort of responsibility for the scrutiny of the budget, but perhaps not to the same degree as we in this place in terms of the UK budget, and perhaps not as much as the right hon. Gentleman and I would like, and initiatives have been taken. I agree entirely that fraud continues to disfigure the reputation of the EU.

The lack of clear management accounts is clearly an obstacle to the scrutiny of spending. It seems odd that there is not a specific linkage in the Government's proposal, and in the motion, between that and the issue of the overall budget.

I move on briefly to the issue of a general correction mechanism and the own resources system. The two papers, and the Government's response to them, raise fewer issues of principle, at least to my mind, but as always, the devil may be in the detail. The Minister may be able to tell us that there are still some difficulties. I think that there is unanimity across the House that we must stand firm. That is why I find it unfortunate that the amendment to which the Welsh nationalists have put their names would seem to undermine that position. I hope that the amendment will not be carried.

Enlargement has been mentioned several times. The Government, and the Conservative Government before them, have been enthusiastic about enlargement. I have always believed that the reinforcement of budgetary control should have preceded the expansion to 25 rather than followed it. Deepening should have been given precedence over widening. However, we have to live with the world that we now have.

The Commission is now saying that the larger budget that it is seeking is necessary to consolidate and continue the process of enlargement and to achieve better cohesion with the economies of the new entrants. We have yet to see how it can persuade other Governments, including our own, that it has not wished the end without supporting the means. As has been said, the Lisbon agenda is also extremely relevant.

The core issue should not be only "How much?" but "What for?" We have the famous 2003 letter to the then President of the Commission to which there were six signatories, including the UK Government. It was remarkable in that it made no direct reference to CAP reform. It assumed that the Franco-German deal was a done deal and could not be reopened. That was a grave mistake. It was extraordinary that it did not make any direct reference to better financial management and audit supervision.

This morning, in *The Guardian*, Lord Hattersley quoted Mr. Gladstone, whom I suppose I could call my right hon. Friend. He made a sensible and sane statement some 120 years when he said:

"Things are done best by those who believe in them."

To us, the Chancellor seems all too anxious to carve up the most cost-effective EU regional programme while failing to insist on CAP pruning and meaningful audit tracking of waste. We just wish that he would believe more in the EU and less in his own omniscience.

5.44 pm

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): The connection between politics and taxation is a direct one. Parliaments exist not only to collect taxes, but to decide the priorities for those who are involved in how those taxes should be spent. There is a direct relationship with elected Members, in terms of the decisions that are taken, that is emphasised by the fact that in a Parliament such as this, we are constantly presenting ourselves for re-election. We say to the electorate, "We want your taxes for these purposes. If we do not fulfil them, we shall offer ourselves for re-election and you may then decide whether we have fulfilled the programme that we offered you at the last general election."

It is therefore extraordinary that we should be debating, with the assistance of some extremely good reports by the European Scrutiny Committee, an arrangement that for a period of well over 10 years has not been audited properly and has resulted in the collection of considerable sums of money from the taxpayer. That money has been spent on a series of initiatives, some of which have rather strange priorities, but the Commission is still not capable of demonstrating in a clear or transparent manner how it controls its own finances. I asked my hon. Friend the Member for Newcastle upon Tyne, North (Mr. Henderson) a question about what he would do if a local authority could not demonstrate how it had spent taxpayers' money and which projects it had supported, for the simple reason that the principles of accountability are the same whether the organisation is local, national or international. It is extraordinary that year after year, we have debates, sometimes attended by very few Members of Parliament—although that fact is of practically no importance—in which we consistently agree that we need more transparency, better audit trails and more control over the way in which the Commission makes decisions. We decide, however, not to take action that week or the week after. We might even fail to take action in a few months' time, but people need not worry because we will do something eventually.

Mr. Hendrick: Is my hon. Friend not aware that the European Parliament has a Budgetary Control Committee? Indeed, even though the auditors have not signed off previous budgets, the European Parliament is made up of directly elected Members from this country and 24 other member states who can stop the budget in its tracks, and have occasionally threatened to do so?

Mrs. Dunwoody: I spent four and a half jolly years in the European Parliament, and I can assure my hon. Friend that not only do I know about the tricks and games of that Committee but I know that the European Parliament's powers, which could be used to control the Commission, are rarely used because they are blunderbuss powers. There has been only one attempt to discipline the people in charge, so my hon. Friend's argument is singularly unconvincing.

Mr. Hopkins: Is not the reality that Ministers in Governments across Europe; and, indeed, in the European Parliament, do not want to kick up too much of a fuss for fear of being seen as non-communautaire and guilty of shaking the whole arrangement to pieces?

Mrs. Dunwoody: I am afraid that I cannot answer for any Minister, thank God. It is many years since I was a Minister. However, I would like to say something about one or two important matters.

I have listened carefully to my hon. Friend the Minister, and I accept that he and the Chancellor are strongly committed to the securing of a sensible arrangement. We should welcome the fact that they will not go above 1 per cent.—indeed, they should sing it from the rooftops as loudly as possible. Nevertheless, I have one or two questions for the Minister. If, for any reason, our position is not accepted by the other member states after the election, what will be the attitude of the United Kingdom Government? Will it be the same attitude adopted by the present Administration, who will not contribute a sum over the amount specified by the Chancellor? If so, how do we intend to maintain that position? Is it true that in moving to a different arrangement for the payment of regional funds we will insist that the community provide a buffer and a suitable amount of cash to ensure that UK regions that receive support will not lose it without a targeted and tapered programme?

Is it not possible for the Minister to say that if we are required, at the end of another 12-month period, to accept accounts that are not qualified or audited properly, a demand for extra money for a larger budget and a change in the way that the United Kingdom retains its rebate, we—the United Kingdom—will take action to protect the sums that are going into Community organisations?

It is all very well to say to the taxpayers of this country that, in comparative terms, we are dealing with a small sum of money. I noted in the papers before us the

[Mrs. Dunwoody]

wonderful phrase that it is only 1 per cent. of budget, whereas, after all, the individual states are spending 48 or 49 per cent. more. Whatever the size of the budget, what happens to that money should concern us. We know that in certain cases, and certainly in relation to overseas development, money is not only squandered, but frequently lost. We know that in relation to many of the individual institutions, there is open corruption and frequently very little accurate accounting for the sums of money that are put into various developments. Beyond that, we also know that as a Parliament, for the first time in almost 800 years, we are being required to do something that would be unacceptable in any other sphere. We are being asked to tax the people of this country, to use that money by transferring it to a much larger organisation and to be unable to assure ourselves that those sums are being correctly, honestly and effectively spent. How long can that state of affairs be allowed to continue?

5.52 pm

Adam Price (East Carmarthen and Dinefwr) (PC): I beg to move amendment (a), leave out from "resources system;" to end and add

'and reaffirms the need to continue EU structural funding.'.

It is an honour to move the amendment in my name, and a rare privilege for Plaid Cymru and the Scottish national party. The issue is vital to West Wales and the Valleys, and we wanted to focus on the structural funds and regional policy. May I say to the hon. Member for North Cornwall (Mr. Tyler) that it is always difficult to knit an Opposition amendment into a paragraph that eulogises the Government, and I am sorry if I failed on this occasion. We thought it was important to give hon. Members an opportunity to divide on an issue that is of such great importance to our communities before the general election and before decisions are made. That is the intention of the amendment.

Regional policy is important not just to my community; it goes to the heart of the European Union that we are trying to create. Implicit in the Government's policy is the notion of the renationalisation of solidarity. Solidarity is an important component of the notion of European citizenship that we are trying to create. We are grateful to the hon. Member for West Suffolk (Mr. Spring) for pointing out that the spectre of Thatcherism, if not the spirit of Mrs. Thatcher, still haunts us.

In the experience of my community, European regional policy provided a valuable safety net through the terrible, devastating years of Thatcherism. It provided practical value to our communities in the form of individual projects, and was also a beacon of hope because it showed that another way was possible—that there was a different model for society and the economy, and that the neo-liberal model that was on offer at the time could at least be ameliorated by European regional policy, and we are grateful for that.

Mr. Spring: The hon. Gentleman is rewriting history a little. Massive inward investment into Wales was secured in those years, particularly from the Japanese, which transformed the manufacturing base in south Wales, much to the benefit of the economy of Wales. I also remind the hon. Gentleman—I hope he has the generosity to accept this—that there was during those times a regeneration of the Welsh language and an acceptance of Welsh broadcasting that had not happened before.

Adam Price: If I were to respond, I would be going rather wide of the subject that we are debating. In the past few days, a report from Sheffield Hallam university showed that only half the jobs that were lost in heavy industry, mining and steel have been replaced through inward investment in manufacturing, so sadly they do not make up for the terrible policy of breakneck de-industrialisation under the Tories.

We were fortunate in those days that we at least had the safety net of European aid. That is why it is so important that we uphold the principle of an EU-wide regional policy. I have no appetite for the return of a Tory Government. I have no appetite for the present Government's dalliances with neo-liberal policies either, but I am certain of one thing: there is more economic security for our communities if we retain the principle of EU-wide regional policy.

Mr. Hendrick: Does the hon. Gentleman agree that that regional policy will continue, and that European structural funds provide a medicine to restructure industries in particular regions of the European Union, and are not intended as a permanent means of support? Are there not countries in the EU now that are more in need of that medicine as a result of the fall of communism than certain parts of the UK?

Adam Price: I agree with the first part of the hon. Gentleman's intervention. His point is well made. What we want in all our communities is not charity. We do not want permanent dependence on any funding source, whether at central Government or European level. We want help to help ourselves. The Government are right to stress that in their statements on regional economic policy. Developing endogenous potential—indigenous potential—is the way forward. *[Interruption.]* "Endogenous" if I were giving an economic seminar; "indigenous", perhaps, in the Chamber. That has always been the key component of European regional aid as well.

The startling example of the Republic of Ireland was mentioned earlier. Since about 1987, it has had an incredible record of economic growth, partly—not wholly—because of a very successful strategic exploitation of structural funds, and also of the cohesion fund, for which it was eligible as a poorer member state.

Mr. Doug Henderson: I do not want to labour the point, but does the hon. Gentleman accept that the nationalist parties in Scotland and Wales are effectively arguing that the structural fund regime, broadly as it stands, should continue because it is essential for the Scottish and Welsh economies, but that he fails to see the change in the nature of the European Union? If the existing principles were applied, very few parts of Scotland and Wales would qualify, unlike the areas

mentioned by my hon. Friend the Member for Preston (Mr. Hendrick). It is in the interest of Scotland and Wales to move with the times.

Adam Price: In the case of Wales, the new figures contradict the hon. Gentleman's point. At this point West Wales and the Valleys come beneath the 75 per cent. benchmark for eligibility for the new convergence fund, because unfortunately it is one of the poorest regions of the European Union, even after enlargement. Overall prosperity in Anglesey, for example, is 53 per cent. of the average for the 25 EU member states. We are always being told that the UK is one of the richest member states and that it has the third or fourth largest economy in the world, so it is incredible that an island in Wales has half the average EU prosperity, even with the inclusion of the enlargement countries, which had to cope with 40 years of communism.

Mr. Hopkins: Does that point not make the case for a massively increased regional budget within the United Kingdom and for big transfers of income and wealth from richer areas to poorer ones? Is that not the real answer?

Adam Price: I do not see it as an either/or proposition, and I am not sure whether the hon. Gentleman does. Nothing precludes member states from pursuing a more robust regional economic policy. The French Government, for instance, have a broader and deeper commitment to regional economic convergence than the UK Government. Nothing precludes the UK Government from, for example, using fiscal incentives more broadly. Spain allows the Basque country and Navarre to vary their own corporation taxes, because that proved to be such a valuable tool in obtaining inward investment in the Republic of Ireland. We could pursue a more robust regional policy while retaining European funding.

Mr. Henderson: I do not want to labour the point, but the assertion that Wales would qualify for structural funding is based on the old rules, not the future rules. Surely the hon. Gentleman understands that the average per capita income in Poland is about $5,000—even in Slovenia, it is about $10,000 or $11,000. I am not saying that there is not a street or small area in Wales that contains such income levels, but there is no overall area with such income levels in Scotland or Wales, which is why the House is asking the hon. Gentleman to understand that the structural fund regime is anachronistic.

Adam Price: I hate to have to correct the hon. Gentleman again, but on 25 January EUROSTAT published the latest regional GDP figures, which show that the GDP of West Wales and the Valleys from 2000 to 2002 was 73.8 per cent. of the average for the 25 EU member states. That is less than the 75 per cent. threshold, which is the basis on which eligibility for the convergence fund will be determined.

Mr. Wayne David (Caerphilly) (Lab): The hon. Gentleman has quoted the EUROSTAT figures, which do not take into account the most recent GDP figures from central Government. If the recent figures were taken into account, they would show that the GDP in West Wales and the Valleys has risen considerably.

Adam Price: That is all the more reason why the decision to award convergence fund status should be made now. West Wales and the Valleys has a window of opportunity to achieve the highest level of European aid for seven years until 2013, as a result of which we would probably qualify for another seven years of transitional funding. We are discussing 15 years of the highest level of aid for my community and for the hon. Gentleman's community, which is why we urge the Government to ensure that a decision is made in June at the European summit meeting.

Mr. David: By simply discussing regional policy in an abstract sense, the hon. Gentleman is not taking into account other issues, such as the British rebate and the size of the whole EU contribution.

Adam Price: I am discussing the concrete fact that money is on the table for the hon. Gentleman's community and for mine. As elected Members from West Wales and the Valleys, it is our responsibility to make the case so that Wales gets that money.

Mr. David: The hon. Gentleman has said that some money is on the table. What money? The EU budget has not been agreed yet.

Adam Price: Precisely. We must obtain agreement to ensure that we obtain full value from the money that is available to us. At the moment, we qualify for the highest level of EU aid, but we will not get that money if the UK Government push the decision into their own presidency or beyond it into 2006. I am not the only one to take that view: when the Welsh Local Government Association met the European Commission recently, the Commission told it in clear terms that it is in Wales's best interests to ensure that a decision is made now.

Angus Robertson (Moray) (SNP): May I warn my hon. Friend against the view that structural funds are "abstract"? Part of my constituency is in the Highlands and Islands, which was turned down for objective 1 status on the basis of flawed figures from the UK Office for National Statistics. The people of the Highlands and Islands know that regional support and objective 1 status are not abstract, but fundamental to the economic regeneration of many places.

Adam Price: I should emphasise that the Highlands and Islands will qualify for the second tier of regional funding, which the Commission propose and which the UK Government oppose. Parts of east Wales will qualify for the regional competitiveness and employment fund, and transnational projects in rural development areas, which have been valuable to rural communities throughout Wales and Scotland, will be lost to the UK. Our communities have a lot at stake, and it is our responsibility to make the case to the UK Government.

The UK Government's position is obviously to impose a 1 per cent. ceiling, which will preclude current levels of regional funding, and to pursue the policy of

[Adam Price]

re-nationalisation to which I have referred. If the decision were pushed from June to December—I am grateful to the leader of my party for picking up my notes—new figures, which will push West Wales and the Valleys above the 75 per cent. threshold, would be a realistic prospect. In that case, we would lose out on this historic opportunity to achieve a 15-year basis for long-term economic planning in West Wales and the Valleys.

One of the benefits of European regional policy is that it allows regions at least seven years in which to develop a long-term strategy, whereas the Government can make only a three-year commitment.

Mr. Davidson: The hon. Gentleman is being particularly generous in giving way—although if I were to drop my notes, I would not expect the leader of my party to come and pick them up. May I ask him why he has worded his amendment in this way? In general terms, I support the bit that he wants to add, but I oppose the deletion of the provision on the stabilisation

"of the budget at no more than 1 per cent.",

which is essential. Does he agree that in many ways his dispute is not with the British Government, but with the EU, which insists that structural funding should be the last element of the budget to be considered, because it is not willing to adjust the common agricultural policy? If it were willing to cut money from the CAP to leave money for structural funding, the hon. Gentleman's problem, and my problem in Glasgow, would be resolved.

Adam Price: I disagree with the Government, who have made their position clear. They see no future for structural funds in our communities, but structural funds are critical in my area, which is the point of the amendment.

On the UK abatement, which the hon. Member for North Cornwall (Mr. Tyler) mentioned, I am an agnostic because its effect in Wales has been entirely negative. Wales has not had the full benefit of European structural funding, and some rural development programmes and the compensation arrangements for farmers in Wales were affected negatively by movement in the sterling exchange rate. We did not receive that funding, partly because the Treasury would have lost out if we had had more receipts and there would have been less for the UK abatement. The operation of the abatement so far has not always been to the benefit of Wales.

My principal reason for drafting the amendment was to emphasise a principle. I agree with what the Commission has said in the past few days about the need to protect the notion of EU-wide structural funds. Last week, Commissioner Hübner outlined the case for EU structural funds and said that the seven-year programming periods allow regions to think strategically and to plan for the long term. That will not be possible if we have a repatriation, because we will then have only the three-year period of a spending review to plan financially.The way in which structural funds have operated has allowed capacity to build up at local and regional levels. Local ownership and regional capacity-building has been welcome.

A third element is the raft of inter-regional co-operation, experience sharing, and networking, which have been positive and part of European regional policy from the beginning. According to the Commission's proposals, 4 per cent. of structural funds will be devoted to that element. That is critical, not just in the economic sphere but in spreading innovation, because one of the great virtues of the European Union is its diversity. We would lose that element if we lost structural funding, particularly the transnational programmes, in the UK. It is vital to continue to have structural funding available.

Empirical data show that structural funding, particularly objective 1 funding, has been successful in most objective 1 regions. EU-wide regional policy was first proposed in the late 1970s because of a fear that member states had failed to promote a convergence agenda. Contrast that with experience in objective 1 regions whose economic growth in 1988–2000 was three times faster than in Europe as a whole. That is true in the Republic of Ireland, Spain and parts of Portugal, which had positive economic growth records during that period. The one exception is West Wales and the Valleys, which, despite achieving objective 1 status, does not have a good growth record so far.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): Is it not true that the reason for that is the slow start in getting things moving, including the various committees, and the absence of proper match funding from Westminster? I note that the hon. Member for Caerphilly (Mr. David) is arguing against further structural funds for Wales and his constituency. I wonder what he will say in his election mail-outs.

Adam Price: This is not the time to go into detail about the operational difficulties of the West Wales and the Valleys objective 1 programme, but there have been significant issues with the slow start to spending and what some people see as an overly bureaucratic and complex approach, which can be contrasted with the more strategic approach taken in other economic regions. West Wales and the Valleys region has seen a relative economic decline, contrary to the positive experience of other objective 1 regions. The available data show a further slide and it is vital that we have a second opportunity. We must learn from the failures of the past few years.

Mr. Tyler: Does the hon. Gentleman agree that the stifling bureaucracy to which the Financial Secretary referred during a debate last year has been more evident in the relationship between Whitehall and our local communities than in Brussels? Whitehall has been the problem, not Brussels.

Adam Price: That is a good point. As I tried to argue a few moments ago, there is a powerfully enabling attitude and culture within the Commission on regional policy. It is all about grass-roots, bottom-up development to enrich and promote indigenous capacity. That has been powerful, but Wales could learn from the experience of Ireland and its identification of key strategic weaknesses in the Irish economy. Sectoral strategies and looking forward 15 years in terms of new technologies when they were on the distant horizon were

key elements in Ireland's armoury and part of the reason for its powerful success. A similar strategic approach has been taken in some of the Atlantic arc regions, such as Portugal.

We can learn the lessons, but the central issue is the need for a decision. West Wales and the Valleys region is eligible. We have a second tier offer for disadvantaged regions, but the 15-year window of opportunity must be grasped. We must press the Financial Secretary on whether the Government will put the interests of Wales first at the European summit in June, or will allow that opportunity to slip through their fingers. It would be a terrible waste of a massive opportunity to regenerate our communities and would impact on other funds such as the European agricultural fund for rural development. Projects such as Tir Gofal, Tir Mynydd and Tir Cynnal, which have been important in many rural communities, are at risk because of the Government's intransigence. It is vital to have an early decision in June, as timetabled, so that West Wales and the Valleys can benefit from its eligibility. That is the simple message behind the amendment.

This is another historic opportunity for us. We did not think that we would have to have a second chance. It should not have been necessary because we should have had a successful programme that would have lifted our communities out of poverty. However, we are debating the matter day because of the failure and incompetence of the Labour Government in Cardiff. We should not be punished twice because of their incompetence and failure adequately to represent us in Brussels.

We are among the poorest communities in the European Union. I am not proud of that and I want to change it. I do not want to go, cap in hand, to London or Brussels. I want a future for my community, as Ireland has. Ireland lifted itself out of poverty and it is incumbent on the Government to ensure that communities that successive Governments have failed—I accept that the fault lies not just with the Government, because it is a legacy of the devastation of the previous Administration—have the opportunity to help themselves. We need the funding and, from the bottom of my heart, I appeal to the Financial Secretary. It means so much to our communities. We need to mount a cross-party campaign. Will the Minister please heed the voices from Wales? We need a decision for our communities now.

6.20 pm

Chris Bryant (Rhondda) (Lab): I do not know whether I shall rise to the oratorical heights to which the hon. Member for East Carmarthen and Dinefwr (Adam Price) has just risen, but perhaps he will be able to calm himself a little over the next three quarters of an hour. I remind him that Members on both sides of the House feel strongly about the issue of poverty in the valleys communities and want to try to rectify the inadequacies of past policies across the whole of the last century, including the inequity on which much of the valleys' prosperity was built from the 1850s to the 1980s when the mines closed. However, I do not necessarily agree with him on the amendment. I shall return to some of the issues that he raised later.

I shall start with a few comments about the gamut of papers before us. It is true that the financial prospects for the EU in the next few years will be challenged by several issues that the Union has not had to face before. The most dramatic of those issues is enlargement, which increased the population of the EU by 30 per cent. but its gross domestic product by only 5 per cent. The EU has always taken pride in trying to use structural funds and other measures to provide a measure of equity between the member states, and that will become a major challenge.

Another issue, which was mentioned by my hon. Friend the Member for Newcastle upon Tyne, North (Mr. Henderson) earlier, is that of asylum and border controls. It is true that one of the issues that most interests many people in this country is how the EU can assist in developing a strong asylum and immigration policy that recognises the importance of strong borders with neighbouring countries. The days when Britain could have bilateral agreements with France, with Spain, with Greece and so on are long past. If we are to have a secure country, we must increase our co-operation through the EU, which will pose financial difficulties for the Union.

The hon. Member for North Cornwall (Mr. Tyler) advanced an argument that he appeared to have lifted straight out of the Commission's document, and it was also mentioned by my hon. Friend the Member for Crewe and Nantwich (Mrs. Dunwoody). That argument—that the EU gets to spend only 1 per cent. of GNI, whereas member states get to spend 45 per cent. of GDP—bears no weight at all. It is a fatuous argument and it undermines the Commission's document. After all, the Commission is not trying to create a superstate—*[Interruption.]* My hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) is heckling me. Perhaps he is trying to persuade me to join Labour against a superstate. If so, I would be happy to join him, because I am opposed to a superstate. Indeed, I am probably more rigorously opposed to it than he is. However, I see that he has given up on that attempt.

I was interested to note that the debate has brought out areas of broad agreement between parties. It is important that the message we send from the House this afternoon to the Commission and to other member states is that some of the things that we are saying have broad cross-party support, the most notable of which is the 1 per cent. ceiling on the budget. Some people think that if one ever says a word of criticism of the EU, one is by definition a bad European, but I do not accept that argument. Indeed, many of those who have most ardently and successfully campaigned for reform of the EU have been those who have believed in it more keenly than others.

I agree that 1 per cent. is a sensible ceiling for the Commission's budget. I also believe that we need to be resolute in our attempts to reform the CAP. Some would argue that it is one of the most pernicious elements of the EU set-up, and I agree, but some use it to argue that we should not be a member. To those people I would simply point out that if we had not played Johnny-come-lately at the beginning of the European adventure, the CAP would not have followed the format that it has. It would have been better if we had been involved in the first drafting, rather than in attempts at redrafting. A Conservative Member claimed earlier that the CAP had been reformed in the past couple of years and that the Doha round was important in achieving another step

[Chris Bryant]

forward. However, I think that we should start to reduce the percentage of the EU budget devoted to the CAP considerably.

Mr. Davidson *rose—*

Chris Bryant: Before my hon. Friend intervenes to ask me what figure I would put on that, I should say that I thought that all his interventions on other hon. Members to ask for precise figures were rather fatuous. The point is not the percentage of the EU budget, but the absolute figure—the amount of money. That is the figure that should fall.

Mr. Davidson: In that case, can my hon. Friend tell me the absolute figure that should be spent on the CAP?

Chris Bryant: The amount should fall considerably. As I predicted, my hon. Friend attempted to entice me to give a precise figure, but our aim should be to reduce the absolute figure in real terms and not let it just rise with inflation.

I also believe, as do all pro-Europeans, that we should be more resolute in our attempts to improve the financial transparency of the EU, to tackle fraud and to insist on financial discipline from the Commission. The idea of a 5 per cent. margin of manoeuvre, suggested by the Commission, would be wholly inappropriate, because it would set up an expectation of poor financial discipline before we even start the next seven-year period.

Notwithstanding the unity in the House on the 1 per cent. ceiling, the CAP and the need to tackle fraud, several hon. Members have been too ideological and not pragmatic enough in their approach to the issues. One instance is the question of whether aid should go always to the poorest countries. Of course it is self-evident that we should try to ensure that the international aid provided by this country or through the EU should go to the poorest countries, but it should not be done on a straight mathematical model, for various reasons. For example, we should bear in mind governance issues. We should give aid only where it will make a significant difference. That may not be in the poorest countries, because countries that have poor records of governance and refuse to improve their human rights records should not be rewarded with money that may end up in the pockets, not of the poorest people in those countries but of the oligarchies that run them. The ideological obsession with simply giving money to the poorest countries is flawed.

In some areas, we may also wish to use international aid budgets to reinforce political objectives. I raised that point earlier with my hon. Friend the Financial Secretary. Our neighbourhood programme policies may entail some spending of money in other areas, most notably in the Maghreb, if we are to try to ensure our internal security within this country, and across the EU. We should also look at the policies that we wish to develop in the Balkans and the Palestinian Authority. In all those cases, the mere mathematical model that all EU aid money must go to the poorest countries is mistaken.

Mr. Hendrick: I agree with most, if not all, of my hon. Friend's comments about the criteria for giving aid. However, many opponents of the current system criticise it on the basis that much of the aid goes to countries that were previously part of the European colonial empire, and it is true that African, Caribbean and Pacific—ACP—countries seem to benefit quite well. What is his view of the EU's relationship with those countries?

Chris Bryant: I entirely agree with my hon. Friend in that I should like us to be far more effective in trying to ensure that the richest countries in the world, many of which are members of the European Union, contribute more in international aid and do so not only in those countries with which they have historical links, but in areas where they can be most effective, where there is good governance, where there are human rights, and where they can lever in not only significant improvements in people's quality of life in terms of trying to meet the millennium development goals, but significant improvements across a whole region. On the whole, that will be better achieved with a strong EU aid budget than with a minimalist one; otherwise, countries such as France and Belgium are most likely, in their bilateral aid agreements, to contribute to countries with which they have historical ties. If our main objective in terms of an international aid budget is to try to ensure that all the aid that flows out of the EU to other countries goes towards making the biggest difference to their poorest people, we will need a significant EU aid budget.

Mr. Hendrick *rose—*

Chris Bryant: My hon. Friend seems to be wobbling.

Mr. Hendrick: I am not sure that I would call it wobbling. What would my hon. Friend do about our agreements with West Indian countries on trading bananas, which were traditionally traded with the EU as a result of previous relationships with the ACP countries and world trade disputes with the United States? Those islands may not be poor in relation to African countries, but the disappearance of their only industry, which may be bananas, would make them much poorer.

Chris Bryant: My hon. Friend is enticing me into a debate on trade instead of EU finances. Let me cite the example of the disaster relief work in which different countries around the EU have been involved. In the Caribbean, for instance, countries such as France, Germany, Belgium and Holland will often work only with the individual islands with which they have historical links, whereas a more concerted effort between all the different countries would probably be far more effective. I still hold to the view that although, in the main, we should try to increase the percentage of EU aid that goes to the poorest countries—I respect the work that the Government have been doing on that—it will still be necessary to consider the mathematical equations of poverty in arriving at the decision on where the money should go.

We have heard an excessive amount of ideology this afternoon, including the hyper-inflated peroration of the hon. Member for East Carmarthen and Dinefwr [HON. MEMBERS: "Jealousy."] It might be envy, but it could not possibly be jealousy. The hon. Gentleman

should not be ideological about structural funds. Ultimately, I want to ensure that the economy in my constituency is resuscitated after the decades of difficulties that we have experienced. The recent report by Sheffield Hallam university is a rude awakening for those who look at the south Wales economy and see, in many areas, greater growth than there is across the rest of the UK and significant improvements in the unemployment level, which in my constituency is only marginally ahead of the UK average. That is all well and good, but the truth remains that in other areas with objective 1 status jobs have been replaced much more significantly and effectively than in south Wales. That is partly why one in five people of working age in my constituency are on incapacity benefit. I am glad that the Government are working to address that. The issue of structural funds is not ideological—the point of principle is that we must ensure that we have programmes in place to resuscitate those communities.

Mr. David: Is my hon. Friend saying that the most important thing, contrary to what the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) says, is not whether the money comes from London or from Brussels but that extra resources are coming into West Wales and the Valleys, in the most effective way possible?

Chris Bryant: My hon. Friend has said almost word for word what I had written down on the piece of paper that I am holding, and I am grateful to him for doing so. There are certainly areas where a national investment will be more effective than an international investment, simply because layers of bureaucracy might be added. A Welsh bureaucracy topped by a Treasury bureaucracy and then a Brussels bureaucracy might not be in the best interests of delivering value for money in the communities that we are talking about.

The hon. Member for East Carmarthen and Dinefwr missed a trick when he was intervened on by a Liberal Democrat Member, because the Liberal Democrats were the only people, apart from his party leader, whom he did not attack in his speech. He could have had a dig in that direction, because the Liberal Democrats' involvement in the objective 1 process when they were part of the Welsh Assembly Government gave us some of the hiccups and delays in the implementation of that funding in the valleys.

Mr. Llwyd: Does the hon. Gentleman recall that the substantial shortfall every year in the match funding element coming from Westminster was one of the main problems in getting things moving? That is not just an allegation by us, but a proven fact. What he says about the coalition is right, but he did not mention the important annual element.

Chris Bryant: In my experience, a large number of factors made it difficult to get individual projects up and running—for example, the lack of understanding on the ground, certainly in my own community, about how to access funding, and the Plaid Cymru-run local authority's inefficiency in bringing forward projects.

However, assigning blame is not important at this juncture. What is important is whether we should advance an ideological argument that says that we must have structural funds across Europe so as to provide money for Wales. Another ideological argument says that we should have no European structural funds because it is better to repatriate all structural funds to individual countries. I disagree with both those ideological positions. When Spain, Portugal and Greece joined the European Union, many people in Britain argued that that would be bad for us because it would make it more difficult to access funds from Europe and the investment that was going to those other countries would enable them to start to run ahead of us economically. What actually happened was that our trade with those countries grew dramatically—in the case of Spain, by 38 per cent. in a matter of three or four years. That was to the benefit of the UK economy. Similarly, some of the structural funds that might be used in countries such as Poland, Hungary, Estonia and Latvia will benefit us by increasing prosperity and opportunities for trade.

Mr. Spring: Does the hon. Gentleman agree that the extraordinarily impressive taxation policies of the accession countries, including flat and very low taxes, are ultimately far more likely to generate growth and employment than anything else?

Chris Bryant: That is another ideological position.

Mr. Hopkins: Another country in the European Union has one the most successful economies and high, progressive taxation: Sweden.

Chris Bryant: Indeed. For that matter, Spain has lower taxation than the UK. However, I think that the hon. Member for West Suffolk (Mr. Spring) tried to entice me into a general election conversation about whether we should be a higher tax or a lower tax economy.

My point is that we should not be ideological about either repatriating all structural funds to individual member states or insisting that we must have structural funds so that, for example, Wales can get money. If there are structural funds, I stress to the hon. Member for East Carmarthen and Dinefwr that my hon. Friends the Members for Ogmore (Huw Irranca-Davies) and for Caerphilly (Mr. David) and I will fight just as hard as him to ensure that some of the money comes to our communities. I am slightly sad and worried that the hon. Gentleman has intentionally designed his amendment to ensure that only members of the nationalist parties vote for it, so that he can use others' voting records as a party political tool, following the publication of his press release, which was doubtless issued earlier today.

Adam Price: I made it clear that my intention was to concentrate on what constituted a key issue for me. I hope that the hon. Gentleman does not accuse me of misleading the House.

Chris Bryant: I would not like to accuse the hon. Gentleman of anything.

Mr. David: Misleading the people of Wales.

Chris Bryant: As my hon. Friend says, perhaps the hon. Gentleman's rhetoric sometimes inadvertently

[Chris Bryant]

misleads the people of Wales. If there are to be structural funds, it is important that the European Commission hears the voices of Members of Parliament from nationalist parties, Liberal Democrat parties and Labour parties, all arguing for the money to go to, for example, Welsh communities. It is important to build rather than dismantle that consensus.

6.41 pm

Mr. Kelvin Hopkins (Luton, North) (Lab): The general election campaign appears to be up and running in Wales if nowhere else.

I support the Government motion, which takes a strongly critical tone about European financial arrangements. I support the tone, even if I would like to go further on specifics. For eight long years, I have been a member of European Standing Committee B. For eight of the past 10 years, we have received European Court of Auditors reports about the European Union budget's failure to add up or meet the Court's approval. I have made a speech on each occasion and I suspect that I have repeated myself because it is difficult after eight years to find something original to say. However, some things need repeating—I have said them in the Chamber as well as in Committees—about European finances.

For years, there has been endless talk about reform of the CAP. Ministers have returned from Europe, waving pieces of paper and saying, "I have secured reform." Yet it has not really happened. While France remains happy not to be too critical, one can be pretty sure that nothing substantial has changed. I believe that the CAP should be abolished and that agricultural policy should be returned to member states. Each member state has a different pattern of agriculture. For example, I believe that we should choose to subsidise Welsh hill farmers. Their way of life is valuable and preserves our countryside and I would therefore be happy to subsidise them. I am not so happy to give massive subsidies to the multi-millionaire grain farmers of East Anglia.

Mr. Hendrick: Is my hon. Friend suggesting that the UK should withdraw unilaterally from the CAP? What impact would that have on not only the grain farmers of East Anglia but farmers generally, the many poor farm workers and those who work in agriculture throughout the country? What impact would it have on any farmers in his Luton constituency?

Mr. Hopkins: I did not suggest that we should withdraw unilaterally. I believe that we should have a domestic agriculture policy that may involve fairly heavy subsidies for some areas but not for others. It would be targeted to ensure that farm workers got proper wages and that we did not subsidise areas unnecessarily. I specifically mentioned Welsh hill farmers. However, that is a detail and my point is that each country should decide its agricultural policy internally. I ask our Ministers to propose that and argue the case in future. It will not happen this year and perhaps not next year but, in time, we must abolish the CAP. It has been a millstone round the EU's neck for a long time and we should get rid of it, start again and hand agriculture policy back to member states.

Angus Robertson: Fisheries?

Mr. Hopkins: My views on the common fisheries policy are also well known.

Minister after Minister in the Department for International Development has complained about the inefficiency and corruption in the aid budget, the fact that it is misdirected, that money goes missing and that it does not work. The Department for International Development is a model that other member states could follow. Whatever else we do in the world through our free trade policy in arms, we do a good job on aid. I therefore suggest that we should repatriate the aid budget to member states. We should not do it unilaterally, but propose it as a sensible way forward. We could then direct aid to the countries that we believed needed it—for example, those in sub-Saharan Africa.

It is clear that structural funds will not operate to our advantage in future and that we will be bigger net contributors. Given that many poorer countries have joined the EU, it is sensible and natural that the richer countries such as Britain make net contributions to them. I hope that our Government will replace what is lost in European structural funds with various types of national and regional funding, which would ensure that areas of the country do not suffer by the loss of European funding.

I hope that, when regional funding goes to parts of Britain, we might see notices with a little red rose and the words, "Donated," or given, or allocated, "by Britain'sLabour Government", instead of the little circle of yellow stars on a blue flag. I stress to my hon. Friend the Financial Secretary that previous Labour Governments have promoted such a regional policy. I did some work on regional policy funding when I was at the Trades Union Congress and in the 1970s, it genuinely worked. It reduces inequalities in growth, living standards and employment between regions. We should have more of that and there should be a more substantial national budget, too. We should not simply leave everything to markets, because they do not work without redistribution.

We are considering substantial changes and it behoves all of us who take a critical standpoint to propose something that will work instead of what we have. On page 104 of the document that is before us, the Commission examines the possibility of a GNI—gross national income—based system, whereby countries would donate according to their relative prosperity. The Commission notes that

"advantages of such a system would be that it would be simple and easy to understand, and gross contributions would correspond closely to member states' relative prosperity."

That is a sensible way forward. Sadly, the Commission rejects it. We should go on pressing that case. We should get rid of some of the distorting, inefficient and corrupt systems and replace them with a system based on relative prosperity whereby we donate to a budget on which the poorer countries draw. Rich countries such as Britain would therefore be net contributors and the

poorer countries that join would be net recipients. That should be accompanied by a strong internal regional policy.

I have made the case many times in the Chamber and in European Standing Committee B and I believe that it is sensible. However, we will get nowhere by tinkering at the margins and hoping that nobody notices that we are not changing anything much. We must propose a coherent, comprehensive and radical alternative for the future of Europe. I envisage our going forward on the principles that I outlined.

6.49 pm

Mr. Ian Davidson (Glasgow, Pollok) (Lab/Co-op): It gives me great pleasure in a European debate to speak enthusiastically in favour of the Government's policy. Indeed, I think that I am probably more in favour of the Government's policy on this matter than the Government are.

I take as my starting point the Minister's comment that the EU Commission was proposing a 34 per cent. increase in expenditure. If such an increase were proposed by any local authority anywhere in the country, or by any other body or organisation, there would be an enormous scandal involving accusations of overspending. That is what should be happening in this context. The European Union's proposal to spend 34 per cent. more in the next year demonstrates that there is clearly no internal self-discipline in that organisation. In those circumstances, the Government should do as much as they can to restrict that expenditure to a reasonable level.

Others have already touched on various aspects of EU spending, and I want to make two particular points in that regard. The first relates to extravagance. The waste, extravagance and corruption of the European Union are well known to all of us. I speak as a member of the Public Accounts Committee, which has been involved in studying this matter for many years, and that case is irrefutable. My second point relates to misdirection. The case that far too much is spent on the common agricultural policy has been clearly made and is similarly irrefutable.

Chris Bryant: Will my hon. Friend give way?

Mr. Davidson: Yes! I am happy to give way to my colleague.

Chris Bryant: How much precisely would my hon. Friend like to spend on the common agricultural policy, in either absolute or percentage terms?

Mr. Davidson: I welcome that question and I am prepared to give my hon. Friend a straight and unequivocal answer: nil. I am in favour of the abolition of the common agricultural policy. If there is to be support for areas with a substantial element of agriculture or for areas with regional needs, it should be given through a regional policy. The agriculture and food production industry does not require, and should not receive, subsidy, for all the reasons that we have discussed in other debates, such as the CAP's impact on and destruction of the third world, and the extent to which the policy acts to transfer money from poor consumers in my area, whose food is priced up, to wealthy landowners and farmers in other parts of the country while depriving the third world of the valuable income that it needs.

Mr. Hendrick: Over what period would my hon. Friend expect expenditure on the CAP to fall to zero? If it did not fall to zero over that period, would he be in favour of withdrawing the UK from the European Union? *[Interruption.]*

Mr. Davidson: A suggestion has been made that it should happen in 10 minutes, but that seems unrealistically speedy. We should go into negotiations with our European colleagues and see what progress can be made towards that goal. It would be unreasonable in the circumstances to set a finite timetable. We should not bog ourselves down in that kind of discussion. I suspect that, like many others, my hon. Friend believes that the CAP is effectively unreformable, that we simply have to put up with it, and that it must remain a bottomless pit into which money is poured. I do not take that view; I believe that drastic reform is needed.

Mr. Doug Henderson: I know that my hon. Friend is an experienced political negotiator. What kind of response would he expect his views to receive from European countries, particularly France and countries dominated by parties socialistes?

Mr. Davidson: My hon. Friend is too kind; his negotiating skills are probably far greater than mine, since he honed them in the back rooms of the GMB and elsewhere. But when did he ever go to an employer with a demand for an increase in anything that was beneficial to his members without initially being met with a refusal? It is the process of negotiation that leads to breakthroughs and brings us together.

Further to my points on the extravagance and misallocation of EU budgets, we have discussed the question of good governance in relation to trade and aid—aid in particular. If we applied to the European Union the standards of good governance that we seek to apply to the third world, we clearly would not continue to pour enormous amounts of money into the European Union in the way that we do. We must start to apply standards of good governance to the European Union as well. We ought to say, "No more money until there is reform."

As I said earlier, I support the Government's policy with a skip in my step and joy in my heart. I very much welcome the Minister's statement that—as I understood it—the British Government were in favour of stabilising the EU budget at no more than 1 per cent. and that they would veto the proposal unilaterally if that position could not be agreed. It was noticeable that the main Opposition party also agreed with that. I regret, however, that the Liberal policy on this issue—as on so many others—was entirely unclear to me. The Liberals need to make it clear whether they are prepared to see the EU budget rise by more than 1 per cent. I am waiting to see whether there is any flicker of life on the Liberal Benches; I see that there is not. I regret also that the nationalists tabled an amendment that would have deleted the 1 per cent. stricture on the Government. I waited to hear whether they supported that policy, but

[Mr. Davidson]

I was disappointed. I recognise that they perhaps made an error in the way in which they phrased their amendment, but they could have covered the issue in their speeches. However, we are left to presume that they are quite happy to see the EU budget grow and grow, a bit like Topsy.

The Government were perhaps not as clear as I might have wished on the question of protecting the rebate. I understand the general principle that they will be willing to use the veto if the rebate is not protected, but I was unclear as to the scale of the rebate that was being sought. Many of us remember, from our days working in local authorities and elsewhere, the various skills associated with creative accountancy. I would not wish to hear the Government argue that they had preserved the form of the rebate when the figure had in fact been whittled away completely. It is clear that, at present, we are the largest net contributor to the EU budget—that has been the case for a number of years, as far as I can see from recent figures—and on the basis of the EU Commission's proposals, that would continue to be the case. The Government need to tell us what their bottom line is, and to reveal the figure beyond which they are not prepared to go.

My hon. Friend the Member for Newcastle upon Tyne, North (Mr. Henderson) talked about the need for co-operation and joint spending. His key point related to whether the EU adds value. There seems to be a whole range of areas in which it does add value to spending by individual countries, and in which it adds value to working together through its structures. However, in a whole range of areas, such as aid and the CAP, the EU actually destroys value. For example, when we compare the amount of money that goes into the EU for third-world aid with the benefits that flow out in terms of spending on the ground, we see that the output is less than the input. In those circumstances, the Government ought to be much more vigorous in arguing our case than they have been until now. This debate has tended to be about absolute figures, but it ought also to be about best value, and about whether value is being added by the EU. It is clear that, in too much of its expenditure and in too many of its areas of interest, higher value is not being added. In those circumstances, the Government should seek to reduce, minimise or eliminate expenditure entirely.

7 pm

The Financial Secretary to the Treasury (Mr. Stephen Timms): We have had an interesting debate that has shown the significance of the next financial perspective for the future direction of the European Union. I have been heartened by the wide support expressed for my contention that a 1 per cent. budget is realistic and affordable, and—with reform and reprioritisation—more than enough to meet fully the needs of an enlarged EU.

The continued inefficiencies and inequities on the expenditure side of the EU budget and the resulting unfairness of the UK position mean that the UK abatement remains fully justified. It is not up for negotiation; we are not proposing changes to the way it is calculated. Without the abatement, UK contributions since 1995 would have been at least 12 times more than those of countries of comparable wealth. We reject also the Commission proposals for a general correction mechanism, and for a 34 per cent. increase in the EU budget at a time when member states are having to take pretty tough fiscal decisions about their own spending at home.

A number of Members asked me about the timing for decisions on all this. Negotiations so far have shown increasing support for the position that the UK, among a range of member states, has taken. I think we will gather more support as the negotiations progress, and I am confident that we will secure our priorities in the best interests of the whole EU.

Specifically on the question about the timetable and the deadline asked by the hon. Member for West Suffolk (Mr. Spring), we are happy to work towards a June political agreement—that is, at the end of the Luxembourg presidency—but getting the right deal for us is more important than hitting any particular date, so we are certainly ready to take this work forward in our own presidency if no deal is agreed in June.

The hon. Gentleman gave the impression that ground had been lost since last year's debate, but I do not think that that is true at all. Indeed, the reverse is the case and we have gathered growing support for the position we have taken. He referred to some figures and suggested that the Commission, after the initial proposal of about 1.26 per cent. of EU GNI, came forward with an even higher figure of 1.3 per cent. That is not correct. I think he has misunderstood some figures—I do not blame him for misunderstanding some of the detail—that appear on page 167 of the bundle of documents. They indeed include the figure of 1.3 per cent., but he needs to know what that is.

That figure refers to a maximum budget drawn from the suggestions of all the member states in responding to the Commission's proposals. So, those proposals come from member states, not the Commission. The same table shows the minimum budget drawn from the same source, which is 0.82 per cent. of EU GNI. We see there the suggestions coming from the member states, which lead to a range of budget values between 0.82 and 1.3 per cent. That underlines the fact that our 1 per cent. package is perfectly credible in view of the concerns of the member states, as well as affordable.

There has been some discussion of the common agricultural policy. An agreement was reached at the October 2002 European Council, which provided for a slight real-terms cut in CAP expenditure. We regard those ceilings as maximums, not targets. We want to continue to work to ensure that CAP spending comes below the ceilings. My hon. Friend the Member for Glasgow, Pollok (Mr. Davidson) will agree with last July's trade and investment White Paper, where we said that

"there is no logical reason why agricultural products must be treated in a different way from industrial goods. Our long-term goal will be to abolish progressively, as for industrial goods, all trade-distorting agricultural subsidies".

The hon. Member for North Cornwall (Mr. Tyler) asked where we were when CAP reform was being debated. Of course, we were, as always, playing a key role in an important decision, which was breaking the link between tax-funded subsidies through the CAP and production. That decision on decoupling was a big step forward.

There has been a good deal said in the debate about the future of EU regional policy. Our approach to EU structural and cohesion funds would provide for greater solidarity and better effectiveness by focusing funds on the least well-off member states, where they would have the greatest effect. My hon. Friend the Member for Luton, North (Mr. Hopkins) suggested that only previous Labour Governments had taken this position, but we are strongly committed to a vigorous regional policy. However, three quarters of all regional regeneration funding already comes from this Government, rather than from the EU, so we have made the commitment that if our reform proposals are agreed, domestic regional policy spending will be increased so that the UK's nations and regions do not lose out.

I say to the hon. Member for East Carmarthen and Dinefwr (Adam Price) that we pay €1.60 for every euro of structural funds we receive. In any scenario, the amounts coming to the UK are bound to be less in future, but his argument seemed to be that it is necessary to keep EU structural funds in place to protect his constituents from the danger of a future Conservative Government. The logic is that he should be urging people to vote Labour to avoid that disastrous outcome.

The hon. Member for North Cornwall made an interesting speech that was undermined for me by his suggestion that the Government are not interested in Cornwall. Anyone who has seen the benefits of objective 1 funding in Cornwall knows that this Government have made the case for Cornwall and promoted the programme whose benefits are being experienced.

My hon. Friend the Member for Newcastle upon Tyne, North (Mr. Henderson) made an excellent speech, setting out the value of the EU and the need for budgetary discipline within it—not assuming that every need that arises requires extra EU spending. As he said, we gain enormous benefits from our EU membership. I agree with what today's *Financial Times* quotes Sir Digby Jones as saying—that we should

"exploit the 'very pro-British' mood in Brussels".

He also criticises the Tories' policy on Europe as

"potentially damaging to British interests".

He characterised it thus:

"Saying, 'well, I'm out of here', whether it is on separate issues or the whole thing".

Sound budget management, clear focus on objectives and priorities—those can only improve the value of the EU's work. I commend the motion to the House.

Question put, That the amendment be made:—

The House divided: Ayes 2, Noes 360.

Division No. 114] **[7.7 pm**

AYES

Llwyd, Elfyn
Price, Adam *(E Carmarthen & Dinefwr)*

Tellers for the Ayes:
Angus Robertson and
Mr. Simon Thomas

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Ainsworth, Peter *(E Surrey)*
Alexander, Douglas
Allen, Graham
Amess, David
Ancram, rh Michael
Anderson, rh Donald *(Swansea E)*
Arbuthnot, rh James
Armstrong, rh Ms Hilary
Atkins, Charlotte
Atkinson, David *(Bour'mth East)*
Atkinson, Peter *(Hexham)*
Austin, John
Bailey, Adrian
Baldry, Tony
Banks, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bellingham, Henry
Bennett, Andrew
Benton, Joe *(Bootle)*
Bercow, John
Beresford, Sir Paul
Best, Harold
Betts, Clive
Blackman, Liz
Blunt, Crispin
Bottomley, Peter *(Worthing W)*
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brady, Graham
Brazier, Julian
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chapman, Sir Sydney *(Chipping Barnet)*
Clappison, James
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clifton-Brown, Geoffrey
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Conway, Derek
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cousins, Jim
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, rh Dr. Jack *(Copeland)*
Cunningham, Jim *(Coventry, S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Djanogly, Jonathan
Doran, Frank
Dorrell, rh Stephen
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Efford, Clive
Ellman, Mrs Louise
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flint, Caroline
Flook, Adrian
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francois, Mark
Gale, Roger *(N Thanet)*
Gardiner, Barry
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gillan, Mrs Cheryl
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Gummer, rh John
Hague, rh William
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hammond, Philip
Hanson, David
Harris, Tom *(Glasgow, Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Healey, John
Heathcoat-Amory, rh David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Heyes, David
Hill, Keith *(Streatham)*
Hinchliffe, David

Hoban, Mark *(Fareham)*
Hodge, Margaret
Hoey, Kate *(Vauxhall)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Howells, Dr. Kim
Humble, Mrs Joan
Iddon, Dr. Brian
Irranca-Davies, Huw
Jack, rh Michael
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkin, Bernard
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
Kirkbride, Miss Julie
Knight, Jim *(S Dorset)*
Lait, Mrs Jacqui
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Leigh, Edward
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Dr. Julian *(New Forest E)*
Lidington, David
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
Macdonald, Calum
McDonnell, John
MacDougall, John
McGuire, Mrs Anne
McIntosh, Miss Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Maclean, rh David
McNulty, Tony
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Maples, John
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Martlew, Eric
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miliband, David
Miller, Andrew *(Sutton Coldfield)*
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Moss, Malcolm
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Murrison, Dr. Andrew
Naysmith, Dr. Doug
Norman, Archie
O'Hara, Edward
Olner, Bill
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Ottaway, Richard
Paice, James
Palmer, Dr. Nick
Paterson, Owen
Pearson, Ian
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris, *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Primarolo, rh Dawn
Prisk, Mark *(Hertford)*
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Randall, John
Rapson, Syd *(Portsmouth N)*
Raynsford, rh Nick
Redwood, rh John
Reed, Andy *(Loughborough)*
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, John *(Glasgow Anniesland)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Geoffrey *(Coventry NW)*
Roe, Dame Marion
Rooney, Terry
Ruddock, Joan
Ruffley, David
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simmonds, Mark
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, rh Jacqui *(Redditch)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tami, Mark *(Alyn)*
Tapsell, Sir Peter
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Vaz, Keith *(Leicester E)*
Vis, Dr. Rudi
Walley, Ms Joan
Ward, Clare
Wareing, Robert N.
Watkinson, Angela
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Wiggin, Bill
Willetts, David
Williams, Betty *(Conwy)*
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek
Yeo, Tim *(S Suffolk)*

Tellers for the Noes:
Mr. Tom Watson and Jim Fitzpatrick

Question accordingly negatived.

Main Question put and agreed to.

Resolved,

That this House takes note of European Union documents No. 11607/04, Commission Communication: Financial Perspectives 2007–2013, No. 11741/1/04, draft Decision on the system of the European Communities' own resources and draft Regulation on the implementing measures for the correction of imbalances, No. 11745/04, draft for renewal of the Inter-Institutional Agreement on budgetary discipline and improvement of the budgetary procedure, and No. 11752/04, Commission Report: Financing the European Union—operation of the own resources system; supports the Government's efforts to refocus the European Community budget towards the Union's key priorities in line with the principles of subsidiarity and European Union value added and stabilise the budget at no more than 1 per cent. of European Union Gross National Income; shares the Government's concern over proposals for new flexibility instruments; opposes the Commission's proposals for a Generalised Correction Mechanism; and in particular supports the Government's view that the Commission's overall proposals are unrealistic and unacceptable.

House of Commons Members' Fund (Discretionary Payments)

7.21 pm

Dr. Howard Stoate (Dartford) (Lab): I beg to move,

That this House resolves that pursuant to section 4(4) of the House of Commons Members' Fund Act 1948 and section 1(4) of the House of Commons Members' Fund Act 1957, in the year commencing 1st October 2004 there be appropriated for the purposes of section 4 of the House of Commons Members' Fund Act 1948:

(1) The whole of the sums deducted or set aside in that year under section 1(3) of the House of Commons Members' Fund Act 1939 from the salaries of Members of the House of Commons; and

(2) The whole of the Treasury contribution to the Fund in that year.

The motion has been signed by Members on both sides of the House who, as managing trustees, share with me the responsibility of administering the House of Commons Members' Fund, a benevolent fund for former parliamentarians and their widows and widowers. Its main purpose is to make payments, at the discretion of trustees, to former Members and their dependants—having regard to their circumstances—and to make payments as of right to former Members of the House of Commons who were Members before the parliamentary contributory pension fund was established, and to their widows and dependants.

Two motions have been tabled, Mr. Deputy Speaker, and I think it would be helpful if—with your permission—I dealt with them at the same time. The first gives effect to the appropriation of Members' own contributions and the contribution from the Members' estimate to provide funds for discretionary awards. The second provides for inflation-linked increases in payments to beneficiaries of the fund.

The second motion is complicated. For reasons that are not entirely clear to the current trustees, the House has fallen out of the habit of passing the necessary motions for the Members' fund. Similar motions were last tabled by the right hon. Alf Morris, now Lord Morris of Manchester, in March 1994. I am privileged to follow in the footsteps of such a campaigner for the rights of the disadvantaged and disabled. Unfortunately, it seems that the annual resolutions required by legislation have not been put to the House since that was done by Lord Morris 11 years ago—almost to the day. Along with the other trustees, I now wish to put that right.

The beneficiaries of the fund are elderly former Members or their surviving spouses. Many of them, unlike current Members, are not entitled to the benefits available from the parliamentary contributory pension fund because they left the House before 1964. Others—widows and widowers of former Members—have their PCPF benefits topped up. Still others receive discretionary payments because of hardship and their personal circumstances. The discretionary payments can be recurring to improve a person's standard of living, or they can be one-off grants to improve quality of life—perhaps to facilitate a minor home adaptation.

David Taylor (North-West Leicestershire) (Lab/Co-op): When the then Member for Bassetlaw left the House, he set up an organisation to cater for the needs of former Members and their widows and widowers. It seemed clear from an article published at the time that little effort was being made to establish where Members went after leaving the House, or where their widows or other dependants went. Is the fund reactive, or will it seek out those who would benefit from its assistance?

Dr. Stoate: That is a good point. The fund will seek out people in hardship when that is possible, but it relies very much on existing Members who may have access to the details of former Members. As I shall make clear later, we have improved access to the fund, and also improved the information that can make claiming easier than it has been in the past.

Mr. Eric Martlew (Carlisle) (Lab): As a fellow trustee, my hon. Friend may recall that we recently advertised in a journal for former Members. We wanted to alert people who would not know of the fund. But I think that the proposed system would be very effective, and should operate annually.

Dr. Stoate: My hon. Friend is right, and I hope that the fund will continue to operate proactively as far as possible.

Mr. Tam Dalyell (Linlithgow) (Lab): I have been a Member of Parliament for a long time, and I thank the trustees for the work that they do on behalf of us all.

I agree with my hon. Friend that it is often difficult to seek people out. It is less a question of pride than one of shyness, or not wanting to approach the fund. It should be made clear that there is nothing dishonourable in such an approach from people who, in many cases, are in need.

I am sometimes taken aback and embarrassed when old colleagues or their relatives are in financial difficulty, given that, morally and legally, they are certainly entitled to benefit.

Dr. Stoate: I am grateful to my hon. Friend for his great wisdom and knowledge. During his time in Parliament, he has done a great deal to bring such matters to our attention. He is right: some of the cases brought to us involve people in incredible hardship, living in straitened circumstances on very modest incomes. Not until they are hit by a disaster such as a leaking roof or a central heating breakdown and find that they simply cannot pay the bill do they even consider applying to the fund. We are anxious to track down such cases when that is possible, and to help however we can. That is one reason for the motion: we must regularise our affairs to ensure that we keep up with the times as far as we are able.

The fund currently has about 120 beneficiaries in any one year. The average value of the recurring payments is less than £2,000 per annum. A handful of one-off grants are made each year, with an average value of only about £5,000. As my hon. Friend implies, relatively small sums can make a great difference in some circumstances.

The first motion gives effect to appropriation of the contribution that all Members make from their salaries each month, and the sum of £215,000 from the Members' estimate, referred to in the motion as the Treasury contribution. The appropriations will enable

[Dr. Stoate]

the trustees to continue discretionary awards to ex-Members and their dependants, having regard to individual circumstances.

The second resolution achieves three things. First, it confirms the current rate of benefit for those in receipt of recurring payments from the fund. The increases are linked to inflation, and the amounts for April 2004 are some 2.8 per cent. higher than for the preceding year. Secondly, it regularises the position in respect of the years between 1995 and now by applying the relevant inflation figure each year to the benefit amounts. I should add that no beneficiaries have missed out on their increases during that period. Thirdly, paragraph (6) looks forward to future years, allowing an inflation-linked increase to be applied without further reference to Parliament. The trustees see no need to ask the House each year to approve inflation-linked increases for such a straightforward matter.

The fund is governed by a variety of Acts that stipulate the basis on which payments can be made, and the amounts payable. Some payments are known as "as of right payments"; others are awarded at the trustees' discretion. This motion and the increases mentioned therein apply to the different types of payment allowable. It is an over-complex legal arrangement—a point that the trustees will consider at their next meeting—and that might be one reason why former Members are sometimes put off applying to the fund. The current legislation is extremely complicated; indeed, even the trustees have great difficulty in interpreting the rules. The system needs regularising and the trustees hope to do so in the coming period.

The trustees are very appreciative of the fact that Members continue to bring to their attention information on the needs of former Members and their dependants now living in straitened circumstances. In addition, we have taken steps to improve the information available on the fund, so that it might more easily come to the attention of former colleagues. The trustees have also improved the application process, so that fairness and consistency are built into the system.

Finally, I pay tribute to my fellow trustees for the work that they undertake on the fund's behalf, particularly the chairman, the right hon. Member for Hitchin and Harpenden (Mr. Lilley), who unfortunately cannot be here this evening. I also thank the staff of the operations directorate of the Department of Finance and Administration, which handles the fund's administration. I want to thank in particular Terry Bird, secretary to the fund, who has given me enormous help in preparing for tonight's debate, and Ms Jane Trew, who deals with all the applications received with considerable skill and tact and brings them before the trustees for their consideration.

7.31 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): I just want briefly to welcome the motions, which clear up some anomalies, and to congratulate my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley), chairman of the trustees of the Members' fund, on bringing them before us. The trustees put a great deal of hard work into the important task of looking after former Members and their dependants, sometimes confronting the difficulties that the Father of the House mentioned earlier.

As Chairman of the Audit Committee, I should point out that we welcome the very co-operative approach taken by the Members' fund, particularly in respect of our external Members. I know that a further meeting is planned shortly, and with those few words, I welcome the motions, which we of course support.

7.32 pm

Mr. Paul Tyler (North Cornwall) (LD): On behalf of my right hon. and hon. Friends, I too would very much like to congratulate those of our colleagues who do such valuable work for the trust. I am also grateful to the hon. Member for Dartford (Dr. Stoate) and his colleagues for providing us with a very good explanatory memorandum.

I want to draw attention to one important point. Given that the parliamentary contributory pension fund has been in operation for some 40 years, one would hope that lack of knowledge about it will be a diminishing problem, but it is clear that a number of would-be beneficiaries might continue to be unaware of the trust's nature and remit. It is very welcome that the trustees have recently taken the initiative of publicising the nature of their work and its applicability to certain circumstances. The memorandum describes as an "oversight" the fact that there have been no resolutions since 1994 for the purposes of regularising regular or one-off payments, and I hope that the oversight has been put right, not only for the current year. Perhaps someone can explain whether this debate will have to be an annual event, or whether, as a result of these motions, we have given permanency to the new arrangements.

I say again that we are grateful to those Members of the House who give their time and expertise to what is obviously an extremely valuable exercise.

Dr. Stoate: I should make it clear to the hon. Gentleman that the first motion will have to be put before the House annually until we regularise the current legislation, which does not allow us to make future changes without coming back to the House each time. The second motion, on uprating, can be regarded as a one-off and need not be debated in future years.

Mr. Tyler: I am grateful to the hon. Gentleman for that intervention and for his contribution this evening.

7.35 pm

The Deputy Leader of the House of Commons (Mr. Phil Woolas): I add the Government's support for these motions and echo the comments of the shadow spokesmen by thanking, on behalf of the whole House, the Members' fund and in particular its chairman, the right hon. Member for Hitchin and Harpenden (Mr. Lilley). I also thank my hon. Friend the Member for Dartford (Dr. Stoate) for moving the motion so eloquently and for explaining a very complex matter in simple terms, so that we could all understand it. These funds are important to their recipients, many of whom are elderly and vulnerable. It is also important that we do things properly, and the House will want to thank my

right hon. Friend the Leader of the House for ensuring that the time requested by the trustees for this debate was made available.

This is one of those moments when we can reach a consensus, and with that in mind I am happy to support the motions.

Question put and agreed to.

Resolved,

That this House resolves that pursuant to section 4(4) of the House of Commons Members' Fund Act 1948 and section 1(4) of the House of Commons Members' Fund Act 1957, in the year commencing 1st October 2004 there be appropriated for the purposes of section 4 of the House of Commons Members' Fund Act 1948:

(1) The whole of the sums deducted or set aside in that year under section 1(3) of the House of Commons Members' Fund Act 1939 from the salaries of Members of the House of Commons; and

(2) The whole of the Treasury contribution to the Fund in that year.

House of Commons Members' Fund (Uprating of Benefits)

Resolved,

That this House resolves that pursuant to section 3 of the House of Commons Members' Fund Act 1948 and section 2 of the House of Commons Members' Fund and Parliamentary Pensions Act 1981 ('the 1981 Act'), the amounts which may be or are to be paid out of the House of Commons Members' Fund specified in the First Schedule to the House of Commons Members' Fund Act 1939 ('the 1939 Act') and in section 2 of the 1981 Act respectively, shall be increased as follows:

(1) in paragraph 1 of Schedule 1 to the 1939 Act, as amended, (limits on discretionary payments to former Members of the House of Commons):

the amount of £4,574.35 shall be substituted for £3,554;

the amount of £8,444.66 shall be substituted for £6,561;

the amount of £8,806.34 shall be substituted for £6,842; and

the amount of £12,676.65 shall be substituted for £9,849.

(2) in paragraphs 2 and 2A of that Schedule, as amended, (limits on discretionary payments to the widows and widowers of former Members of the House of Commons):

the amount £2,858.65 shall be substituted for £2,221;

the amount of £6,728.96 shall be substituted for £5,228;

the amount of £5,504.93 shall be substituted for £4,277; and

the amount of £9,375.24 shall be substituted for £7,284.

(3) paragraphs (1) and (2) shall have effect from the date of this Resolution.

(4) with effect from the dates there specified, the amounts set out in the attached Schedule shall be substituted for the amounts mentioned in section 2(1) of the 1981 Act, as amended, (payments to eligible former Members of the House of Commons who have not been Members since 15th October 1964 or to their widows or widowers).

(5) on each 1st April, from 2005 onwards, the amounts of the limits applicable to payments under section 1 of the 1939 Act and of the payments specified in section 2 of the 1981 Act shall be increased by the relevant percentage and the amounts in the said sections 1 and 2 shall be substituted accordingly.

(6) the relevant percentage to be applied each April is the percentage change over 12 months in the retail price index as at the previous September.

The Schedule

Effective date	*Former Member's rate*	*Widow's/Widower's rate*
1st April 1995	£2,116.00	£1,323.00
1st April 1996	£2,198.64	£1,374.60
1st April 1997	£2,244.84	£1,403.52
1st April 1998	£2,325.72	£1,454.16
1st April 1999	£2,400.12	£1,500.60
1st April 2000	£2,426.52	£1,517.16
1st April 2001	£2,506.56	£1,567.20
1st April 2002	£2,549.28	£1,593.84
1st April 2003	£2,592.62	£1,620.94
1st April 2004	£2,665.21	£1,666.32

—[Dr. Stoate.]

DELEGATED LEGISLATION

Mr. Deputy Speaker (Sir Alan Haselhurst): With the leave of the House, I will put motions 6 and 7 together.

Motion made and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

SOCIAL SECURITY

That the draft Social Security (Intensive Activity Period 50 to 59 Pilot) Regulations 2005, which were laid before this House on 2nd February, be approved.

That the draft Social Security (Intensive Activity Period 50 to 59 Pilot) (No. 2) Regulations 2005, which were laid before this House on 2nd February, be approved.—*[Paul Clark.]*

Question agreed to.

EUROPEAN COMMUNITY DOCUMENTS

Motion made, and Question put forthwith, pursuant to Standing Order No. 119(9) (European Standing Committees),

PROTECTING THE EUROPEAN COMMUNITY'S FINANCIAL INTERESTS

That this House takes note of European Union Documents No. OJ C 293, the European Court of Auditors' 2003 Annual Report, No. 14549/04, Commission staff working paper: Complementary evaluation of the activities of the European Anti Fraud Office (OLAF), No. 11981/04 and Addenda 1 and 2, Commission Report: Protecting the Communities' financial interests and the fight against fraud—Annual Report 2003, and No. 11890/04, Commission Communication: Protecting the Communities' financial interests—Fight against fraud—Action Plan for 2004–05; and supports the Government's promotion of measures to improve financial management of the Community budget and to reduce fraud against the European Community's financial interests.—*[Paul Clark.]*

Question agreed to.

Mr. Deputy Speaker: With the leave of the House, I shall put motions 9, 10 and 11 together.

BUSINESS OF THE HOUSE

Ordered,

That, at the sitting on Wednesday 9th March, notwithstanding the provisions of paragraph (3)(a) of Standing Order No. 54 (Consideration of estimates), consideration of the Estimates set down for that allotted half day may be proceeded with, though opposed, for three hours, when proceedings shall be interrupted unless previously concluded; and on the interruption or conclusion of the proceedings, as the case may be, the Speaker shall proceed to put the questions which, under the provisions of paragraph (5) of Standing Order No. 54 and of paragraph (1) of Standing Order No. 55 (Questions on voting of estimates, &c), would otherwise fall to be put at the moment of interruption.

Ordered,

That, at the sitting on Thursday 10th March, the Speaker shall put the Questions necessary to dispose of proceedings on the Motion in the name of Mr Peter Hain relating to Support for Members who have chosen not to take their seats not later than three hours after their commencement; such Questions shall include the Questions on any Amendments selected by the Speaker which may then be moved; proceedings may continue, though opposed, after the moment of interruption; and Standing Order No. 41A (Deferred divisions) shall not apply.—*[Paul Clark.]*

SITTINGS OF THE HOUSE

Ordered,

That, at the sitting on Thursday 10th March, the Speaker shall not adjourn the House until any message from the Lords has been received, any Committee to draw up Reasons which has been appointed at that sitting has reported, and he has notified the Royal Assent to Acts agreed upon by both Houses.—*[Paul Clark.]*

PETITION

Turner and Newell Pension Fund

7.37 pm

Tom Levitt (High Peak) (Lab): The Turner and Newell pension fund was in crisis last summer, since when a number of petitioners, including a disproportionately large number from my own constituency, have put together a petition consisting of approximately 5,000 names.

The petition declares:

The projected shortfall in the Turner and Newell pension fund will ruin the retirement of thousands of people.

The Petitioners therefore request that the House of Commons urge the Government to take prompt action in order to address the problems with the Turner and Newell pension fund.

And believe that the Government should consider every option available to them to resolve this crisis.

And the Petitioners remain, etc.

To lie upon the Table.

Stem Cell Research

Motion made, and Question proposed, That this House do now adjourn.—*[Paul Clark.]*

7.38 pm

Dr. Ian Gibson (Norwich, North) (Lab): I am delighted to have this opportunity so early in the evening to raise the issue of stem cell research in the United Kingdom. As many Members will remember, we had several debates on this issue and thereby changed the legislation to allow such research to be carried out.

In a recent interview, Sir John Chisholm, chief executive of the part-Government-owned company QinetiQ—formerly the Defence Evaluation and Research Agency, which essentially was a collection of secret, military-based research laboratories—called for an audit of the innovation potential of large Government purchases, in order to encourage Ministers and civil servants to think more imaginatively about procurement of new technologies and products. He believes that the Government's record in supporting science and science-based industry is falling somewhat short. For example, liquid crystal displays constitute a £10 billion industry, yet little of that is exploited in the UK. How do we make science and raw innovation reap their economic benefits?

Although the UK has the ideas, it often lacks the enterprise to follow them through to market. The fear is that we will miss out on automatic breast scanners and many other new and exciting innovations in science. That is an example of the sort of circumstances that could pertain in stem cell research in this country.

The key issue is not really about the use of embryonic stem cells, but about creating medicines to treat some of the most debilitating diseases afflicting our population—Alzheimer's, motor neurone disease, Parkinson's, muscular disorders and, indeed, cancer. It looks as though the first products will be trialled in a few years' time. There is some argument, but a lot of hope, about that. Those products are likely to be based on adult stem cells or manufactured immortalised stem cells.

People often imagine or assume that projects emerge from basic research right away and move into the clinic for the benefit of patients. That, of course, is absolute nonsense. The translational research/scale-up/pre-clinical development stages all have to be carried out first, which can take some considerable time. Although there are few projects ready for the clinic today, many are ready to enter those earlier stages, and the costs associated with such translation steps are measured in millions of pounds. The assertion that there are no suitable projects is dangerously wrong and could be based on a misunderstanding of the steps required to bring the therapy to the clinic.

Mr. Tam Dalyell (Linlithgow) (Lab): My hon. Friend talks about millions of pounds, but there are tens of hundreds of millions of people whose health could be saved by these projects. On any felicific calculus, it would be hugely beneficial to all mankind if therapies were developed.

Dr. Gibson: I am grateful to my hon. Friend and I absolutely endorse his comments. It has been proven time and again that scientific innovation has such knock-on effects.

There is little or even no money for the translational steps from existing sources. One reason may be that such applied research does not generate much in the way of peer-reviewed publications and puts university departments—much of the work is being carried out at Newcastle, Edinburgh and so forth—at risk in research assessment exercises, which are concerned only with peer-reviewed journals. The consequences of that will, I believe, bear bad fruit. The money allocated to the Medical Research Council for stem cell research has been allocated to traditional hypothesis-driven research projects. We must move away from them.

Mr. Dalyell: My hon. Friend referred to Edinburgh. He will forgive me for saying that I am rector of that university and chairman of the university court. I do not usually like flogging qualifications, but I am also a Fellow of the Royal Society of Edinburgh. In those circumstances, I want to underline the very considerable concern—the Minister should note that it is very considerable—that exists in Edinburgh about the biological and medical sciences at one of the greatest universities in Europe. We are deeply concerned about the subject that is being debated tonight.

Dr. Gibson: I thank my hon. Friend and I have to confess that I too am a product of the excellent Edinburgh university system after a sojourn of some six years in that august city. As my hon. Friend knows, I often played at Easter Road stadium and at Tynecastle in the good old days before the huge wages and other problems that football now faces arose. The crowds were well behaved and it was unlikely that a chief executive would have run on to the pitch to exhort the crowd, "Let's be having you," and all the rest of it. I must say, incidentally, that Chelsea fans were excellent this week, shouting back at the Norwich fans, "You're going down with the soufflé," which I thought was rather apt in respect of the individual who had perpetrated an event at half-time a few weeks ago.

Applied research and development projects are conducted and judged in a very different way from hypothesis-driven research. In consequence, it will not solve the lack of funding to give a large new sum to the MRC for applied research, as it is simply not set up to administer such big projects. The best solution is the stem cell foundation, set up by Sir Christopher Evans, which has attracted much interest in high places in government and Whitehall. The idea is to bring together the brightest and best across the relevant fields and skill sets. Those with experience in managing the project selection process, pharmaceutical and biotech companies, have an invaluable role to play. The stem cell foundation will have the ability and the desire to pick winners and back them all the way through to the therapies being offered to the patients—our constituents. We must act swiftly if we are to capture the fruits of British research for the UK. We are already being overhauled by other countries, including China and Korea, in this sector and the risk of brain drain to the US is increasing rapidly.

[Dr. Gibson]

On the other hand, Professor Pedersen of Cambridge university told me recently that he came to this country to work on stem cells almost immediately following the Government's decision to allow such research to take place here. He says:

"As a stem cell refugee"—

that sounds like a novel breed—

"recently arrived in the UK, I am often asked whether I will return to my native California, now that they have voted to provide three billion dollars in funding for stem cell research. I answer that 'no, I am not ready to return to the US'. In my honest opinion, there is no guarantee that any State in the USA has the ability, or for that matter, even the intention, of providing treatments for UK patients with currently incurable diseases. There is simply too much opposition within the current administration to stem cell research to guarantee such an outcome."

A recent UN declaration is designed to prevent stem cell technology in its 191 member states and it was good to hear our Secretary of State for Health say that that declaration was "non-binding" and would make "no difference" to the position of stem cell research in the UK. We have put some £16.5 million into stem cell research and set up a stem cell bank in this country, so we are ahead of the game. Several UK scientists are doing world-class research, including at the Roslin Institute, another fine place in Edinburgh, where Dolly the sheep was created. Sterling work is being carried out there, particularly on motor neurone disease.

Mr. Dalyell: I should have mentioned that Ian Wilmut and others who work with him at Roslin are equally concerned. He and I wrote a letter to a Government Minister about the matter, and it is important to confirm that it is the Department of Health—and no other Department—that has the say in this matter.

Dr. Gibson: I thank my hon. Friend and I shall leave it to the Minister to reply and provide us with the relevant detail on that.

While all that has been going on in Britain, I have to say that a strong opposition has also developed. Some deeply resent the fact that we are creating embryos up to the 14-day stage in order to develop stem cell technology and they are infuriated by the stance that the Government have taken. We must be vigilant and maintain the excellence that we have already achieved.

At the same time, we are talking to our European partners and trying to develop a European framework for stem cell research, but it is proving to be very challenging. It is somewhat complicated because of the differences between the regulatory and legislative positions—or, indeed, the lack of regulation—in the different countries. It is further complicated by what may appear to be inconsistent legislation in some countries, which permits abortion and in vitro treatment, but bans research on early embryos. There is a long way to go before we have effective European initiative and agreement on this matter. We must carry the flag and ensure that Britain is ahead of the field.

One aspect that bothers many people is the European Union's fundamental objective in respect of research and its funding. It must allow co-operation between researchers from different member states, sometimes with different political perspectives, without fear of discrimination. In some countries, but not in others, the scientists will need some sort of protection. That is an important matter for European institutions such as the Commission and the European Parliament to take into account. Sometimes national laws prevent it, so we must actively find ways of ensuring that the necessary co-operation takes place. The solutions cannot be the responsibility of individual researchers. No one working in the EU should be punished or rendered liable to prosecution, restriction or discrimination if they participate in research, so long as it is undertaken in a country permitting such research. It is exciting that Europe is becoming involved and that scientists and medics across the world are starting to collaborate and fight the political pressures that discriminate against them.

How can we move UK stem cell research into the clinic as soon as is humanly possible? Our first priority must be to do a better job with the resources we have. Once we have accomplished that, we must ask for the additional resources that we need to get the research into the clinic. There will doubtless need to be substantially greater UK investment in stem cell research, with planning now for 2006 and beyond. Investment is needed at all levels: in training, research supplies, experienced people, improved equipment and even, perhaps, new laboratories, to make the most of the initiatives and expertise already invested and hard at work.

Mr. Dalyell: My hon. Friend referred to 2006 and beyond. Does he agree that the beyond part is very important? People in the field must have some certainty for five, 10 or even more years ahead. There must be some guarantee of continuity if their work is to be really effective.

Dr. Gibson: I concur absolutely. We cannot always predict what will come from novel, blue skies-type research. We must encourage people to develop new ideas and to practise them. Politicians often seem to work through short-termism, whereas in science and medicine we know that we are in the game for a lifetime and beyond. That culture has not yet got through to the political process.

I ask UK policy makers whether, having placed the UK flag in the continent of new knowledge, we are willing to defend it and to make the ongoing commitment that the new technological revolution will happen in this country. I hope that the answer will be yes.

7.51 pm

Mr. Tam Dalyell (Linlithgow) (Lab): Normally, I do not muscle in on debates raised by my hon. Friends, but as there is a lot of time I trust the House will forgive me if I make a short speech.

First, I must tell the Minister that her words tonight will be scrutinised by many informed and concerned people. The House of Commons may be pretty empty, but the *Hansard* report will go around university departments. I hope that the Minister will be able to say that stem cell research has the endorsement of the British Government and, in particular, that the decision will be made by the Department of Health, and no other Department.

Secondly, as a Scot, may I ask how much discussion there has been with the Scottish Executive? The whole funding of the research is something of a grey area between the Treasury, the Department of Health and the Scottish Executive. I make no criticism of that. To the best of my knowledge, the system works pretty well, but I would like confirmation that the Department has been properly consulted.

There is something else that bothers me. In the academic world in which we now live, there is enormous pressure to publish, publish, publish and to be accountable to this, that or the other. My hon. Friend the Member for Norwich, North (Dr. Gibson) will know of the dramatic and unusual case of a researcher who published nothing for eight long years, but at the end of the eighth year he published and was awarded his second Nobel prize. That researcher was Fred Sanger. With his prestige, he was in a position to do that, but let us for heaven's sake be patient in this field. Let us create a situation where there is not such a drive to show how much has been published and to judge people's work not on its quality but, alas, on quantity.

It is important that funding is provided for people who want to carry out long-term research without their being pressurised to produce. That is a matter of cardinal importance. What Governments can do about it may be rather complex, but the problem must be tackled.

Finally, if anybody has doubts about stem cell research they should go, as we all do in our constituencies, to Arthritis Care. They should see people who suffer from dementia or Alzheimer's. That will make the case for allowing the research to go forward. I hope that it is in no way threatened in our country.

7.55 pm

The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson): It is with pleasure that I rise to answer the Adjournment debate initiated by my hon. Friend the Member for Norwich, North (Dr. Gibson). He has raised an important matter. It is also a pleasure to see that two other Members are in the Chamber, including the Father of the House. It is good to know that even at this hour people are interested in discussing the matter. My hon. Friend has worked energetically to ensure that science and technology are up in lights before the House, and I know that he takes a close interest in stem cell research.

I have listened carefully to the points made by my hon. Friends the Members for Norwich, North and for Linlithgow (Mr. Dalyell). Before responding, as we have the luxury of a little extra time, I should like to remind the House of the regulatory and financial framework that the Government have put in place. I think that will help to demonstrate our firm objective to make the UK the envy of other countries in having a strict but enabling climate to foster this important field of research.

We want the best possible medical research to take place in the UK, so we have put in place a widely respected regulatory system that may license specific research activities involving embryos if it is satisfied that that is necessary to undertake the research. That has allowed scientists in the UK to derive new embryonic stem cell lines using spare embryos that are not suitable for use in IVF—in vitro fertilisation—treatment. Over recent years, the House has held mature debates on that subject.

Both my hon. Friends mentioned the Roslin Institute in Scotland. With the birth of Dolly the sheep at the institute, the ethical challenges of human cloning left the pages of science fiction and became stark reality. However, we confronted those challenges, and fulfilled a Government manifesto commitment, when we were one of the first countries in the world to ban reproductive cloning, under the Human Reproductive Cloning Act 2001. Anyone attempting that procedure in the UK will face prosecution with a possible 10-year prison sentence and a limitless fine. The strength of what we have done is shown by the fact that at the same time we recognised the enormous potential benefits that therapeutic cloning and stem cell research may bring.

It does the House great credit that in 2000, after careful and wise debate, new regulations were passed to permit the use of the techniques of cell nuclear replacement—or cloning—to develop embryonic stem cells. The regulations mean that embryonic stem cell research takes place in this country under the strict control of the Human Fertilisation and Embryology Authority. The use of therapeutic cloning techniques will allow UK scientists new methods to develop cures for serious conditions such as diabetes, motor neurone disease, arthritis and dementia, to which my hon. Friend the Member for Linlithgow referred, and many others.

Mr. Dalyell: I have confidence in the embryology authority, but there has been much press criticism of it. Do the Government have a view on that?

Miss Johnson: When I recently had the pleasure of appearing before the Science and Technology Committee, chaired by my hon. Friend the Member for Norwich, North, I expressed the view, on my own and the Government's behalf, that we have considerable faith in the work that the HFEA has been doing and in its role. People are always challenging the authority's work, sometimes through the courts, and there are indeed some challenges on which it would be wrong for me to comment. It is a difficult field, but the regulatory structures and frameworks are working well. The HFEA has an important role in maintaining trust and credibility in the structures that the House has put in place.

With the regulations that we have passed, UK scientists have the potential to use the new methods to develop cures for serious diseases. We are convinced that therapeutic cloning holds enormous promise for new treatments for serious degenerative conditions that are currently incurable, such as Parkinson's disease, heart disease and diabetes, which kill many millions of people a year. That was one of the contributory factors in a lot of the lobbying carried out by many organisations before the debates that took place in 2000 and 2001. That lobbying had a considerable influence on hon. Members, who rightly listened to the voices of the people who were dealing with the very difficult situations of millions of patients in this country and abroad.

In May 2004, the Government created the world's first stem cell bank: the UK stem cell bank will act as a repository for all types of stem cells and ensure that they

[Miss Johnson]

have been ethically and appropriately sourced. The bank also helps to fulfil our obligations to ensure that embryos will be used only for research into serious disease and when no other sources of material are available.

In August last year, the HFEA granted its first licence for therapeutic cloning to a team at Newcastle university—in fact, that licence was first of its kind in Europe—and in February this year, a second licence to study motor neurone disease was granted to the same team at the Roslin Institute where Dolly the sheep was created. So the UK cloning story has come full circle, with a display of confidence in the UK regulatory system from our own stem cell researchers.

Mr. Dalyell: Graham Bulfield, who was the director of the Roslin Institute and is now one of the vice-principals of the university of Edinburgh, was concerned at the time about the complexity of some of the regulations. This is difficult for the Government's lawyers, the parliamentary draftsmen and others, but is every effort being made to make the regulations as simple as they can be? Often it may be very difficult to make them simple.

Miss Johnson: I suspect that my hon. Friend understands very well the difficulty of keeping things simple. We certainly try to do our best—I am sure that civil servants do, too—to ensure that things are as simple as possible, but that is not always easy, when dealing with lawyers, sometimes including parliamentary draftsmen, in my experience, although I shall probably receive many brickbats for saying so in the House. I am sure that, to be fair to those who draft our legislation, such things may be particularly difficult with this issue. Obviously, all hon. Members on both sides of the House have an obligation to ensure that such things are kept as simple and uncomplicated as possible.

As my hon. Friend refers to the links with Scotland and Edinburgh, I should tell him that my noble Friend the Under-Secretary of State for Health in the other place deals with many of the day-to-day issues that relate to stem cell research, and I will draw his attention to the points raised about the links with Scotland and the Scottish authorities. Of course, although we are the lead Department, we are only one of a number of Departments. The Department of Trade and Industry is responsible for things such as research council funding, and I gather that the Foreign and Commonwealth Office also promotes UK stem cell research abroad. So a range of different Departments is involved. Of course, we try to keep in touch with colleagues in Scotland as closely as well can at all times.

Mr. Dalyell: The Scottish scientific community appreciates the work of Lord Sainsbury, and indeed that of his officials. May I also make it clear that, if any brickbats are thrown at parliamentary draftsmen, they do not come from me? I was taught a very early lesson when I asked Harold Macmillan—the Prime Minister when I was first elected to the House of Commons—a question, and he replied by saying that he would send the parliamentary draftsman to explain how difficult it was, so for the past forty-two and a half years, I have known the difficulties of parliamentary draftsmen.

Miss Johnson: I am glad that I have such distinguished friends on my side in what could be difficult fallout from the debate, I fear. May I tell my hon. Friend, however, that the noble Lord that I had in mind was Lord Warner? However, I entirely endorse his comments about Lord Sainsbury.

Of course, the Government are committed to make our country a world leader in stem cell research. In fact, that commitment has been taken up repeatedly by the Prime Minister, who made a major speech in 2003, in which he said that he wanted to make this country the best place in the world to carry out stem cell research.

Rob Marris (Wolverhampton, South-West) (Lab): The Government are doing a lot, as has been discussed tonight, but one measure of the Government's commitment, of course, is how much money is devoted to any field of endeavour. I realise from what the Minister has said that there is a multiplicity of programmes and perhaps a multiplicity of funding streams, but will she tell us roughly how much the Government spend each year on stem cell research? My understanding is that the sum needed, and what science would like to have, is about £90 million a year.

Miss Johnson: I am grateful to my hon. Friend for his question. I was going to come to spending in a moment, but I can do so now if that suits hon. Members.

In the 2002 spending review, the Government allocated £40 million to a major cross-Government investment in stem cell research. That will be made available in 2004–05 and 2005–06, with the following allocations: the Medical Research Council will receive £26 million; the Economic and Social Research Council, £1.8 million; the Engineering and Physical Sciences Research Council, £1.2 million; the Council for the Central Laboratory of Research Councils, £400,000; and the Biotechnology and Biological Sciences Research Council, £10.6 million.

In January this year, the Department of Trade and Industry announced that it will contribute £4.9 million in funding to three specific projects in stem cell research. Those projects are led by the companies NovaThera, Stem Cell Sciences and ReNeuron. The respective aims of the projects vary from identifying factors that control the reproduction and differentiation of stem cells to developing high-throughput screening for drugs and stem cell technology for neurological diseases. The projects range in size from £2.2 million up to £4.5 million, with between five and eight collaborators in each consortium. The DTI funding for each project ranges from £1.2 million to £2.1 million. Although seven of the collaborative partners are based in London or the south-east of England, the other partners are spread throughout the UK—two are from the east midlands or the east of England, three from the north of England, three from Scotland and one from Wales.

In the 2004 spending review, the Government announced £10 billion of spending on UK science over the period 2005 to 2008. In the new science spending allocations for the spending review announced today,

the UK funding for biotechnology, including stem cell research and DNA-based medicines, via the Biotechnology and Biological Sciences Research Council, will rise to more than £1 billion over the next three years. There will also be an increase over the next three years to £1.5 billion for the Medical Research Council, including more than £440 million for clinical research into diseases such as those related to mental health, stroke, cancers and diabetes. The DTI said today that the Government's spending on UK science will be the largest ever investment in British science by any Government and that it will rise to more than £3.4 billion a year by 2008. We believe that that is a testament to our commitment to make the UK the best place in the world to do science.

Mr. Dalyell: Those figures are impressive, but so is the generosity of several foundations, not least the Wellcome Trust. Are Ministers at ease with the co-ordination that takes place between the Government and the great and generous foundations? Is the research meshed to the best effect?

Miss Johnson: I might not be the best person to answer that question in detail because stakeholders beyond myself, both in Government and outside, are involved. However, I can say that we are comfortable with the work that we have done. We are comfortable with the support that we have received from the Wellcome Trust, especially, and delighted with the work that it has done with us.

Dr. Gibson: Does my hon. Friend agree that the best way forward is to ensure that charities, foundations and the industry work well with the research councils? There is a rumour that research councils often take umbrage if they think that other bodies are taking work away from them. Do we need to use political force to drive the bodies together?

Miss Johnson: There will always be anxiety about relationships in different organisations and sectors, but I understand that things are generally working well. I am sure that the various Ministers with a strong interest in the matter in the key Departments that I mentioned, including the Department of Health, make every effort to ensure that the relationships go well.

Rob Marris: I realise that not all the research funding to which my hon. Friend refers comes from her Department. Can she tell me, either now or later, how much of the funding is spent on blue skies research—pure research? I appreciate that politicians sometimes find that difficult to justify. There is a circular argument when people ask why we fund such research, because we have to try to explain that there is no reason to fund it, in one sense, because if there was such a reason, the research would no longer be pure. However, pure research is vital to a modern economy. Can she give us an idea of the balance of research funding?

Miss Johnson: I do not have a figure to hand that I can give my hon. Friend. However, I certainly accept—I am sure that Government do, too—the point that both he and my hon. Friend the Member for Norwich, North have made about research. Research for research's sake is often a starting point for the development of technologies that are useful for our society, so we must continue to support and respect that. We support that general argument in both word and deed.

We are funding the UK stem cell bank, which is based at the National Institute for Biological Standards and Control. As I said, the bank is the first of its kind. It will hold all types of stem cells as a resource for researchers. It was launched on 19 May 2004 and will hold embryonic, foetal and adult stem cell lines. The bank recently received good manufacturing practice—GMP—accreditation following an inspection by the Medicines and Healthcare products Regulatory Agency, thus allowing therapeutic stem cell lines to be stored and distributed. In December 2004, the world patent office gave the bank the status of an international depositary authority under the Budapest treaty, which means that it can act as an official storage and distribution centre for patented stem cell lines.

In November 2004, the Reproductive Genetics Institute, which is based in London and Chicago, announced that it would establish a stem cell bank in London with 18 embryonic stem cell lines that were created in Chicago. The cells are suitable only for research because they are not of a sufficiently high standard for use in patients. We support and encourage all activities that might turn stem cell research into real treatments. It is worth noting that the NIBSC bank alone will be able to store and supply clinical grade material for therapeutic use. We think that the work going on there is one of several jewels in the crown of stem cell research.

My hon. Friend the Member for Norwich, North touched on the question of what is happening at UN level. As I have said, the UK has been totally opposed to human reproductive cloning and we were one of the first countries to ban it. At the same time, however, we have allowed therapeutic cloning. I endorse his point about the United Nations debate. I understand that more action will take place in the UN tomorrow. It is likely that a non-binding political declaration on cloning will be adopted. The UK has voted against the declaration thus far because it calls for the prohibition of all cloning, including therapeutic cloning. We have made it clear that that declaration will have no effect whatever on UK stem cell research. I gather that the matter has to go before the General Assembly—that might be happening tomorrow—so there are further stages to be completed.

I was a little surprised that my hon. Friend did not mention the East of England stem cell network. It was set up with funding from the East of England Development Agency. It brings together key organisations involved in the important field of research, including the Cambridge University Hospitals NHS Foundation Trust. Given his interest in both East Anglia and stem cells and bioscience, I am sure that he will support and promote the network.

Dr. Gibson: I apologise to the Minister, but I sit on that committee, so the matter must have escaped my mind. Our new chair is Mary Archer, so we will have a hard-hitting team to ensure that the east of England rises up to the excellence displayed by Edinburgh.

Miss Johnson: I declare an interest in all things connected with the east of England, as an MP for that region. I thought I would give my hon. Friend an opportunity to mention his ongoing interest. I gather that the network will be launched at the Sanger institute in Hinxton, Cambridge, tomorrow.

My hon. Friends the Members for Linlithgow and for Norwich, North mentioned the UK stem cell foundation, about which there have been several recent reports. I understand that its specific purpose will be to fund the translation of stem cell preclinical research into clinical trials and possible treatments. As my hon. Friend the Member for Norwich, North said, it takes a long time for an initial idea to reach a stage at which it can be applied to change people's lives every day. One of the foundation's stated aims is to ensure that the UK remains at the vanguard of regenerative medicine. I understand that the principal backer of the proposal is Sir Chris Evans of Merlin Biosciences. He proposes a public-private partnership involving researchers, funders, entrepreneurs and members of the pharmaceutical industry to fund stem cell clinical trials. Plans for the proposal are well advanced.

Before my hon. Friend the Member for Norwich, North rises to point this out, the board of the body has already been assembled, and I believe that he is a member. Other illustrious members include Sir Richard Branson, Sir Robert May, Sir Richard Sykes, Lord Winston, Trevor Jones, and Professor Roger Pedersen, who has already been mentioned. Sir Chris proposes that the UK Government should commit funding to the foundation over a 10-year period, with match funding from the private sector. The Government will be happy to consider any proposals from the UK stem cell foundation with interest. Lord Warner is meeting the foundation later this week to discuss matters of mutual interest.

Dr. Gibson: Perhaps my hon. Friend will address the ethical and moral issue. I have said that there is a difference between countries in Europe, but there is also a difference between people in this country. There are still some people who are annoyed by stem cell research and embryonic nuclei being used. How do the Government see things progressing? How do we handle attempts to prevent research from going ahead on ethical and moral grounds?

Miss Johnson: I think that we have settled a good deal of that through debates in this place. We do not see the need to reopen many of those debates. It was clear on a free vote that the ratio was about 3:1 in favour of the regulatory arrangements that we have, both the permitting ones and the banning ones. That makes it clear that we understand the value of therapeutic cloning arrangements and the use of stem cells in that context. We are completely opposed to reproductive cloning. The House has made clear its view. The majority on a free vote indicated clearly how strongly Members are in favour of the arrangements that we now have in place.

Dr. Gibson: We did have eyeball to eyeball contact in the House. However, real new issues are arising. For example, there is the development of embryo cells to produce organs for what is called a save-your-sibling procedure. That creates new tensions other than the therapeutic cloning that we have debated. That was the major issue then. There are many other avenues now. We have debated these matters, but I do not think that they are over by a long shot.

Miss Johnson: I would never suggest that any matter is over by a long shot when we debate it in the House. Obviously, debates will continue. My hon. Friend is right that some new areas of discussion and debate have opened up. Some of these areas are the subject of legal discussion and consideration. I am sure that he appreciates that I cannot comment on those. The Select Committee is giving consideration to various issues and we are looking forward to hearing what it opines before we take forward our own consideration on some of these difficult matters.

Dr. Gibson: We are having one heck of a time debating human embryology and the changes that we would like to see. I have just escaped from the Select Committee and the debate is continuing. The Committee is now in its seventh hour on the report, so no one must hold their breath.

Miss Johnson: We could be in the interesting situation of Ministers pressing the Select Committee to come to a considered view about something, which might be a reversal of how things normally happen. I look forward to seeing the results of the Committee's seven hours of deliberation.

Mr. Dalyell: May I place it on the record that as one who has written an unconscionable number of letters, often on arcane scientific subjects, to my hon. Friend and to the Health Minister, my hon. Friend the Member for Doncaster, Central (Ms Winterton), as well as to Lord Warner, I am impressed by the quality of the replies that come these days from the Department of Health? It is entirely to the credit of Ministers' officials and their technical advisers that they answer seriously and in depth. I am glad that they are supporting the Department.

Miss Johnson: I shall ensure that those kind remarks are drawn to the attention of the powers that be. I thank my hon. Friend .

The Government have invested £45 million in stem cell research between 2004 and 2006. I have already outlined the investment that is to come. We know through life-threatening diseases such as Parkinson's, chronic heart conditions and diabetes that stem cell technology has the potential to revolutionise medicine in the 21st century, in the same way that antibiotics transformed medical treatment in the previous century. We are funding the UK stem cell bank. It is the first of its kind in the world. It is a leading venture that we wholeheartedly support.

The UK regulatory system is well regarded and the envy of the world. We have the first regulation and first approval of research for therapeutic purposes. We now have the longest running regulatory body of its sort in the world. We have ensured that reproductive cloning has been banned. We are, of course, a world leader in stem cell research. I have outlined the research that has been permitted and the companies in which we are investing.

I hope that I have made it clear that we are giving this matter high priority and a great deal of support. We know that funding is not the only solution. We have only to look across the Atlantic to the situation in California and other US states to be aware that money alone will not be sufficient to nurture development and to lead to the medical breakthroughs for which we are desperately hoping. We will continue to engender a regulatory environment that is as supportive and enabling as possible for UK stem cell research. We know, however, that even that will not be enough. As we have seen at the UN, it is our responsibility to commend our position on stem cell research at all opportunities in the international arena. It is only with all these approaches that the Government will continue to champion the UK as a world leader in stem cell research, both now and in the future.

Question put and agreed to.

Adjourned accordingly at twenty-six minutes past Eight o'clock.

House of Commons

Tuesday 8 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

PRIVATE BUSINESS

LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL *(By Order)*

Order for Second Reading Read.

To be read a Second time on Tuesday 15 March.

Oral Answers to Questions

TRANSPORT

The Secretary of State was asked—

Wales-Merseyside Links

1. **Ian Lucas** (Wrexham) (Lab): What steps he is taking to improve transport links between Wales and Merseyside. [220402]

The Minister of State, Department for Transport (Mr. Tony McNulty): A scheme to improve the cross-border route between the M56 and Deeside Park is in our targeted programme of road improvements. Work is planned to start in 2006–07.

There is scope for services on the Wrexham to Bidston railway line to improve the use of community rail principles now that the Strategic Rail Authority has included it in its community rail development strategy.

Ian Lucas: I am grateful to my hon. Friend for that reply. The economy of north-east Wales is prospering at the moment, but that is bringing with it much congestion, particularly on the roads. Will he meet the Transport Minister of the National Assembly for Wales as soon as possible to discuss the electrification of the Wrexham to Bidston line—a project that could take forward the general principles of shifting people from the roads to rail, improve access to Merseyside from north Wales and ensure that individuals travel to work by train, rather than in their cars, to areas such as the Deeside industrial estate?

Mr. McNulty: I am certainly more than happy to meet our Welsh colleague. My hon. Friend will know that a study is being commissioned by a consortium of north Wales local authorities—the Taith consortium—and Merseytravel to consider the electrification of all or part of that line. I am more than happy to meet the Welsh Minister to discuss that, as well as other broad improvements to link north Wales and Merseyside.

Mr. Mike Hall (Weaver Vale) (Lab): My hon. Friend is aware that one of the ways that he could improve rail links between north Wales and Merseyside would be to re-signal and dual the Halton curve, thus providing a link directly from north Wales to Merseyside, a link to the Allerton interchange and the Mersey light railway and access to the Lake district. May I press him to say something positive about that, please?

Mr. McNulty: I met my hon. Friend and my hon. Friend the Member for Ellesmere Port and Neston (Mr. Miller) to discuss that specific issue. I can confirm that the SRA is not proceeding with any closure process for the Halton curve. My hon. Friend will know that, although some work is planned for the Crewe-Weaver-Ditton section of the west coast main line route this year, the need to determine the curve's future is likely to rest, as he suggests, with the re-signalling work that needs to be done, currently in 2010. I certainly assure him that, at some stage between now and 2010, we will resolve the future of the Halton curve.

Mr. Robert N. Wareing (Liverpool, West Derby) (Lab): Can my hon. Friend tell the House what assistance, including financial assistance, will be given to the proposed new Mersey road crossing between Widnes and Runcorn? That crossing would do a tremendous amount to relieve the congestion between Liverpool and the other side of the River Mersey.

Mr. McNulty: I am grateful to my hon. Friend for that question. There has been extensive talk on this matter between Halton borough council and the Department. A lot of work has been done. We have most, if not all, the information that we need to move towards a decision, and I have assured those at Halton that we will make a decision at the earliest possible opportunity.

Rail Passengers

2. **Bob Spink** (Castle Point) (Con): What assessment he has made of the maximum length of time passengers on main line trains should be expected to stand. [220403]

The Secretary of State for Transport (Mr. Alistair Darling): Train operators are required by their franchise agreements to ensure that, under normal circumstances, no passenger should need to stand where the journey lasts more than 20 minutes. For journeys of less than 20 minutes, it has always been understood that some passengers will stand, especially at peak times.

Bob Spink: I am grateful to the Secretary of State for that clarification. The Southend-on-Sea Railway Travellers' Association believes that there are now fewer coaches and fewer seats on the c2c line than at any time over the past 50 years. Clearly, to stop standing during long journeys, we need more coaches for the c2c line. Will he support my fight to get the five units that were transferred from the c2c line to Great Eastern returned

to the c2c line, where they should be used to reduce overcrowding and standing? And while I am here, may I ask for a new railway station for Canvey and its new third road?

Mr. Darling: On the first point, yes, I can tell the hon. Gentleman that the intention is to return the railway carriages that were deployed elsewhere during this year. They will certainly be returned by the end of the year, but, I hope, earlier than that. And while he is here, I note his call for more spending on the railways, but he will have to square that with the fact that the Conservative party's sums in relation to railways simply do not add up. It is committed to cuts that make the opening of any new railway station fanciful.

Richard Burden (Birmingham, Northfield) (Lab): Increasing capacity on trains so that passengers do not have to stand can sometimes require increasing capacity at strategically important stations so that they can accommodate longer trains. Does my right hon. Friend thus welcome plans that are being worked up for a new gateway station at Birmingham New Street and the fact that a lead consultant for that project will be announced on Thursday so that Britain's second city can have the 21st century gateway station that it deserves?

Mr. Darling: I agree with my hon. Friend that that step is welcome. Anyone who is familiar with Birmingham New Street station will realise that it needs to be improved. It is not an especially good gateway to Birmingham and the midlands, and it suffers from terrible overcrowding, which sometimes means that it must be closed. Some £250 million has been put forward by various backers in the west midlands and I hope that we can come forward with a workable and affordable plan for Birmingham New Street. I agree that the project is a useful next step to ensure that Birmingham has a station serving not only the city, but the wider west midlands area.

Mr. Tim Yeo (South Suffolk) (Con): Is the Secretary of State aware that since the timetable changes affecting Ipswich, Manningtree and Colchester commuters were introduced last December, far more passengers than before are having to stand on trains for much longer than 20 minutes and the reliability of service is now scandalously bad? Is he further aware that the Strategic Rail Authority failed to consult the Manningtree Rail Users' Association in a timely way before making the timetable changes? Will he support my call for the Strategic Rail Authority to reinstate the old timetable forthwith and issue a warning to 'one', the train operator, that if its performance does not improve this year, it may face the sack?

Mr. Darling: I was just looking at the performance figures for 'one' throughout the whole area in which it operates. The most recent figure is 92 per cent., which is much better than it was in the past. I think that the hon. Gentleman is raising a specific constituency point and as I have said before, if he would care to write to me about that, I shall look into it. I shall also pursue the apparent failure to consult.

The evidence thus far is that the timetable changes have, in the most part, improved reliability. For example, the reliability of South West Trains is now well up in the 90 per cent. range, which should be encouraged. However, there will inevitably be specific cases of timetable changes not working out, so if the hon. Gentleman wishes to write to me, I shall look into that.

Mrs. Betty Williams (Conwy) (Lab): My right hon. Friend will be aware that passengers travelling from north Wales to London Euston are standing for unacceptably long times. Is he aware that Meridian trains are standing idle in sidings? Will he hold discussions with the Strategic Rail Authority to try to persuade the people who make such decisions that those trains can be used by Virgin Trains, because that would make life a lot easier for passengers travelling between north Wales and London?

Mr. Darling: I shall look into the matter, but I do not think that that is right. The trains that are supposed to be in service are in service, although I am aware that there have been problems in north Wales, which I shall examine. The difficulties are partly caused by the continuing and irritating problems encountered by the new Pendolino trains on the west coast main line, which are causing disruption and an unacceptable service at the moment. The situation is caused in part by track problems and also by the unreliability of the new trains. I shall examine the specific problem that my hon. Friend raises, but I am not aware of trains that have been delivered but are not in service. That was a problem in the past, but I do not think that it is the case at the moment.

John Thurso (Caithness, Sutherland and Easter Ross) (LD): Being forced to stand on trains is of course a function of overcrowding and an experience all too familiar to many commuters. Is not part of the answer to introduce new services, such as that brought in by the East Sussex community rail partnership between Uckfield and London Bridge last December? It is an excellent service, but it is not being fully promoted because of a lack of funds. Why did the Government scrap their previous pledge of £312 million for rail partnerships over three years from 2003–04, because that would have helped to promote exactly such a service?

Mr. Darling: Last November, we announced an initiative to promote the community services highlighted by the hon. Gentleman, and we have provided financial backing to go with it. He is right that additional services help to reduce overcrowding, and there are now 2,000 more week-day services on Britain's railways than was the case in 1996–97. In addition to that substantial increase, nearly 2,000 new railway carriages have been introduced on the network since 1999, thus increasing capacity. We are therefore increasing the number of services and adding capacity, which is one reason why the trains now carry more passengers than at any time since the early 1950s. In addition, nearly 14,000 more spaces are available on London commuter services during the peak times in the morning and afternoon. We are therefore making changes, but I readily accept that there is still more work to be done.

Renewable Fuels

3. **Mr. Colin Challen** (Morley and Rothwell) (Lab): What progress his Department has made in developing renewable energy-based road transport. [220404]

4. **Paul Flynn** (Newport, West) (Lab): What proposals he has to increase the use of environmentally-friendly transport fuels. [220405]

The Secretary of State for Transport (Mr. Alistair Darling): The Government's main support for environmentally friendly transport fuels has to date been through fuel duty incentives, but we are also carrying out a feasibility study into the possibility of requiring suppliers of road transport fuels to sell a given percentage of renewable fuels.

Mr. Challen: I am grateful to my right hon. Friend for his reply. Yesterday, the Government published their sustainable development strategy, "Securing the Future", which reminds us that they have set a target for 2012, when 10 per cent. of all new cars that are sold should be low-carbon vehicles. The Government intend to

"take this forward with the intention that 10 per cent. of all its vehicles will be low carbon by 2012".

Could that target be reviewed very soon, because the UK has one of the largest liquefied petroleum gas filling station networks in Europe, and with a complete renewal of our fleet in the next seven years we could set a higher target than 10 per cent. and follow the Prime Minister's words in the foreword—

Mr. Speaker: Order. We will leave those words until later.

Mr. Darling: I am sure that we all know the words off by heart, Mr. Speaker.

My hon. Friend is right to emphasise the importance of making sure that we have as many low-carbon cars, lorries and vans on the roads as possible. The 10 per cent. target was set three or four years ago. Although about 3 per cent. of cars on the roads are comparatively low-carbon, very few produce less than 100 g of carbon per kilometre. We are confident that, in the next two to three years, new technology will increase their usage. Through a variety of means, including incentives such as fuel duty and so on, the Government have encouraged the industry to produce more fuel-efficient cars. LPG is available, but cars using biofuels and conventional fuels will also become more efficient. We want to push that forward, but of course we will keep the targets under review. Targets must be stretching and demanding, but they must also be realistic.

Paul Flynn: The targets are commendable, but they are not good enough. Within five years, transport will be the main source of greenhouse gas emissions and we hear almost daily warnings from scientists about the dangers of global warming. The more eminent and knowledgeable the scientist, the more terrified they are about that prospect. Is not true that we now face a future in which our planet may not be habitable for our grandchildren?

Mr. Darling: No, I do not think that that is right, and neither is what my hon. Friend said about transport producing the most emissions in a few years' time—it produces about 20 per cent. at the moment. As I recollect, a large of proportion of emissions come from domestic activity as well as from industry. However, he is right that the Government have a responsibility to do everything that they can to encourage the use of low-carbon cars, greater fuel efficiency and energy generation for railways, where there has been a 20 per cent. improvement in the past 10 years. We have made it clear that we want to develop such initiatives for aviation during our European Union presidency. We are making progress—cars are much cleaner and more efficient than they were 10 or 20 years ago—but of course we need to do much more. However, we must be realistic about what can be done, and must avoid causing undue and unjustifiable concern.

Sir Sydney Chapman (Chipping Barnet) (Con): In July last year, the Government set themselves the target of 0.3 per cent. biofuels as part of the total automotive fuel market. As it is now 2005, will the Secretary of State confirm that sales would have to increase sixfold to meet that target? Does he see a likelihood of that happening in the remaining nine months of the year?

Mr. Darling: Sales are increasing, and the Government have announced a 20 per cent. reduction in fuel duty to encourage biofuels. The hon. Gentleman may be aware that two factories producing biofuels will come on stream this year, one in Motherwell and one on Teesside. As I told the House a few moments ago, it is encouraging that after a slow start, there are many reasons to believe that the Government's policy of additional fuel duty incentives and encouragement to the industry will bear fruit. We are all united in wanting to see progress as quickly as possible so that we can reduce emissions from cars and lorries as much as we can.

Mr. Greg Knight (East Yorkshire) (Con): Does the Secretary of State realise that a greater use of environmentally friendly fuels will have minimal impact so long as the Government persist in supporting anti-car policies? Does he accept that the use of green fuels would have a far bigger impact if combined with effective congestion-busting policies, such as properly phased traffic lights, no more speed humps, and the suspension, where appropriate, of bus lanes during the rush hour—a policy successfully introduced by Conservatives in Birmingham?

Mr. Darling: It is probably fair to say that transport policy in Birmingham is in a state of flux. The local bus company, which spent rather a lot of money buying buses in anticipation of being able to use the bus lanes, is now being told that it cannot use the bus lanes and is in some difficulty. If we want to encourage people to use public transport rather than their cars, I would not have thought that what the Conservatives are doing in Birmingham is the best advertisement. The right hon. Gentleman mentioned speed bumps. I wonder whether he listened to the performance of his boss on the "Today" programme this morning. He had proposed an amendment to the effect that all speed bumps would have to be taken out within two years, but when he was challenged by the "Today" presenter, Mr. Stourton, he

said, "Well, no, I didn't actually mean that. It was just a probing amendment." The hon. Member for South Suffolk (Mr. Yeo) tabled an amendment, then ran away from it as fast as he could. That is the nonsense of the Conservative party policy on transport.

Mr. David Clelland (Tyne Bridge) (Lab): Is my right hon. Friend aware how welcome it is that a British Government have finally woken up, 50 years after its invention in this country, to the important role—*[Interruption]*—that linear motor can play in the provision of fast, efficient, environmentally friendly inter-city transport? Can we look forward to early indications that serious consideration is being given to this mode of transport, known elsewhere as Maglev, being introduced in the UK?

Mr. Darling: I apologise to my hon. Friend—just as he was making the most telling point in his argument, somebody's mobile phone went off, so I may have missed what he was trying to say. If he was referring to Maglev—magnetic levitation—we obviously need to consider that technology, although there is currently only one example of a Maglev train running any distance—that is, 30 km in China. The sort of distances that we are contemplating, though not great by comparison with distances in China, are considerably longer. Now that we have fixed many of the problems that affected the performance of the railways in the past, as a Government we need to consider what additional capacity will be necessary in the future and look at the possibilities that might be presented by high-speed rail links. However, I should tell my hon. Friend that Maglev is only one of a number of possibilities, and it would be quite wrong to suggest that we are committed to that particular course of action, as some people outside have sought to do. We are examining a variety of options. What is important is that we look ahead and plan for the future.

Mr. Patrick McLoughlin (West Derbyshire) (Con): What has happened to the commitment made by the Secretary of State's boss, the Deputy Prime Minister, that there would be fewer car journeys in Britain by the end of the Labour Government?

Mr. Darling: One of the reasons that there are more journeys and more people travelling is that our economy has been growing in each successive year and each successive quarter since 1997. That is reflected not just in road transport, but in the fact that the railways carried a billion passengers last year—more than at any time since the early 1950s—and more people are flying, because we have a strong, successful economy and people are better off and more prosperous than they ever were under the Conservative Government or would be if the Conservatives ever returned to office. At the same time, because of that growing prosperity, we are able to put more money into transport. We have doubled transport spending, which the Conservatives were never able to do.

Integrated Kent Franchise

7. **Miss Ann Widdecombe** (Maidstone and The Weald) (Con): What assessment he has made of the impact on railway users in Kent of the specification by the Strategic Rail Authority for the integrated Kent franchise.

[220408]

The Minister of State, Department for Transport (Mr. Tony McNulty): The service pattern that will be introduced in 2009 will improve the speed, reliability and overall capacity of the network in Kent. There will be a 10 per cent. increase in the number of services arriving in London in the morning peak, once the new service pattern is introduced. The franchise specification takes into account feedback from a range of consultations held from February to April 2004, as a result of which several changes were made to the proposals.

Miss Widdecombe: Is the Minister aware that my constituents do not recognise that rosy picture? The reality of the SRA specification will be a reduced number of carriages in peak hours, which will mean more commuters standing for longer, a reduced number of services from Staplehurst to Cannon Street, regardless of the fact that 65 per cent. of early morning commuters want to go to Cannon Street, and a reduction in peak-time services from Barming, East Farleigh and Yalding. All those changes are based on a crazy methodology that assesses usage by ticket collection, even when no tickets are collected.

Mr. McNulty: I am aware of those concerns. I know that the right hon. Lady had great fun at the Staplehurst rail forum meeting on 31 January this year, which has already resulted in 36 letters to me, and I am sure that others are on the way. People have raised their concerns about services from Staplehurst and on the Maidstone East line. During the morning peak, the specification for Maidstone East is 10 trains to Victoria and one to Blackfriars, compared with the current configuration of seven and two, which is an overall increase of two trains. The right hon. Lady and others have raised concerns about the Maidstone East line, and the SRA will review the split of trains between Blackfriars and Victoria and let people know the outcome.

Marden will receive an extra four trains during the morning peak, and the configuration will be changed with more trains to Charing Cross and fewer to Cannon Street, although the SRA has assured me that it will see whether the split between Cannon Street and Charing Cross can be altered. The off-peak specification is for two trains an hour compared with the current three, and the reduction in frequency reflects current and projected loading.

Those concerns are well made, and I shall respond in full to the 36 letters—I assume that more will arrive—in due course, but the SRA will examine the configuration of the London termini.

Clive Efford (Eltham) (Lab): I am grateful to my hon. Friend for indicating that he is prepared to listen to representations on the outcome of the consultation, which was rendered entirely false when the recent document was published. I was consulted directly by the former chair of the SRA on six off-peak trains per hour, two of which would have gone to Victoria. At that time, there was no suggestion that the Victoria service would be cut, yet that is exactly what has happened. During the

consultation, my constituents and I had no opportunity to comment on that service being cut, so I am pleased to hear that my hon. Friend is prepared to listen.

Will my hon. Friend also consult disabled people, who will find it difficult to use those services?

Mr. McNulty: The SRA fully consults the disabled community as well as others.

My hon. Friend is referring to the tail end of consultation. The notion that the SRA's consultation on the IKF was anything other than lengthy and detailed is not fair, but if he has ongoing concerns on behalf of his constituents, I shall certainly examine them and pass them on to the SRA.

Mr. John Horam (Orpington) (Con): Is the Minister aware that there is real concern that the SRA's views and plans will cause further overcrowding on commuter lines into London, particularly at stations such as Petts Wood, where rush hour services will be reduced significantly? Will he therefore confirm the view expressed by the SRA to the three Bromley MPs—I am pleased to see my right hon. Friend the Member for Bromley and Chislehurst (Mr. Forth) in his place—that those proposals are not set in concrete and that the SRA will listen to legitimate concerns and show some flexibility?

Mr. McNulty: As I said to the right hon. Member for Maidstone and The Weald (Miss Widdecombe) as regards services to Staplehurst and on the Maidstone lines, the SRA has already given that indication and will keep the situation under review with a good deal of flexibility. We need to bed in the new franchise at the earliest opportunity and to marry the channel tunnel rail link domestic services with the existing services on the Kent line, but there will of course be that flexibility.

Railways (Corporate Responsibility)

8. **Mr. David Heathcoat-Amory** (Wells) (Con): When he last discussed corporate responsibility with the chairman of the Office of Rail Regulation. [220409]

The Secretary of State for Transport (Mr. Alistair Darling): I have regular meetings with the chairman of the Office of Rail Regulation. We have discussed corporate responsibility, and if the right hon. Gentleman would care to let me know which aspect he has in mind, I would be happy to help him further.

Mr. Heathcoat-Amory: As I understand it, the Government want to increase corporate responsibility and the liability of company directors, who may in future be additionally liable for corporate manslaughter charges if their companies cause accidents or injury. My question is this: are Ministers and the Government also to be made liable for their acts or omissions which may cause accidents on the railways, or are the Government planning one set of rules for the private sector while protecting themselves against similar liabilities?

Mr. Darling: I hope that the Government will present their proposals on corporate manslaughter in the not-too-distant future. In relation to the Office of Rail Regulation, the right hon. Gentleman may be aware that I have had discussions with the chairman of the board. I want to ensure that the rail regulator and his board can carry out their functions without fear of litigation so that they can ensure that we have a safe and reliable railway, but at the same time I accept that, where appropriate, someone who is responsible for certain activities should face up to that. In the meantime, we have made it clear that the Government will indemnify the rail regulator and the board, and a minute to that effect has been laid before the House.

Mr. Tim Yeo (South Suffolk) (Con): On corporate responsibility, we should bear in mind that a majority of Network Rail members recently voted to improve its accountability by establishing a members' council to scrutinise this business, whose operations remain largely shrouded in secrecy and which may well be spending considerable sums of taxpayers' money inefficiently. Will the Secretary of State back that call; and if not, is it because he is afraid of what it might reveal?

Mr. Darling: Not really, no. I am aware of the move by several members of Network Rail to establish greater scrutiny. I welcome and support that, because the more questions that can be asked of the company, the better its management will be. Nevertheless, since it took over from Railtrack—the Conservatives are probably the only group of people left in this country who support that company—it has become much more efficient and accountable, and is running its responsibilities far better than Railtrack ever did. *[Interruption.]* The hon. Gentleman asks where is the evidence for that. Let me give him one example. When Railtrack was around, it told us that it could do up the west coast main line for £2.5 billion—that was the back-of-the-envelope calculation that it came up with. By the time that it finally stopped trading, the cost had risen to £13.5 billion for the same amount of work. Now, the final cost is likely to be about half that—about £7 billion—as a result of the increased efficiencies and improvements brought about by Network Rail. So yes, I back what is happening in Network Rail because it is a much better way of running the railway than Railtrack ever was.

Mr. Speaker: I call Mr. Jim Cunningham to ask Question 10.

Mr. Robert N. Wareing (Liverpool, West Derby) (Lab) *rose—*

Mr. Speaker: Order. The hon. Gentleman cannot have two bites at the cherry. He stood earlier and I called him, so his question is now unstarred. That is the rule of the House.

John McDonnell (Hayes and Harlington) (Lab): On a point of order, Mr. Speaker.

Mr. Speaker: Order. The hon. Member for Liverpool, West Derby (Mr. Wareing) was not called because he was called during a previous question. That is the rule of the House.

Motor-Cycle Accidents (Coventry)

10. **Mr. Jim Cunningham** (Coventry, South) (Lab): How many accidents involving motor-cycles took place in Coventry in each year since 1997. [220411]

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): In 1997, there were 81 accidents in Coventry involving at least one motor-cycle. The figures for subsequent years are as follows: in 1998, there were 85; in 1999, there were 80; in 2000, there were 81; in 2001, there were 80; in 2002, there were 88; and in 2003, there were 99. Figures for 2004 are not yet available.

Mr. Cunningham: I thank my hon. Friend for that answer. How many deaths resulted from those accidents?

Mr. Jamieson: There were a total of eight deaths in that period. We are greatly concerned about the number of deaths of motor cyclists and the Government are doing a great deal to reduce it. My hon. Friend probably knows that, a couple of weeks ago, we launched the motor cycle strategy, which was welcomed by the motor cycle community as a major contribution—indeed, the first such contribution that a Government have made—towards recognising motor cyclists' needs.

Mr. David Kidney (Stafford) (Lab): If the national statistics apply to Coventry generally, will my hon. Friend confirm that, although motor cyclists constitute one in 100 road users, one in five motor cyclists suffers death and serious injuries? Is not that a shocking statistic? What will the new motor cycling strategy mean in terms of reducing those deaths and injuries?

Mr. Jamieson: Those figures are correct and a concern to us, given that motor cycling is a good alternative form of travel, especially for people on limited or low incomes.

In the hazard perception test, we have introduced a section to deal with looking after motor cyclists and vulnerable road users. The advisory group on motor cycling, which we set up five years ago, has consistently given the Government good advice, which has resulted in a strategy with 44 different aims, to be fulfilled over a period of time.

The publicity material that we are producing for posters and magazines and on television will raise issues to do with motor cyclists, especially making motorists aware of each other's needs on the roads. It is an important matter—motor cycling should be part of the mainstream transport system in this country but we must make it safer.

East Coast Main Line

11. **Hugh Bayley** (City of York) (Lab): What representations the Department has received from members of the public about the east coast main line rail franchise. [220412]

The Secretary of State for Transport (Mr. Alistair Darling): My Department has received a substantial number of representations from members of the public regarding the InterCity east coast franchise.

Hugh Bayley: There is no doubt that GNER has performed substantially better than any other train operating company. The fact that 20,000 members of the public have written to support its bid is testimony to that. Given that GNER's current franchise ends in only a few weeks, does my right hon. Friend agree that the current uncertainty should be ended as soon as possible? Will he make an announcement about the outcome of the franchise competition shortly?

Mr. Darling: I hope to make an announcement about the franchise shortly.

Miss Anne McIntosh (Vale of York) (Con): I concur with the comments of the hon. Member for City of York (Hugh Bayley). The vast majority of constituents who have written to me—I have forwarded their letters to the Secretary of State—are in favour of GNER's bid.

The franchise should not be awarded only on value for money but on customer service. Will the Secretary of State respond to a newspaper report that GNER is being asked to pay £100 million to the Department? On what basis would that happen? Should not the money go towards improving an already excellent service?

Mr. Darling: The hon. Lady is no doubt aware that the railways work on the basis that operators are invited to bid for franchises. At some point, we must get money from at least some of the train companies that operate the franchises because we pay large sums to other operators that are not in such a happy position. I find it odd that a Conservative Member advocates that we should not accept money from people who are taking on a franchise and running trains. If she did not accept such money, she would have to confront the problem of making up the difference.

I am well aware of the representations about GNER and people's feelings about it. As I said to my hon. Friend the Member for City of York a few moments ago, I expect to be in a position to make an announcement on the franchise in the near future.

Trust Ports

12. **Jim Knight** (South Dorset) (Lab): If he will make a statement on the future of trust ports. [220413]

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): Following publication of our review of trust ports, "Modernising Trust Ports—A Guide to Good Governance", trust ports have taken active steps to modernise their legislation and to render themselves more open and accountable to their stakeholders. The Government welcome the steps taken so far and will encourage continued progress.

Jim Knight: I am grateful to the Minister for that reply. The Government's attempt to prevent the privatisation of the trust port at Poole has been formally objected to by the hon. Member for Christchurch (Mr. Chope) on behalf of the official Opposition. The privatisation of Poole would be a disaster for the harbour, 75 per cent. of which is in my constituency, because the surpluses that are currently spent safeguarding the interests of walkers, sailors, anglers

and fishermen would go to shareholders. Will the Minister promise to continue to resist the privatisation of Poole?

Mr. Jamieson: I can offer my hon. Friend a total assurance on that. Seven of the ports involved are currently pursuing harbour revision orders, but, sadly, six of them have been objected to by the hon. Member for Christchurch. That procedure is preventing ports throughout the country from planning for the future investment that they want to make. The difference between us and the Conservatives is that we want to modernise the ports, while they want to privatise them.

Mr. Alistair Carmichael (Orkney and Shetland) (LD): Does the Minister agree that the future of the trust ports is inextricably linked to the health of the British shipping industry? In that regard, does he share my concern—and the concern expressed by the National Union of Marine, Aviation and Shipping Transport Officers, NUMAST—that the tonnage tax has not delivered much of the hoped for security of employment and training benefits? Now that the first cadets trained under the tonnage tax are qualifying, what steps will the Government take—

Mr. Speaker: Order. I did not even call that question. I call Mr. Chope.

Mr. Christopher Chope (Christchurch) (Con): To return to the issue that we were discussing, may I ask the Minister whether he agrees that the former trust ports that have been sold are now thriving in the private sector? Why will he not support our policy of allowing the port of Dover to be sold, with the proceeds of the sale being used for vital transport infrastructure improvements? That policy was announced yesterday to acclaim in the port of Dover.

Mr. Jamieson: It would be more helpful if the hon. Gentleman would tell us why he is objecting to the harbour revision orders relating to six of the trust ports, which means that they cannot now go ahead with their investment plans. I believe that £6 million of investment is now being held up in Poole by the hon. Gentleman's objection. I am sure that the proposed privatisation of Dover will come as interesting news to the people of Dover in any future election, along with the spurious promises that the hon. Gentleman made about road and rail infrastructure improvements in that area. There is a clear difference between us: we want to modernise these ports and to see them thrive; the hon. Gentleman wants only to privatise them.

Speed Safety Cameras

13. **Bob Russell** (Colchester) (LD): How many speed safety cameras have been removed in the past three months; and for what reasons they were removed. [220414]

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): The latest data from the safety camera partnerships indicate that two fixed speed and seven mobile speed camera sites were removed in the quarter ending December 2004, when they were no longer required. A number of temporary cameras were also removed when motorway repairs had been completed.

Bob Russell: I am grateful to the Minister for that reply, and I congratulate him on his resistance to those who wish to remove speed cameras, bearing in mind that it has been proved that speed cameras save lives and reduce the number of crashes. Will he give the House an assurance that he will put up equal resistance to the latest idiotic proposals to remove speed bumps from residential streets?

Mr. Jamieson: The safety camera partnerships have been extremely successful in reducing casualties—[HON. MEMBERS: "And in raising money!"] Well, Opposition Members may say that, but many Tory authorities have been assisting the police in installing such cameras to reduce deaths and injuries on the roads in their area. In response to the point raised by the hon. Member for Colchester (Bob Russell), speed humps have also played a major part in reducing casualties, particularly on some of the side roads and minor roads in our cities. I find it quite extraordinary that the Opposition spokesman, who was on the radio this morning, should say that this vital safety measure—

Mr. Speaker: Order. We do not need to hear about that.

Mr. Peter Pike (Burnley) (Lab): Will my hon. Friend confirm that, despite the lobby against speed cameras, the average speed of vehicles in most towns that have such cameras has been reduced, as has the number of accidents? It is better to face large numbers of people protesting about being fined for driving too fast than to face just one person who has suffered the tragedy of an accident caused by speeding.

Mr. Jamieson: My hon. Friend is absolutely correct. We set targets to reduce overall casualties by 40 per cent. over the 10-year period. To date, we have achieved a 26 per cent. reduction, while the number of children killed or injured in the past three years has dropped by 40 per cent. The desire of Conservative Members to remove cameras is inexplicable when all the evidence provided to us, even by some Conservative councillors, suggests that they are playing a major part in reducing the number of casualties, in particular the number of children killed and injured on our roads.

New Roads (South-east)

15. **Sir Teddy Taylor** (Rochford and Southend, East) (Con): What discussions he has had with the Deputy Prime Minister about the implications for plans to build new roads of the proposed housing developments in the south-east. [220416]

The Secretary of State for Transport (Mr. Alistair Darling): Ministers in the Department work closely with our counterparts in the Office of the Deputy Prime Minister on the transport implications of the proposed housing development in the south-east.

Sir Teddy Taylor: As Southend-on-Sea already has a serious traffic congestion problem, is the Secretary of

State aware that the council simply does not want to agree to massive new housing developments until a decision is taken on a ring road, which is desperately important, particularly for Shoeburyness? Could the Departments come together to make sure that the roads are sorted out before exciting new housing developments proceed?

Mr. Darling: We propose to spend about £3.5 billion on major transport schemes in the four growth areas. In relation to the particular ring road that the hon. Gentleman has mentioned, I would be happy to arrange for him to meet my colleague the Minister of State so that the issue could be discussed further. I say that without raising his hopes unnecessarily and unjustifiably, but I take the general point that additional housing must have sufficient transport infrastructure to support it. I will arrange for him to see my colleague so that the matter can be discussed further.

Small Ports

16. **Tony Cunningham** (Workington) (Lab): If he will make a statement on Government support for small ports. [220417]

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): The Government recognise that even small ports have the potential to play a significant role in their local and regional economies. Our ports policy provides a basis for all ports to exploit opportunities for development. The Government offices and regional development agencies have a proven track record in working with ports in their regions.

Tony Cunningham: I thank my hon. Friend for that reply, but what are the Government doing to support small ports in my constituency such as Maryport and Silloth? In particular, what support will be given to the port of Workington in the light of the recent Corus decision, which will have a significant impact on the port and the people of west Cumbria?

Mr. Jamieson: I congratulate my hon. Friend on raising those issues so assiduously in the House and with me when I visited him some time ago. He will know that at Workington, more than £4 million has been earmarked for West Lakes Renaissance for investment in the port, and a feasibility study associated with that is under way. Significant funding has also been committed to the redevelopment of Barrow, Whitehaven and Maryport for the benefit of the local communities. Small ports are important to us, and the importance of Workington to my hon. Friend's constituents is recognised by the Government and the regional development agency.

Passenger/Freight Traffic (River Thames)

20. **Simon Hughes** (Southwark, North and Bermondsey) (LD): What plans he has for developing passenger and freight river traffic on the River Thames. [220421]

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): The Government are keen to see the Thames used—[Hon. Members: "Ah!"] We are a little more prepared today than those on the Opposition Benches. We are keen to see the Thames used for both freight and passenger traffic. Transport for London is responsible for passenger services on the Thames, and patronage has risen by 17 per cent. since 2000–01. TFL has also safeguarded some freight wharves through the London plan process. In addition, my Department can provide grant to encourage freight on the river.

Simon Hughes: The last ones are often the best. I am grateful to the Minister for his answer, but he will be conscious that this question relates not just to the part of the Thames within Greater London but to the stretch that goes beyond London's boundaries. Does he accept that if we can put much more freight on the Thames, that is excellent news for the environment, and if we can put many more commuters and passengers on the Thames, that is excellent news for the environment and users? Will he work with the Greater London authority to make sure that, in the foreseeable future, we get more and better services not just throughout Greater London but right down the Thames estuary?

Mr. Jamieson: I can give the hon. Gentleman an absolute assurance that we will do that. We want more passengers to use the Thames. As for freight, we will shortly announce a grant that will allow about 2 million tonnes of material to be moved from Battersea by river rather than road. That will take many vehicles off the road. We will actively encourage the continuation of that policy for both passengers and freight.

CHANCELLOR OF THE DUCHY OF LANCASTER

The Chancellor of the Duchy of Lancaster was asked—

Government Advertising

21. **Mr. Henry Bellingham** (North-West Norfolk) (Con): If he will make a statement on his role in the co-ordination of policy across Departments for the elimination of waste in expenditure on the advertising of Government policies. [220422]

The Chancellor of the Duchy of Lancaster (Mr. Alan Milburn): My hon. Friend the Minister for the Cabinet Office has responsibility for the Central Office of Information, whose procurement processes are designed to ensure maximum value for money. It is of course for individual Ministers, who are accountable to the House for the work of their Departments, to decide how much is spent on advertising.

Mr. Bellingham: Is the Chancellor of the Duchy aware that Government expenditure on advertising has risen from £40 million in 1997 to a staggering £194 million last year—an unbelievable fivefold increase—and is set to hit £260 million by 2007? Is he aware that much of that money is being spent not on advertising civil service vacancies, but on promoting Government policy and initiatives? That does nothing to improve public

services. Does the right hon. Gentleman not agree that it constitutes barely disguised party-political propaganda and an abuse of public funds?

Mr. Milburn: The hon. Gentleman is wrong. He is well aware that part of the advertising money is spent on recruiting members of the armed forces, nurses, teachers and police officers, while part of it is spent on important take-up campaigns. The Government spent £10 million on advertising pension credit, and 3 million pensioners have taken it up.

Miss Anne McIntosh (Vale of York) (Con): It is a mess.

Mr. Milburn: The hon. Lady may say that, but I understand that pensioners are gaining an average of £40 a week. I do not think that they consider it to be a mess.

We also spent £7 million on advertising our tax credits, and 6 million hard-working families are benefiting from that today. We spent £6 million on advertising the new deal, which has helped 1 million people off benefit and into work. I know that the hon. Gentleman opposes that spending, and I suspect that that is because he opposes the programmes.

Mr. Gordon Prentice (Pendle) (Lab): Why are we not spending more on advertising the minimum wage? Many people in Pendle do not know that it will rise to £5.05—not a king's ransom—in October, and to £5.35 next year. Why do we not advertise that?

Mr. Milburn: My hon. Friend is doing his best to advertise it, and I commend his efforts. He is right: the minimum wage is rising above £5 an hour for the first time later this year, and will rise still further next year and, I hope, in the years to come.

As my hon. Friend will recall, there was a time when political parties were saying—I think it was said by the Government of the day—that a minimum wage, rising or otherwise, would cost 1 million jobs. Today we have a rising minimum wage and a rising number of people in work—2 million more jobs have been created—but I suppose that that is the difference between a Labour Government and a Tory Government.

Ministerial Posts

22. **Mr. Graham Brady** (Altrincham and Sale, West) (Con): What assessment he has made of the effect on public expenditure of the decision to separate his post from that of the Minister for the Cabinet Office.

[220423]

The Chancellor of the Duchy of Lancaster (Mr. Alan Milburn): I have made no such assessment. Any such costs will be published in the Cabinet Office annual report and resource accounts for 2004–05, which will of course be laid before the House.

Mr. Brady: Is it not patently obvious that if the Department is to assess the cost of keeping a separate office at the end of the financial year—and we are a few weeks away from that—it must have estimated the cost by now. It is absurd for the Chancellor of the Duchy to claim otherwise. His colleague the Minister for the Cabinet Office has written to the Chairman of the Public Administration Committee to that effect—

Mr. Speaker: Order. That is enough.

Mr. Dennis Skinner (Bolsover) (Lab): He thought he was introducing a ten-minute Bill.

Mr. Milburn: I am always grateful for my hon. Friend's advice.

I think that the hon. Gentleman is well aware of the position. The accounts will be published, and I understand that they will be more detailed than before. They will be laid before the House in due course. As the hon. Gentleman knows, however, expenditure on private offices varies according to the number of Ministers in the Cabinet Office at any one time.

If it will help the hon. Gentleman, I can give him some historical figures relating to the current Government. *[Interruption.]* I do not know what those other figures are yet because we are not at the end of the financial year. It is self-evident that we are not at that stage. When we are, the figures will be published and, of course, they will be given in more detail than ever before.

Mr. Tam Dalyell (Linlithgow) (Lab): Could I appeal to Ministers of State to apply their minds to the thoughtful memorandum that they have had from the distinguished retired Scottish Office civil servant Ronald Cramond and in particular his concerns about political parties not influencing the job prospects of civil servants?

Mr. Milburn: I am not aware of the correspondence to which my hon. Friend refers, but I will, of course, look into it.

Matthew Taylor (Truro and St. Austell) (LD): In the light of the issue of the costs of his employment and office, has the Minister given any thought to how much more time he will be able to put—post possible general election, when he no longer will have his role for the Labour party—into the job of Government and to how much more cost-effective his office may then be?

Mr. Milburn: I am absolutely delighted that the Liberals are making a prediction about the outcome of the general election. Well done.

Dr. Julian Lewis (New Forest, East) (Con): It is quite obvious that the Chancellor of the Duchy would not like the country to know how much his office is costing until after the election is over, so may I try to assist him? May I advise him that, according to my reckonings, he has spent at the Dispatch Box since his appointment somewhat less than the 45 minutes for which this dodgy Government will ever be remembered? It works out at about £2,000 a minute at the Dispatch Box. Does he think that his special friend, the Chancellor of the Exchequer, would regard his record as good value for money?

Mr. Milburn: What I regard as remarkably poor value for money is the Opposition Front-Bench team. In all

my time at this Dispatch Box, given my responsibilities for the co-ordination of Government policy—*[Interruption.]* The hon. Gentleman could have asked me a question about education, but I have not had a single question about it. With my responsibilities for the wider co-ordination of Government policy, he could have asked me a question about health policy, but we have not had a single health question. We have not had a single question on jobs, on child care, on pensions or on the economy. I think that I know the reason for that: the hon. Gentleman has precisely nothing to say and his party's policies would damage the economy, damage our public services and cut investment by £35 billion.

CABINET OFFICE

The Minister for the Cabinet Office was asked—

Civil Service (Fast Stream)

24. **Mr. Ben Chapman** (Wirral, South) (Lab): What steps he is taking to ensure that entry to the civil service fast stream is representative of society as a whole. [220425]

The Minister for the Cabinet Office (Mr. David Miliband): There is a wide range of initiatives in place to encourage applications from diverse groups to the fast stream, including outreach and work experience programmes. The recruitment and assessment process is constantly reviewed with a view to achieving a fast-stream graduate programme that is representative of society as a whole.

Mr. Chapman: The British civil service has traditionally been one of the highest regarded in the world because we have traditionally recruited the best, rather than necessarily the representative. How does my hon. Friend intend to square that circle in the upcoming fast-stream recruitment round?

Mr. Miliband: I think that, by opening the civil service to as wide a range of talent as possible, we can boost excellence in the civil service. [HON. MEMBERS: "Dumbing down."] The Opposition say, "Dumbing down." That is revealing. We believe that, if we reach out to all sections of society and encourage them to apply to the civil service, we will raise standards. I would have thought that the whole House welcomed the fact that the targets for ethnic minority recruitment to the senior civil service have been met; more than 3 per cent. of the senior civil service are now from ethnic minorities. I would have thought that the whole House welcomed the fact that 700 members of ethnic minorities went on a summer experience programme in the civil service with a view to being fast-stream recruits. I would have thought that that is something that the whole House should welcome. It is something that my hon. Friend for Wirral, South has campaigned on for a long time and I think that he will be pleased with the developments that we were seeing.

Mr. Eric Forth (Bromley and Chislehurst) (Con): But will the Minister give us an absolute assurance that the sole basis on which people will be recruited to the civil service, particularly the fast stream, will be merit and ability, and nothing else?

Mr. Miliband: The answer is yes, yes, yes. Of course entry to the civil service is based on merit. The idea that a question about opening up the civil service to the whole of society—*[Interruption.]* Just a minute. The idea that the policy of opening up the civil service to all sections of society should prompt questions about dumbing down says more about the Opposition than about the programmes that are in place.

Points of Order

12.30 pm

Mr. Patrick McLoughlin (West Derbyshire) (Con): On a point of order, Mr. Speaker. Bearing in mind what the Chancellor of the Duchy of Lancaster has just told the House—that in future it will be possible for us to question him on a range of wider issues—will you ensure that the Table Office no longer refuses questions on such issues? Perhaps the right hon. Gentleman would ask why Labour Members have failed to ask him such questions.

Mr. Speaker: It seems that we are extending Question Time. Those in the Table Office are Officers of the House of the highest standard. They reject questions only if they go against the rules of the House—*[Interruption.]* Order. I am not responsible for the Minister's reply, which is the last thing for which I want to be responsible.

Mr. Oliver Heald (North-East Hertfordshire) (Con): Further to that point of order, Mr. Speaker. The Chancellor of the Duchy of Lancaster listed a range of subjects—education and almost every other subject on which a question could be asked. Will it be in order for us to ask him questions about any Government brief, or should we concentrate on the co-ordination of policy? What is your ruling, Mr. Speaker?

Mr. Speaker: It is not a question of my ruling. The hon. Gentleman should go along to the Table Office to find out whether his questions are accepted. The Officers of the House have wide experience of such matters and will look after hon. Members.

Mr. Dennis Skinner (Bolsover) (Lab): Further to that point of order, Mr. Speaker. Do you agree that as the Tory Opposition receive £4 million a year of taxpayers' money, they should be bright enough to table questions without having to beg you to tell them how to do the job they are paid to do? *[Interruption.]*

Mr. Speaker: Order. I sense a general election coming up and I shall not be drawn into these matters.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Further to that point of order, Mr. Speaker. You heard the Chancellor of the Duchy of Lancaster making a typically cheap gibe at the Opposition when he accused us of not ranging widely when questioning him. Surely, you must accept that that puts the Table Office at odds with the right hon. Gentleman. Who will win?

Mr. Speaker: What I say to the right hon. Gentleman is what I have said before. He should go along to the Table Office and let it worry about the matter.

BILL PRESENTED

PREVENTION OF TERRORISM (No. 2)

Mr. William Cash presented a Bill about the Prevention of Terrorism: And the same was read the First time; and ordered to be read a Second time on Friday 18 March 2004, and to be printed [Bill 78].

Royal Marriages (Freedom of Religion)

12.31 pm

Mr. Edward Leigh (Gainsborough) (Con): I beg to move,

That leave be given to bring in a Bill to allow any member of the Royal Family to marry a person of any religion or none.

You will be aware, Mr. Speaker, of the position under the constitution, which dates back to the Act of Settlement 1701. That position is clear. If a member of the royal family—anyone in line to the succession—took it upon themselves to marry a Roman Catholic, they would automatically be excluded from the line of succession. There is no doubt about that and there is no recourse to ask permission of the monarch or anyone else. They are automatically excluded.

That provision, which is discriminatory and applies only to Roman Catholics is wrong and should be removed from our statute law. There have been numerous attempts to remove it by, for example, my right hon. Friend Lord Forsyth in another place who intends to raise the matter again today, the right hon. Member for Dewsbury (Ann Taylor), the hon. Member for Hull, North (Mr. McNamara) and many others. I am not sure whether it has happened before, but yesterday, Cardinal O'Brien, the primate of Scotland, made a public statement as a result of my moving this Bill today. He said that the provision is clearly discriminatory and a breach of the human rights of members of the royal family, and that it should be repealed. I look to other members of the hierarchy to come out of the closet, or perhaps the sanctuary, and to move the campaign forward.

Of course, one can ask whether such an act of discrimination is right. The answer is that it is clearly not right for any country to have in its constitution a prohibition that applies to only one religion. The French constitution forbids the wearing of religious dress in school, but that applies to all religions, which is quite different. The British prohibition applies only to Roman Catholics. For instance, Prince William, if he chose, could marry somebody who was Jewish or Muslim, or even an atheist or agnostic. He could even marry a satanist. That would be allowable. After all, the Royal Navy allows satanism, although not—apparently—animal sacrifices aboard ship. Is that acceptable?

Is the provision logical? It is obviously illogical. For instance, Prince William would be barred from the succession if he were to marry a Roman Catholic, but if his bride became a Roman Catholic after the marriage ceremony, he could go on to become the monarch. That is ridiculous. A male member of the royal family, if he were so inclined, could choose to contract a civil partnership with a Roman Catholic man, under recent legislation.

Out of the universe of eligible young women in Europe and around the world, the ban applies only to Roman Catholics. That infringes their human rights. Surely enough damage has been done by legislation telling members of the royal family whom they should marry. It is time to move on, let them fall in love with whoever they please and get on with it like everybody else.

What are the objections to my modest Bill? The Prime Minister has been asked about the issue on numerous occasions. He says—he cannot say anything else—that

[Mr. Edward Leigh]

he is against discrimination, but that he has other priorities, the issue is too complicated and the Government have better things to do. But what would happen if a young prince should meet a young Roman Catholic girl? Would we have legislation rushed through Parliament by the necessary date? That would be ridiculous when we could deal with the matter now.

The Bill is very narrow. It is not complicated and it would not require amending or repealing vast quantities of Acts of Parliament. In pursuit of a recent Bill, the Government had to amend 57 Acts, but my Bill would require amending only three or four. The real reason the Government have not done this before is that they think that they would have to amend the Statute of Westminster and obtain the consent of the entire Commonwealth, including Australia. However, I am assured by those who advise me that that would not be necessary. My Bill would not affect the position of the monarch and therefore there would be no need to amend the Statute of Westminster.

The argument that changing would be too difficult or complicated does not add up. I am delighted to see the Under-Secretary of State for Constitutional Affairs, the hon. Member for Tottenham (Mr. Lammy) in his place on the Front Bench. The Government pride themselves on attacking discrimination wherever it is found, so why do they allow this discrimination to exist in the British constitution of all constitutions?

Mr. John Bercow (Buckingham) (Con): They're so old-fashioned.

Mr. Leigh: My hon. Friend makes his point.

The second objection is, so we are told, that the Catholic Church has a requirement that in mixed marriages—I deplore that phrase—the couple are required to bring up any children as Roman Catholics. Nothing could be further from the truth. It is true that one is expected to make an effort to try to bring up one's children as Roman Catholics in such cases, but one is not required to do so. Indeed, Prince Michael of Kent, when he married a Roman Catholic in 1978, was automatically barred from the succession, although he has chosen to raise his children as Anglicans. If Prince William or Prince Harry were to marry a Roman Catholic, there is no reason why their children should not be brought up as Anglicans.

Personally speaking, I am happy with the established Church. I am happy that the monarch should be Supreme Governor of the Church of England. I am happy that the monarch should be in communion with the Church of England, and nothing in my Bill would affect that. Why then do we continue to have a bar placed on marriage to a Roman Catholic by a member of the royal family?

The time for this Bill, or something like it, has now arrived. My noble Friend Lord Forsyth said, in another place, that the clause was the constitution's "grubby little secret". It perpetuates the values of 16th and 17th century Britain and religious disputes.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Otherwise, it is rather good.

Mr. Leigh: The measure may be rather good otherwise, as my right hon. Friend says, but it is not appropriate. It perpetuates the myth that Catholics are disloyal. I accept that there was a problem with the gunpowder plot, but surely we could be forgiven after 300 or 400 years. The time has come to get rid of this discriminatory legislation.

I was talking to my parish priest last Sunday and he told me that the last of the Catholic Relief Acts was passed as late as 1927. I was not aware of that. Up to that date, Dominicans, Jesuits or Franciscans entering Britain had to register with the Home Office. They had some sort of control order placed on them. It is hard to believe that such measures could exist within living memory.

We got rid of those laws, so why do we retain this "grubby little secret" on our statute book? Like everyone, Catholics have the right to live in a society that is truly non-discriminatory and which values people for what they are.

The time has come to pass this Bill into law, and I commend it to the House.

Question put and agreed to.

Bill ordered to be brought in by Mr. Edward Leigh, Mr. William Hague, Mr. Iain Duncan Smith, Mr. Frank Dobson, Mr. Kevin McNamara, Mr. John Burnett, Dr. Evan Harris, Mr. Francis Maude, Mr. Bernard Jenkin, Jim Dobbin, Mr. Stephen Pound and Mr. John Bercow.

Royal Marriages (Freedom of Religion)

Mr. Edward Leigh accordingly presented a Bill to make provision to allow any member of the Royal Family to marry a person of any religion or none: And the same was read the First time; and ordered to be read a Second time on Friday 8 April, and to be printed [Bill 79].

Orders of the Day

Road Safety Bill

As amended in the Standing Committee, considered.

New Clause 14

TESTS: APPROVED LANGUAGE TRANSLATORS

'In the Road Traffic Act 1988, before section 163 insert—

"Requirement for approved translators

162A Test language translators

(1) The Secretary of State may by regulations require that, if a person who is not fluent in the English language submits himself for a relevant test and wishes to be accompanied at the test by a translator, he may only be so accompanied if the translator is approved in accordance with regulations under this section in relation to a language in which the person is fluent.

(2) The regulations may make provision in relation to the approval of persons as translators and may, in particular, include provision—

(a) in relation to the making of applications for approval,

(b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount,

(c) in relation to the period for which an approval is to have effect and withdrawing approval,

(d) authorising the imposition of conditions on an approval,

(e) for an appeal to lie to the Transport Tribunal against a refusal of an application for approval, the imposition of conditions on an approval or the withdrawal of approval,

(f) prescribing circumstances in which an approved translator may not act as such,

(g) as to the evidencing by persons of their status as approved translators, and

(h) authorising the Secretary of State to make available (with or without charge) information about approved translators.

(3) The following are relevant tests—

(a) tests of competence to drive a motor vehicle prescribed by virtue of section 89(3) of this Act or section 36(5) of the Road Traffic Offenders Act 1988,

(b) examinations of ability and fitness (or continued ability and fitness) to give driving instruction for which provision is made by virtue of section 132 of this Act, and

(c) emergency control assessments under section 133A of this Act."'.

—[Mr. Jamieson.]

Brought up, and read the First time.

12.42 pm

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): I beg to move, That the clause be read a Second time.

Since the Bill was introduced to the House of Commons, we have been considering the legislation covering arrangements for regulating translators at driving tests, and we have concluded that we ought to remedy its deficiencies. In short, we have decided, after careful reflection, that the existing law is not clear enough in this regard.

The new clause will provide a much improved framework for regulation of translation services at driving theory tests by introducing more robust conditions and better and more transparent checks on those who act as translators. It will also enable us to extend the scope of our current arrangements so as to assist candidates taking their practical driving test. The examination of a person's fitness and ability to give driving instruction and the emergency control assessment taken by disabled driving instructors are also covered.

The powers will enable the Driving Standards Agency to impose conditions on approved translators in respect of their initial and ongoing approval. It will also be able to require approved translators to produce evidence of their approval to theory test invigilators and practical test examiners and charge reasonable fees for administering the approved translator arrangements. Finally, it will be able to make information available about approved translators and publish information about their language specialisms, the geographical area covered, and so on. In addition, there will be a right of appeal to the transport tribunal in respect of the DSA's decision regarding refusal to grant approval, withdrawal of approval, and the imposition of conditions.

These improved arrangements are essentially anti-fraud measures. They will help to prevent unscrupulous persons from becoming translators in an attempt to improperly assist candidates to pass tests of competence to drive that they would otherwise have failed, thereby facilitating identity fraud. They also represent a customer service improvement. Candidates will be able to make use of approved translator services for the practical driving test and the emergency control assessment, and for examinations of fitness and ability to give driving instruction. Such services are currently restricted to the theory test.

I hope that Members will accept the new clause.

12.45 pm

Mr. Greg Knight (East Yorkshire) (Con): We regard this new clause as sensible and necessary, largely for the reasons outlined by the Minister. Indeed, this is perhaps the first and last time that I can say during consideration of this Bill that I wholeheartedly agree with him. As a lawyer, I am aware that the law in this area is unclear, and there may be occasions when an inappropriate person is acting as a translator, and when the temptation to commit fraud could arise. Can the Minister confirm, however, that generally speaking, the fees to be paid to the translator will be passed on to the person taking the driving test, and that where that person lodges an appeal that proves unsuccessful, the costs will follow the event? In other words, will the person appealing have to pay the costs of the appeal if it fails?

Subject to hearing what the Minister has to say on those two points, we support the new clause.

Mr. Jamieson: I am very pleased to hear of the right hon. Gentleman's welcome for this new clause, which will enable the DSA to charge translators for being put on the approved register and ensure that checks such as criminal record checks can be carried out on them. It will also ensure that information on translators is made

[Mr. Jamieson]

publicly available by, for example, putting it on the website. On the appeals system, the standard transport tribunal arrangements that obtain in many other areas will apply. However, I will examine the question of who would pay in the event of an unsuccessful appeal and write to the right hon. Gentleman on that point. I accept his welcome for this useful little new clause, and I hope that it will become part of the Bill.

Question put and agreed to.

Clause read a Second time, and added to the Bill.

New Clause 1

Funding of Speed Awareness and Driver Improvement Course

'(1) The Vehicles (Crime) Act 2001 (c. 3) is amended as follows.

(2) In section 38 (Unified power for Secretary of State to fund speed cameras etc.) after subsection (1)(a) insert—

"(aa) such educational or training programmes undertaken by that authority as may support the activities in (a),".'. —*[Mr. Chope.]*

Brought up, and read the First time.

Mr. Christopher Chope (Christchurch) (Con): I beg to move, That the clause be read a Second time.

Mr. Speaker: With this it will be convenient to discuss the following:

New clause 2—*Incentives for undertaking driver improvement and speed awareness courses*—

'If a person who has at least seven and no more than eleven penalty points endorsed on his driving licence subsequently successfully completes a driver improvement course or speed awareness course authorised by the Secretary of State, he shall be entitled to have the number of penalty points endorsed on his licence reduced by three.'.

New clause 3—*Maximum penalty for dangerous driving*—

'In Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988 (c. 53) (Prosecution and punishment of offences: offences under the Traffic Acts), in the entry relating to section 2 of the Road Traffic Act 1988 (c. 52) (dangerous driving) in Column (4) (punishment) for "2 years" substitute "5 years".'.

New clause 4—*Causing death by driving whilst unlicensed*—

'If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class he is guilty of an offence.'.

New clause 6—*Causing death by driving whilst disqualified*—

'If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place while disqualified from driving by order of a court he is guilty of an offence.'.

New clause 7—*Speed limit on rural roads*—

'(1) A maximum speed limit may be designated by a relevant authority for all rural roads in an area.

(2) Where the area is the whole of England, the relevant authority—

(a) is the Secretary of State;

(b) may designate, amend or remove a speed limit by order subject to the negative resolution procedure.

(3) Where the area is that of a highway authority, the relevant authority—

(a) is the highway authority;

(b) may designate, amend or remove a speed limit by making a traffic order.

(4) Where the area is that of a principal authority which is not a highway authority, the relevant authority—

(a) is the highway authority whose area includes the area;

(b) may designate, amend or remove a speed limit by making a traffic order.

(5) Notwithstanding the provision of other enactments no sign or other device shall be required for an order made under subsection (2) to have effect.

(6) Notwithstanding the provisions of other enactments no sign or other device shall be required for an order made under subsection (3) or (4) to have effect save one on each highway entering the area which shall be of a design and dimensions determined by regulation made by the Secretary of State.

(7) For the purpose of this section, a "rural road" is a highway to which all of the following conditions apply—

(a) no speed limit other than the national speed limit applies;

(b) street lighting is not provided; and

(c) there are no road markings in the centre of the road.

(8) Where both the Secretary of State and a highway authority have set a speed limit under this section, the lower limit shall have effect.'.

New clause 12—*Speed limits for vehicles of certain classes*—

'In Schedule 6 to the Road Traffic Regulation Act 1984 (speed limits for vehicles of certain classes), in section 5(2)(b)(iii), column (c) leave out "40" and insert "50".'.

New clause 16—*Speed awareness courses*—

'(1) The appropriate national authority shall establish courses for offenders guilty of offences under section 17(4) or 89(1) of the Road Traffic Regulation Act 1984 (c. 27).

(2) The appropriate national authority may issue guidance to course providers, or to any category of course provider, as to the conduct of courses established under subsection (1).

(3) Course providers shall have regard to any guidance given to them under subsection (2).

(4) Guidance issued under subsection (2) will make provision in relation to the content and approval of courses and may include provision—

(a) in relation to the criteria to be applied for identifying those to whom courses should be offered;

(b) in relation to the content and length of courses;

(c) for the monitoring of courses and course providers;

(d) in relation to the making of applications for approval;

(e) in relation to withdrawing approval; and

(f) specifying the maximum fees that a person may be required to pay for a course and by when they are to be paid.

(5) In drawing up guidance issued under subsection (2), the appropriate national authority shall consult such organisations and individuals as it considers fit.'.

New clause 19—*Amendment of Road Traffic Offenders Act 1988*—

'Schedule 2 to the Road Traffic Offenders Act 1988 shall be amended by substituting the word "discretionary" for the word "obligatory" in column 6.'.

Amendment No. 18, in clause 22, page 25, line 18, leave out paragraph (b).

Amendment No. 19, in page 25, line 30, leave out 'mobile telephones'.

Amendment No. 20, in page 26, line 2, leave out 'Obligatory' and insert 'Discretionary'.

Amendment No. 21, in page 26, line 5, leave out 'mobile telephones'.

Mr. Chope: The new clause would enable the increasing volume of funds obtained by so-called safety camera partnerships to be reinvested in education or training programmes undertaken by local authority members of those partnerships. The Government have introduced proposals for road safety grants in clause 1, but we believe that their proposals are de minimis in comparison with the potential of new clause 1.

I am pleased to say that our proposal in the new clause has been warmly supported by the Parliamentary Advisory Council on Transport Safety and I understand that the Liberal Democrats also support it. In Committee, furthermore, it was not only supported but enthusiastically spoken to by the hon. Member for Stoke-on-Trent, Central (Mr. Fisher), who I am sorry to say is not in his place this afternoon. He pressed the Minister hard to justify the Government's belief that the revenue raised from speed cameras should not be reinvested in education and training programmes for drivers.

Mr. David Kidney (Stafford) (Lab): We have seen expressed in some parts of the media the unfortunate idea that speed camera fines are simply a way of raising more money for the Government. Does the hon. Gentleman not worry that the new clause, which proposes to make positive use of the funds raised, could be misinterpreted by such media mischief?

Mr. Chope: I know that there are many mischievous people working in the media, but anyone suggesting that Conservative Members are proposing incentives for more speed camera offences to be detected in order to raise more money from fines would be unaware of the campaign that we have been waging against using speed cameras as "greed cameras", as I have called them in the past. We believe that there is already a clear and unexplained disparity between the revenue raised by some safety camera partnerships and that raised by others.

The hon. Gentleman may like to know the figures that apply to my own local area of Dorset. As reported in the excellent local paper, the *Daily Echo*, on Tuesday 15 February this year:

> "Speed fines for one in ten drivers: welcome to Dorset, you're nicked".

That was the headline. The article continued:

> "More speeding fines were issued in Dorset last year than in Greater Manchester—which has a population three-and-a-half times bigger."

I do not believe that the people of Dorset drive less well than the people of Greater Manchester. Rather, that statistic stems from the fact that some of the Dorset speed cameras are situated in positions that rather unfairly confront people with the full rigour of the law. I also believe that the money could be effectively spent investing in road safety education, which cannot be afforded in Dorset at the moment. Much of the revenue from speed camera fines is reverting to the Treasury rather than being made available for reinvestment in road safety purposes.

One of the ironies of the speed camera debate is that the number of people being killed on our roads is continuing to increase rather than decline. That should not be happening, because we now have much safer vehicles and many improvements have been carried out on our highways. We are achieving a reduction of speeds, accidents and fatalities at the specific site of speed cameras—that is hardly surprising—but people continue to speed elsewhere, resulting in a significant number of deaths.

Mr. Eric Martlew (Carlisle) (Lab): I am trying to follow the gist of the hon. Gentleman's argument, but is he not effectively advocating having more speed cameras? He acknowledges that speed cameras stop accidents, so why should we not logically deduce that we need more speed cameras further to reduce them?

Mr. Chope: Bad driving is responsible for many accidents, and that is why I have argued robustly in favour of having more traffic police. As the hon. Gentleman knows from earlier debates, we have drawn the public's attention to the fact that the number of traffic police has declined by almost 3,000—about a third—under the present Government.

We believe that the best way of ensuring good driving standards on the roads is, first, to have good driver education, including revision courses if necessary, in order to encourage drivers to achieve the highest standards on the roads. Secondly, we believe that the money invested in road safety at the moment is inadequate and could be significantly enhanced. That is one reason why we want to divert the money currently going straight to the Treasury into speed awareness and driver improvement courses. I know that that proposal is broadly welcomed by many members of safety camera partnerships. I know from conversations with people involved in the Dorset safety camera partnership that they disagree with the Government policy of not allowing surplus revenue to be reinvested in education and training programmes.

Mr. Andrew Miller (Ellesmere Port and Neston) (Lab): If a huge number of people in Dorset and elsewhere are being caught by speed cameras, surely the hon. Gentleman would accept that such people are committing an offence. Which other offence whose potential outcome could be the death of another person does he believe should be treated as leniently?

Mr. Chope: I think that the hon. Gentleman is being rather unrealistic about this matter. I know that he joins me in being a supporter of the Institute of Advanced Motorists, so does he not agree that we should be encouraging responsible driving, at speeds that are appropriate for all the circumstances? Just because someone puts up a sign saying, "Thou shalt travel at 30 mph," it does not necessarily mean that an objective test would find that that was the appropriate speed to travel on that part of the road.

Mr. Greg Knight: The point made by the hon. Member for Ellesmere Port and Neston (Mr. Miller) would perhaps be valid if every speed limit in the UK

[Mr. Greg Knight]

were truly appropriate. Is there not an overwhelming case for carrying out a nationwide speed audit to ensure that every speed limit is appropriate?

Mr. Chope: My right hon. Friend is absolutely right. Indeed, that is why he and I have both jointly announced such a policy, and I am grateful to him for reminding a wider audience of it. It is not dissimilar to a policy adopted in New Zealand and Australia, where each stretch of road is examined to assess the most appropriate speed limit, bearing in mind the fact that the limit must be the maximum speed at which drivers can travel in ideal conditions.

The 2003 vehicle speeds statistics for Great Britain, which were published last year, showed that 57 per cent. of drivers broke the 30 mph speed limits and 50 per cent. broke the limits on motorways. Faced with that sort of evidence, surely a more humble and less arrogant Government would acknowledge that something could be wrong with the speed limits, given that more than half of drivers admit to breaking them.

What has happened under the present Government is that the speed limits have fallen into disrepute, so that people increasingly think that the only time they need to comply with a speed limit is where it is reinforced by a speed camera. That in turn results in more inappropriate speeding on our roads. Conservative Members believe that that is a major subject to be dealt with.

Mr. David Wilshire (Spelthorne) (Con): Before my hon. Friend leaves the subject of speed cameras, may I bring him back to the original purpose of the new clause—to release money, irrespective of what we think about the cameras, for road safety? Does he agree that another way of releasing money pertains to the ridiculous bureaucracies that surround safety partnerships? Could we not free up funds by tackling that problem? The police could be allowed to get on with it and the money would not be wasted on pen-pushing, paper-moving bureaucracies called safety camera partnerships.

Mr. Chope: My hon. Friend is right. Towards the end of parliamentary questions about one of the Government's key election campaigns, we heard the revelation that the amount spent by the present Government on advertising and self-promotion has increased fivefold during their period in office. Under speed camera safety partnerships people can reinvest the money for propaganda but they are not allowed to spend it on road safety education. I agree with my hon. Friend that it would be much better if the money were invested in information and education rather than propaganda.

1 pm

Mr. Patrick McLoughlin (West Derbyshire) (Con): One of the downsides of speed cameras can be that motorists take back roads to avoid them. Does my hon. Friend agree that there has been a disturbing rise in the number of fatalities on B and C roads, where cameras tend not to be sited, as they are on main roads? That is certainly a problem and a concern in my constituency. Speed cameras have been installed on the A6, so other roads are more heavily used and accidents on them have increased.

Mr. Chope: My hon. Friend makes an excellent point. That is another example of the law of unintended consequences. I do not think that when the Government put all the emphasis on speed cameras, they intended there to be more fatalities on B and C roads, but that has been the result. They thought that cameras would improve road safety, but that is not what has happened. My hon. Friend referred to what was happening in his constituency. One of the reasons why speeders on B and C roads feel that they can get away with it is that the number of police engaged on speed enforcement has been cut back so severely by the Government, as I pointed out earlier.

Mr. Kidney: I am surprised that the hon. Gentleman mentioned speed awareness and driver improvement courses as possible beneficiaries of his new clause. Currently, when people successfully attend those courses they avoid a fine in court or penalty points on their licence, so it seems fair that they should pay the cost of the course, which makes the courses self-financing. Is he proposing to undermine that?

Mr. Chope: Many people involved in safety camera partnerships believe that the courses should be made available to those who cannot afford to attend them. From the discussions we held in Committee, I thought that the hon. Gentleman and I were on the same side on that issue. Certainly, the Parliamentary Advisory Council for Transport Safety supports the new clause. Perhaps the hon. Gentleman is trying to argue himself into a position whereby he will not have to support it in the Division Lobby, but he will have to do better than raising that spurious objection. As far as I am concerned, the more people who go on speed awareness and safety improvement courses the better. That is why, as I have told the House before, I am a member of the Institute of Advanced Motorists and encourage other people to take the advanced driving test and improve their driving standard.

Mr. Andrew Turner (Isle of Wight) (Con): As one of those who, because of the unsatisfactory nature of their driving, are not eligible to be members of the institute, may I ask my hon. Friend to give us his view on some information brought to my attention by a constituent the other day? In some parts of the country, when one is issued with a speeding fine one has the alternative of taking an advanced motoring or similar course, but that option is not available in other areas. What would my hon. Friend say to my constituent about the fact that there are different penalties for the same offence within the United Kingdom jurisdiction?

Mr. Chope: I would tell my hon. Friend's constituent that I hope that new clause 2 will be drawn to his attention. My hon. Friend's point conveniently enables me to commend the virtues of that proposal, which says:

"If a person who has at least seven and no more than eleven penalty points endorsed on his driving licence subsequently successfully completes a driver improvement course or speed awareness course authorised by the Secretary of State, he shall be entitled to have the number of penalty points endorsed on his licence reduced by three."

Our reason for proposing the new clause was the discussion in Committee, from which it emerged that access to a driver improvement or speed awareness course that led to a reduction in the number of penalty points was controlled by the magistrates court. Thus, for example, if someone had been issued with three fixed penalty notices and nine points they would be unable to attend such a course, with a consequent reduction in their penalty points, unless the matter was referred to the magistrates court. We thought that an unnecessarily bureaucratic way of addressing the issue. Surely we should encourage as many people as possible who have got into bad habits and who would benefit from a driver improvement or speed awareness course to take such a course. That is the reason for new clause 2, whose provisions would address the concerns of my hon. Friend's constituent about injustice and inequity.

As for my hon. Friend's aspiration to be as good a driver as the best, I suggest that one way of doing that would be to go in for one of the courses run by the Institute of Advanced Motorists. He would not have to go the whole way, so to speak, but he could join one of the institute's local groups, which would identify any bad habits that he may have got into. He would be a superhuman driver if he did not have some bad habits. As we are approaching the 50th anniversary of the institute, this is an appropriate time for Members to commend it and promote its virtues.

Mr. Miller: On that point I entirely agree with the hon. Gentleman. He might also advise his hon. Friend the Member for Isle of Wight (Mr. Turner) that if he were a tad embarrassed about taking a driving course in his constituency, he could take an IAM course in London.

Mr. Chope: The hon. Gentleman makes a good point. The course could be undertaken on a wholly confidential basis—without commitment, as they say. Indeed, such a course could include people such as Mr. Speaker if they wanted to join it. I know that the hon. Member for Ellesmere Port and Neston (Mr. Miller) is as enthusiastic a supporter of the IAM as I am.

I hope that when the Minister responds to the debate, he will make warm and welcoming noises about new clause 2. It addresses a lacuna that we identified in Committee. What could possibly be wrong with encouraging people to improve their own driving and thereby benefit from a reduction in penalty points in the circumstances set out in the provision?

New clause 3 is on a slightly different topic. It would raise the maximum penalty for dangerous driving from two years to five years. I hope that the Government will accept it almost without demur, because I understand that such an increase in the maximum penalty for dangerous driving has been Government policy for some time. However, they have rather kicked into touch their review of road traffic offences involving bad driving. The Government commissioned the Halliday report in May 2003, yet it was produced for public gaze only on the last day that we considered the Bill in Committee—so it was hardly on the fast track. The result is that the Government have been able to avoid legislating on, and changing the penalties for, road traffic offences involving bad driving.

New clause 3, and one or two of the other new clauses to which I shall address my remarks shortly, is meant to ensure that the Bill deals with issues on which consultation has effectively taken place. The Government have said publicly that they support an increase in the maximum penalty for dangerous driving, which is currently two years' imprisonment, but under my proposal it would be five years instead, thus mirroring the increase from 10 to 14 years that has taken place in the maximum period of imprisonment for causing death by dangerous driving.

I may be unduly cynical, but I suspect that the Government's inhibition relates to the fact that such a proposal could result in a lot more people going to prison. Hon. Members who believe that bad driving is dangerous—indeed, it can be lethal—do not wish the number of available prison places to dictate policy. We believe that the policy should be established by Parliament—that we should establish what we think are the appropriate penalties and offences, and that the appropriate number of prison places should be made available.

Mr. Greg Knight: My hon. Friend's assumption is correct. The Government admit on page 30 of their document "Review of Road Traffic Offences involving Bad Driving" that the proposals that he is talking about "could create an additional demand for about 800 prison places." It continues:

"The great bulk of these would result from increasing the maximum penalty for dangerous driving from 2 to 5 years' imprisonment, to which the Government is already committed, when resources are available."

Does he not think that if the Government are already committed to that, they should get on with it? They can find enough resources to advertise Government programmes. Why cannot they find the necessary resources for this proposal?

Mr. Chope: Indeed, I have that document open on page 30, and was about to quote from it. It is encouraging to know that my right hon. Friend and I are very much on the same wavelength, and he is absolutely right, because this an other issue on which the Government talk a good talk. They go along to the road safety lobbies and lobbies including the relatives of victims of serious and fatal road accidents, and they say, "We're on your side." However, as is clear from what has been said, we have a policy to which the Government are already committed—raising the maximum penalty for dangerous driving from two to five years—but they are not prepared to sign up to it because of the resource implications. What a perverse arrangement.

We have tabled new clause 3 to give the Government the opportunity to endorse today a proposal that is already their policy, rather than to play the delaying game, as they have been doing until now. How else can one explain a period of 21 months between the launching of an inquiry into road traffic offences involving bad driving and the publication of that inquiry's report, which extends only to some 31 pages? That does not give the impression of a Government who are seriously committed to taking tough, deterrent action against the worst drivers—the dangerous drivers—but they could address that today by accepting new clause 3.

[Mr. Chope]

New clause 4 is also a reflection of what the Government say is their policy. Again, they are talking about such a policy, but they are not yet prepared to sign up to it. By tabling new clause 4, we created the opportunity to invite the Government to sign up today to what they say is their own policy:

"If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class he is guilty of an offence."

That sounds like a lot of common sense. If people deliberately drive a vehicle for which they do not hold a licence—in other words, they are not qualified and have not passed the appropriate test—they should not be on the road. Surely, if while driving such a vehicle on the road they are involved in an accident from which a death results, that conduct should constitute a specific offence. New clause 4 would create a new offence of causing the death of another person in the circumstances that I describe.

1.15 pm

New clause 6, in similar vein, would make causing death by driving while disqualified a separate offence. It states:

"If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place while disqualified from driving by order of a court he is guilty of an offence."

Again, that is canvassed in the document, "Review of Road Traffic Offences involving Bad Driving", and the debate will give the Minister the opportunity to explain why the Government have not already taken such action, as they have joined the campaign that we have waged to try to get disqualified drivers off the road and deter them from returning to it. New clause 6 would emphasise to those people who are thinking of driving while disqualified that, if they are involved in an accident that results in death while they are doing so, they could spend a lot of time locked up in prison irrespective of whether they are wholly to blame for the consequences that flow from that accident. The argument is that they would have brought the guilt upon themselves by their own conduct in driving on the road while disqualified.

Rob Marris (Wolverhampton, South-West) (Lab): Can the hon. Gentleman give an indication—he intimates imprisonment—of what he thinks the penalty should be for the offence that would be created under new clause 4?

Mr. Chope: I cannot—I could, but I am not going to—because I do not want to create a barrier between myself and the Government. I have expressed the proposal in the most open terms, so that the Government can accept it and not say, "We don't agree with the maximum penalty." Obviously, that would be a matter for discussion, but I am sure that we could reach an accommodation with the Government on the maximum penalty in relation to new clause 4 or new clause 6 if they are willing to debate that with us.

I shall not comment on new clause 7 for the moment because it was tabled by my hon. Friend the Member for Isle of Wight (Mr. Turner), and I look forward to hearing his contribution on it.

New clause 12 would raise the maximum speed for heavy goods vehicles on single-carriageway roads from 40 to 50 mph in ideal driving circumstances. During the debate on such a proposal in Committee, I was delighted that the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso), who speaks for the Liberal Democrats, enthusiastically supported my idea. He brought to that debate much experience of what it is like in the more barren parts of Scotland, where he believes that HGVs should be able to travel at 50 mph, rather than 40 mph. *[Interruption.]* I knew that, if I used a particular type of language, I would ensure that the hon. Gentleman returned to his place very quickly.

John Thurso (Caithness, Sutherland and Easter Ross) (LD): I hope that I will have the opportunity to comment on new clause 12 more fully later, but may I assure the hon. Gentleman that the north of Scotland is not barren, but highly productive?

Mr. Chope: Of course I agree with the hon. Gentleman. I know the north of Scotland a little, but not so well as he does. I look forward to hearing his arguments on new clause 12.

The proposal in new clause 12 is supported by the magazine *Commercial Motor* and the Road Haulage Association. Indeed, I have received a letter of support from its director general. I am sure that the ordinary motoring public will also be pleased that we are thinking seriously about raising the maximum speed for heavy goods vehicles on single carriageway roads in ideal circumstances to 50 mph.

As I pointed out in Committee, when the 40 mph rule was first introduced, traffic levels on single carriageway roads were such that it was relatively easy for a motorist to overtake a heavy goods vehicle, so it could be done comparatively safely. Traffic was thus not held up at the speed of the slowest vehicle. Given current traffic conditions on many single carriageway trunk roads, especially those that meander between the east of Dorset towards the Devon border and beyond, it is difficult to find an opportunity to overtake a vehicle travelling at 40 mph, which leads to queues, often many miles long, of traffic travelling at or around that speed.

Mr. Greg Knight: Is there not another argument to support my hon. Friend's case? Since the speed limit was introduced, heavy goods vehicles have been fitted with much more effective braking systems, including air brakes in most cases, and power assisted steering. They can thus travel safely at higher speeds.

Mr. Chope: My right hon. Friend makes a good point.

The Minister put up the defence against the proposal in Committee that, if vehicles travelled faster, the consequences of any accidents in which they were involved would be greater. No one would disagree with that, but we are suggesting that the mere presence of lorries that are limited to travelling at 40 mph on single carriageway roads is creating a lot of driver frustration, which leads to people taking unnecessary risks by trying to overtake when it is probably not safe to do so.

We know that the frustration among the motoring public is such that at least one major delivery company—I think that it is the company that delivers for Tesco—has a notice emblazoned on the back of its heavy goods vehicles to show that they are limited to travelling at 40 mph on single carriageway roads. It has done that because people have complained that the vehicles should be travelling faster. Before the proliferation of speed cameras, I suspect that many heavy goods vehicles travelled at nearer 50 mph than 40 mph when circumstances permitted, but given today's tighter enforcement, they are going at only 40 mph, which is creating driver frustration and consequent road danger. If new clause 12 were accepted, it would be a move in the right direction towards improving road safety.

I shall leave the hon. Member for Stafford (Mr. Kidney) to make his own arguments about new clause 16 because he tabled the measure. However, Conservative Members are on the same side as him because we want more support for speed awareness courses. While I am on that subject, I can tell the House about a successful day of action carried out by the Hampshire constabulary. I think that it happened last week, but it was certainly reported in the *New Milton Advertiser* over the weekend. There is a dangerous piece of C road in the heart of the New Forest with a standard 40 mph speed limit. Hampshire police detected several vehicles travelling in excess of that speed and the drivers were given the option of either accepting a fixed penalty notice or having a discussion with a group of people who had owned animals that had been killed on the road, most of which were ponies. Not surprisingly, most of the motorists opted for the discussion.

A lot of interesting information came out of the process. Many people had not realised how dangerous the road was or how common such accidents involving animals were. Some had not even realised that the animals had owners. Although the animals are New Forest ponies, they have owners, so much distress and hardship is caused if they are run over by motorists who travel too fast. Many motorists had not realised the consequences of such collisions for them and their cars.

I support such enforcement using discretion at the roadside, although any motorist who was driving extremely fast was referred to the magistrates court or had to accept a fixed penalty with no argument. Such driver awareness programmes are a positive way forward for road safety. They are better than just having speed cameras because that system does not allow the issue to be addressed in the sensitive way that Hampshire police employed. As I have said earlier, sufficient numbers of police officers need to be devoted to road traffic responsibilities to carry out such a scheme, but we will put that right when we get into government.

New clause 19 arose from a further debate in Committee after it became apparent that there was no system of mitigation if people were given fixed penalty notices in circumstances in which they believed that, if a police officer had been at the scene, he would have exercised discretion and issued a caution or warning instead of a penalty. My thinking about the new clause partly arises from a constituency case. One of my constituents was caught out by a speed camera on a road on which the speed limit had recently been reduced from 40 mph to 30 mph. The driver had not realised due to an oversight that the speed limit had changed.

My constituent received a standard form to fill in to accept that he was driving the vehicle at the time. The form said that if he had mitigating circumstances, he should refer the matter to the magistrates court. He did that, but when the case reached court, the magistrate said that the court had no discretion on the issuing of penalty points. All hon. Members will have heard of constituents who have thought it unjust that they have received three penalty points as a consequence of a fixed penalty notice.

I know of another person who was convicted of speeding, despite the fact that the temporary speed limit sign on the road had blown over in the wind. I am sure that we can all think of similar examples. A wise law would take into account individual circumstances and allow proper discretion. Indeed, that is the type of law that we have in a mature democracy. A Stalinist society, however, makes an unthinking demand: "Thou shalt comply and if thou hast not, whatever the explanation, thou art guilty of an offence for which thou art subject to a fixed penalty." We need to take a more mature approach and allow some discretion and that would be the effect of incorporating new clause 19 into the law.

1.30 pm

Mr. Andrew Turner: I support my hon. Friend, but does he agree that the loss of a driving licence has very different consequences for a merchant banker who lives in Kensington and a plumber who lives in the rural depths of Sussex or the Isle of Wight?

Mr. Chope: I agree, and we could have a long debate about such differences. My hon. Friend's example demonstrates what happens when one reaches the stage of totting up points. Someone with 12 penalty points has to go to the magistrates court and argue that they should not be disqualified because the consequences would be dire for their job or occupation. I accept that for some people the consequences can be grave, but sometimes the injustice is compounded by the fact that the total number of penalty points is the result of a series of relatively minor speeding incidents. Some hon. Members have been subject to the totting up of points, after being convicted of a series of minor infringements of road traffic laws—*[Interruption.]* The hon. Member for Ellesmere Port and Neston (Mr. Miller) seems to know who I have in mind, but Members on both sides of the House have found themselves in such difficulties.

New clause 19 is one of the most potent measures in this group of amendments, as it aims to redress the balance between the ordinary motorist and the law, and would ensure that the law is fair, rather than oppressive. The proliferation of fixed penalties is all the more reason why discretion should be allowed in genuinely mitigating circumstances. That discretion should be used to allow not only a reduced fine but a reduction in the number of penalty points. My proposals go much further and are more effective than the Government's proposals in the Bill.

Amendments Nos. 18 to 21 deal with driver education and unsafe driving. They would amend clause 22, which deals with the mischief of mobile telephones. We had a

[Mr. Chope]

good debate about that in Committee and the Opposition have no problem with penalising people who cause danger to themselves or others as a result of driving without proper care or attention while using a mobile phone. However, we are concerned about the definition of driving. Under case law, which would be the defining consideration if this piece of legislation was accepted, driving includes circumstances such as a vehicle being stationary in a five-mile queue. The driver may have left the wheel to use a phone but, according to the law, he would still be regarded as driving.

Rob Marris: Even when his engine was switched off?

Mr. Chope: Indeed, that is the case, but we do not believe that it accords with common sense or fair play.

We should discourage people from using mobile phones while driving and, indeed, penalise them for doing so. However, we should not penalise them with three penalty points and a fine for doing so at the wheel when their car is in stationary traffic and they have turned off the ignition. We tabled a reasonable amendment in Committee to try to make an exception to the rule, but the Government rejected it out of hand. To be fair, I do not think that they really understood the law, because any rational person listening to the debate would have said that our points were valid.

Since that debate, it has come to my notice there have been incidents in which police officers have gone down lines of stationary traffic booking people who were using mobile phones. That is demonstrates a perverse sense of priorities and it just fuels many motorists' belief that, rather than improving road safety, the Government are engaged in a war against the motorist. If the Government want to improve road safety—we are highly supportive of that proposition—as well as the relationship between the police, the law and the motoring public, they should accept the amendments, which would ensure that individuals who use a mobile phone when their vehicle is stationary would not be guilty of an offence. The Minister will notice that, to ensure that the amendments were selected, we made certain that their terms are not identical to those of the amendment that we tabled in Committee. We would be happy to revert to the wording of our original amendment, if the Minister offers to accept it, and we would withdraw the amendments that we have tabled today.

Mr. Miller: I accept that applications of the law can become ludicrous. That would be the case if, for example, a vehicle was literally stationary and could not move because it was in a five-mile queue. However, could the hon. Gentleman tell us more about the case that he cited and see whether the House would agree with him in those particular circumstances?

Mr. Chope: I do not have the report of Committee proceedings with me, but that case is set out in *Hansard*. In Committee, I cited case law about the definition of driving.

Mr. Miller: Perhaps I was not clear enough, as the hon. Gentleman has missed my point. The case law to which he refers predates mobile phones by a long chalk. He talked about a specific incident in which a police officer went down a line of traffic and booked motorists in stationary vehicles who were on the telephone. Could he tell us more about that?

Mr. Chope: I cannot tell the hon. Gentleman more.

Mr. Miller: Is it fiction?

Mr. Chope: I doubt very much whether the person who informed me about it was telling porkies.

Mr. Miller: If it were true, the hon. Gentleman would be on to a good point.

Mr. Chope: Surely, the hon. Gentleman in turn accepts that we would be mad as legislators to create a strict offence but expect the police or more probably cameras to separate the just from the unjust. Surely the best thing is to ensure in the first place that the law is just and that there is a proper exception to the application of it in circumstances in which he and I would agree that it should not apply—that is, in relation to people who are using mobile phones in stationary traffic when they have switched the engine of their vehicle off.

A parliamentary colleague, who is not in the Chamber at present, has on her dashboard a little television. I have never got to the stage of owning a car that had a television on the dashboard, but apparently the television switches off automatically when the car is in motion and switches on automatically when the car is stationary at traffic lights. It is, apparently, a lawful piece of kit and a standard feature of some of the more up-market vehicles. In this case, it is a British vehicle—a Land Rover, I think. I have not gone into the detail of it, but if it is lawful to have on the dashboard a television that is activated when the vehicle is stationary, should it be unlawful to use a mobile phone when the vehicle is stationary and the engine is switched off? We are making the law an ass if we legislate on that basis. That is why I hope the House will accept the amendment, along with a host of the new clauses.

Mr. Miller: This is a fascinating group of new clauses. On some of them, I find myself on the side of the hon. Member for Christchurch (Mr. Chope), and on others I am violently opposed to him. I shall deal with the two points on which I strongly agree with the tenor of his arguments. They relate to new clauses 3 and 4, on which the hon. Gentleman made some powerful points.

The Under-Secretary of State for Transport, my hon. Friend the Member for Plymouth, Devonport (Mr. Jamieson), has started a consultation, which I warmly welcome. I hope the Opposition welcome it as well, so that whoever occupies my hon. Friend's position after the election—

Mr. Jamieson: In 15 months.

Mr. Miller: Indeed.

I hope that whoever holds the position will accept that legislation needs to be introduced to reflect the spirit of our discussions and the mood outside. What could be said in any consultation that would cause my hon.

Friend not to accept the point made by the hon. Member for Christchurch and the point that he himself sets out in the report that is out for consultation? I want an answer to that because I find it difficult not to agree with the hon. Gentleman in his cogent argument about the need for change. My hon. Friend knows my views because we have discussed the matter before in the Chamber and elsewhere, in my capacity as a patron of the charity RoadPeace.

The arguments are powerful and need to be dealt with. We must send out a strong message that if the House decides this afternoon to await the outcome of the consultation, unless somebody produces some stunning new arguments that make the House review its conclusions, there will be legislation to implement the intention of new clauses 3 and 4, and that legislation will be tough on offenders.

1.45 pm

Mr. Chope: Do the arguments that the hon. Gentleman has just deployed extend to new clause 6?

Mr. Miller: Yes, indeed. I am grateful for the hon. Gentleman's assistance on that point.

We disagree on the hon. Gentleman's analysis of the effectiveness or otherwise of speed cameras. Ultimately, there is one simple, incontrovertible fact: nobody gets caught by a speed camera who is not breaking the law. Anyone who whinges to any hon. Member about the fine they received as a result of speed camera evidence has broken the law.

Mr. Greg Knight: Is it not a valid point that the law may not be fair? Let me give the hon. Gentleman an example. There are many instances of the police stopping motorists who are technically breaking the speed limit and letting those motorists proceed on their way with a warning, because the police appreciate and perceive that the breach of the law was de minimis or was in such circumstances that there was no danger to other road users. It was a technical breach of the law. Speed cameras have no discretion. That is the problem, and it has become worse over recent years.

Mr. Miller: I thought for a moment that we would get an admission of guilt from the right hon. Gentleman.

The simple fact is that the technology employed is set to allow a certain amount of tolerance. There is already tolerance in all the circumstances in which cameras are put in place. It applies approximately the same latitude as the police would allow before enforcing a prosecution. That de facto pushes up the limits slightly.

I can think of one specific camera that I know well on the Runcorn expressway—a 60 mph zone. It used to be a derestricted zone, but it was reduced to 60 mph because of some serious crashes on that stretch of road. Then speed cameras were introduced, which caused people to drive more slowly. The net effect was to make that stretch of road safer. Interestingly, one camera was removed in the recent past, because there is the belief that it has had the desired effect and the habits of most drivers there have changed.

I believe that the technology can be used to assist in educating drivers. We should not see speed cameras as an alternative to police officers. They are a different tool used differently, placed as a result of consultation through the safety camera partnerships, which work extremely well, even in Dorset, as the hon. Member for Christchurch acknowledged. Their judgments are not from on high. They are judgments applied locally by local people who know the roads where the technology is to be installed.

Rob Marris: My hon. Friend has made the valid point that safety cameras only catch the guilty. The position adopted by the hon. Member for Christchurch (Mr. Chope) is contradictory: as far as I understand it, he wants both to have fewer safety cameras and, through new clause 9—which has not been selected today—to get rid of speed humps, which catch the innocent. On suburban roads, we should install more safety cameras and fewer speed bumps, so that the guilty are caught and the innocent, who drive at or below the speed limit, are not penalised.

Mr. Miller: As usual, my hon. Friend has made a powerful case. We must take a flexible look at what is available as the technology unfolds, because, for example, some of the number plate recognition technologies are amazingly effective.

May I make a tiny diversion, Mr. Deputy Speaker? On the Saturday before last, I went out on patrol with the police in rural Cheshire. We were overtaken by a vehicle similar to one that the officers had had brought to their attention. Within 30 seconds, the powerful technology used by the police had sent us the vehicle's details, including its owner, the insurance details and the owner's address. That was an amazing demonstration of an effective piece of Government IT procurement, which is doing a marvellous job in terms of not only road safety, but broad crime prevention.

I agree with the hon. Member for Christchurch that common sense must prevail when technology is employed. We do not know whether his example of a police officer who sought to prosecute people for using mobile phones when their engines were turned off in a stationary row of traffic is an urban myth or a rural myth, because we do not know which road it happened on. If it were true, however, I would agree that that is an inappropriate use of the law and that that officer's actions would put off people from sticking rigorously to the rules of the road. If it were true, it would also raise an interesting question about police training. We must ensure that officers are encouraged to apply the law pragmatically and sensibly.

Mr. Greg Knight: The hon. Gentleman and I do not disagree on the use of new technology, which he has just described. It is admirable that the police now have the ability to monitor passing vehicles' number plates not only for road traffic offences such as no insurance, but for more serious crimes such as drug dealing—the technology can identify known drug dealers, whom the police can then apprehend. Does he agree that the effectiveness of the new technology depends on the reliability of the database? Does he accept that police forces across the country have raised serious concerns that the Driver and Vehicle Licensing Agency database is not as reliable as it should be?

Mr. Miller: I can only go by my own experience, which shows that the response is remarkably accurate.

[Mr. Miller]

Any database—it does not matter whether it is a paper database or whether the information is held electronically—has an error level. If the right hon. Gentleman is setting out a case for making sure that the DVLA employs sufficient people to protect the database's integrity, I agree with him. That argument applies to any database to which the police have access, because databases should be kept to the highest level of accuracy to protect the integrity of the law enforcement process.

Hon. Members on both sides of the House recognise the need to introduce changes in some areas, particularly on the ground covered by new clauses 3, 4 and 6 and on the areas that my hon. Friends the Members for Stafford (Mr. Kidney) and for Wolverhampton, South-West (Rob Marris) will raise later in the debate. The matter is important and we must work hard to ensure that public confidence in the integrity of the law is sustained. To that end, I accept the argument, which I suspect my hon. Friend the Minister will advance later, that a consultation period is required.

In conclusion, I repeat my point on the principle behind new clauses 3, 4 and 6, and I want to hear my hon. Friend the Minister say in strong terms that the Government intend to introduce legislation to establish those points.

John Thurso: Before I discuss the individual new clauses, I want to make a general point. Taken individually, many of the new clauses tabled by the hon. Member for Christchurch (Mr. Chope) are reasonable, and I have indicated those that I support. If we consider the totality of the new clauses, however, we perceive a kind of underlying mood music, which suggests that the motorist is hard done by and that an overall relaxation should take place. That argument assumes that motorists feel hard done by, but I have found that people increasingly understand the need for restraint with regard to speed. Most people to whom I speak either accept that speed cameras are a useful necessity or are looking for ways to introduce one in their community or on their roads.

In my constituency, the A9, which I shall no doubt discuss later, runs up to Thurso from Inverness. One of the complaints is that the volume of traffic and the consequent deaths are happily insufficient to allow speed cameras to be installed in some of the villages and towns on that busy main road. I would look favourably on a relaxation of the criteria within the 30 mph limit, because prevention is better than deaths and accidents.

I support new clause 1, with the caveat that I am not arguing from an anti-camera standpoint. Speed cameras are currently accompanied by a warning sign not less than 1 km from the camera, the camera itself is painted a bright orangey-yellow colour and has reflective tape on the back, and huge white grid lines are painted on the road, so any motorist who fails to take account of what is nothing short of a flashing beacon perhaps deserves everything that they get.

The substantive point of new clause 1 is that the funds raised should be made available for education, and I see no harm in that whatsoever. I do not necessarily believe that speed cameras are simply nasty, money-grabbing machines, but if there are surplus funds and partnerships see a way in which they could be deployed that would be enabled by the new clause, I see no reason not to allow it to go through.

2 pm

Enforcement is important in relation to speeding offences, but we must not forget the other two Es—engineering and education. Where enforcement leads on to education, that is highly beneficial. Yesterday, I visited parts of Kent and East Sussex to look at some railways, and the very nice man who was driving me told me that when he had an accident two years ago, the police offered him a choice between prosecution and a driver awareness course. He obviously took the course, and said that he was delighted to have paid for it and learned a great deal that he had no idea he would take from it beforehand. I do not know the particular circumstances of the accident, but that aspect was beneficial. For that reason, I am happy to support new clause 1.

Mr. Kidney: Would the hon. Gentleman like to charge people to go on a driver improvement course or a speed awareness course, irrespective of the merits or otherwise of the new clause?

John Thurso: Indeed; it should be up to the perpetrator to pay for the course. I am taken, however, by the idea of allowing a little discretion. Some people, certainly in my constituency, live on very small incomes or even on state benefits, and there is sometimes a good argument for—I would not want to use the term "scholarship"—

Mr. Greg Knight: A hardship fund.

John Thurso: Absolutely; that would be a good way of describing it. I would be happy with that approach if it encouraged more people to take it up.

Mr. Knight: I am pleased to hear what the hon. Gentleman says. Could not a person of very meagre income who finds that they cannot afford to pay a fee en bloc for a speed awareness course opt for the fine and offer to pay at £2 a week?

John Thurso: The right hon. Gentleman raises an interesting point and I urge the Government to consider it. The critical point of principle is that an awful lot of people can pay and should pay, but in such circumstances as have been described by various hon. Members, it would be perfectly valid to do everything possible to encourage people to take the education route. If that means utilising an easy payment plan or a fund from another area, we should consider that.

On new clause 2, I have some sympathy with the principle behind it, but it is defective in that it states:

"he shall be entitled to have the number of penalty points endorsed on his licence reduced by three".

That would clearly be wrong if the totting-up procedure had included, for example, offences involving two points. In Committee, the possibility was inserted into the Bill that fixed penalties could be lower than three points. Many of us argued against that and are hoping

that, for speeding in particular, the level will stay at three or more. It is possible that somebody could arrive at the totting-up point where the new clause kicked in through a series of two-point penalties. In that case, it would clearly be wrong to get three taken off—or a 33.3 per cent. bonus. That is why I cannot support new clause 2.

I have great sympathy for the new clauses on penalties and would certainly support them for all the reasons that the hon. Member for Christchurch set out. Given that it has taken several years to get to the point where we have a Road Safety Bill, I am not sure that we will get back to it for some years to come. These are such important matters that I urge the Government to consider, if possible, incorporating these new clauses in another place.

New clause 7 puts a case with which I have considerable sympathy. I would be grateful if the Minister could confirm whether, as I understand it, the new clause relates solely to England and would have no effect in Scotland. My concern stems from the fact that subsection (7)(c) defines a "rural road" as one where

"there are no road markings in the centre of the road."

In my constituency, a great number of A roads have no such marking—they are, as it were, one-and-a-half width roads. They tend to occur on the north coast and through Sutherland and Caithness in places that have very clear visibility, exceptionally low traffic volumes and long distances to travel. There would be no point whatsoever in reducing speed limits there from 60 mph; nobody is asking for it and there would be no great benefit.

Mr. Andrew Turner: It might assist the hon. Gentleman if I answered him now. Subsection (2) provides:

"Where the area is the whole of England, the relevant authority . . . is the Secretary of State".

I have not allowed for a relevant authority for the whole of Scotland, so only designations under subsection (3) could be made in that respect. I have no doubt that the hon. Gentleman's highway authority would take account of his views on that matter.

John Thurso: I am grateful for that clarification. Although the hon. Gentleman's intention is absolutely right, I suspect that he may need to have a look at schedules 4 and 5 of the Scotland Act 1998, because I am not entirely certain that the relevant powers have been devolved, and that may cause him a small problem.

New clause 12 would increase the speed limit for heavy goods vehicles from 40 to 50 mph. I will not detain the House with what I recounted in Committee in respect of the A9, but I should like to highlight the basic problem with the categorising of roads. A large part of the A9 is a modern road that is made up to a very high standard, where a speed of 50 mph is perfectly appropriate for a lorry, but other parts are made up to a 1970s standard and some go back to a 1960s standard.

The longer-term problem is that some A roads are capable, through engineering, of allowing greater speeds than other A roads, some of which go right down to single-track in parts of the far north. Several hauliers have told me that because of the times at which drivers are permitted to drive, the long distances involved mean that they are unable to get to relevant markets. For example, on the long stretch of the A9 from Tain in Ross-shire down nearly to Perth, which has some dual carriageway but is mostly single carriageway, that extra 10 mph would permit drivers to reach some of their markets in one go without having to stay overnight in the cab. I remind the House of the sign just outside Inverness that states: "Frustration causes accidents—allow overtaking". That is a problem. Most lorry drivers are very good—they leave a gap between the vehicle in front and permit overtaking—but it would be helpful to increase the limit on that particular stretch of road.

We have already dealt with speed awareness and I look forward to hearing the arguments of the hon. Member for Stafford (Mr. Kidney). I am intrinsically sympathetic to new clause 16.

I am not wholly convinced by new clause 19, for reasons that we discussed in Committee. It does not necessarily add anything to the measure or make life easier, and I suspect that I am not in total sympathy with the hon. Member for Christchurch about it. However, I want to comment on his points about the definition of "driver" and when people are deemed to be driving a car. As he will remember, I said in Committee that I had intended to stay out of the debate but, having heard the Under-Secretary's answer, I felt obliged to support the hon. Member for Christchurch. I gave an example, again from my beloved A9, of the roadworks at Berriedale last year, when the traffic lights were red for up to 15 minutes. We were happy with that because we were getting great improvements and we all knew about the wait.

If someone happened to draw up when the lights turned from green to red, he knew that the time allowed for a lorry to go all the way down to the bottom and back up the other side at 5 mph and for traffic to pass in the opposite direction would be 15 minutes. One simply turned off the engine and used the time productively. Occasionally, one might have used a mobile phone—[HON. MEMBERS: "Oh!"] That was before the law changed. One would phone to say, "I caught it bad at the lights. It'll be another 15 minutes before I get there."

The Under-Secretary responded by saying that, in such circumstances, the person concerned would not be prosecuted. However, as we discovered from further discussion, the law does not accord with that. The law is straightforward: simply sitting stationary, with the engine switched off for what will clearly prove to be a long wait, is not enough. I believe that, even if one got out of the car, stood alongside it and used a mobile phone, one could still be prosecuted. I do not know how many miles from the car one would have to walk before the courts decided that one was not driving.

The serious point is that we are trying to get the message across to motorists that it is dangerous to use a mobile phone when in charge of a vehicle. Clearly, we do not want a position whereby every time a car stops at traffic lights for 30 seconds, people feel free to use their mobile phones; but equally, when it is obvious—for the reason that I outlined or, for example, because an unfortunate accident has occurred—that there will be a long wait, the inability to use a mobile phone will be perceived as unfair and silly. I suspect that people will not know the law and therefore break it without

[John Thurso]

realising it. The Government could usefully examine the matter and introduce a correction to achieve the balance that I believe we all support.

Mr. Chope: Case law shows that one would not be deemed to be driving after one had got out of a car, gone into a shop and was engaged in selecting goods. At that stage, it would be said that one was no longer driving.

John Thurso: I am grateful for that clarification. The definitions should be re-examined, given that they were introduced before mobile phones were invented. I hope that the Government will at least consider the matter and perhaps use the opportunity in another place to introduce a more reasonable definition in respect of mobile phones.

Mr. Kidney: I want to speak about new clause 16, which I tabled. The hon. Member for Christchurch (Mr. Chope) mentioned the Parliamentary Advisory Council for Transport Safety and I declare a non-pecuniary interest in that I co-chair PACTS.

My vision in tabling the new clause is for speed awareness courses throughout the country that are widely available to people who speed, in an attempt to correct their offending behaviour. There is currently no national model for speed awareness courses and the new clause proposes that the Government should establish a national scheme in which such courses are provided. There is a national scheme for drink-drive rehabilitation courses, for which legislation provides. Again, there is a national model for driver improvement schemes, with national monitoring of drivers' progress. We are therefore behind the curve on speed awareness courses.

2.15 pm

I understand that the Association of Chief Police Officers, on behalf of the Department, is currently developing guidance for local authorities and police forces about when such courses should be used. It is significant that they are available; the current legal position is that police forces make conditional offers to people who would otherwise be prosecuted in court for speeding and receive a fine and points on their licence. The exact terms of the conditions and the judgment about whether someone has complied with them could be important for that person's future. It is therefore important that we are certain about them.

I believe that the police have got as far as setting some general national standards for the courses and that they comment on the professionalism of the presenters and instructors who are used on them. However, we have not yet reached the stage where there is certainty throughout the country. Let me give a couple of examples of matters about which I want to know more. What is the purpose of a speed awareness course? To whom will it be directed? Are we considering first-time speeding offenders, to catch them early and give them a course instead of prosecuting them, or those who are speeding at a specific speed, who, whether it is their first or fourth offence, would be offered a course if they did not break the speed limit by too much? It is important to be clear about the purpose of the course.

I believe that people should have the opportunity to go on a speed awareness course rather than going through the courts the first time they offend and that that should apply to everybody. That is a large number of people.

Mr. Greg Knight: As the hon. Gentleman knows, in America, there is a well-known offence of jaywalking whereby a pedestrian crosses the road recklessly instead of at a recognised crossing point. Does he believe that there is a case for educating pedestrians in the need to behave responsibly and improve their safety awareness? Is not there a case for expanding speed awareness courses into highway awareness courses for people other than motorists to attend?

Mr. Kidney: The right hon. Gentleman should be careful of confusing two different matters. Speed awareness courses are for people who have broken the speed limit and been caught. We are trying to correct their behaviour before it becomes a bad habit for the rest of their driving careers. However, there is a case for much more education and I shall comment on new clause 1 shortly.

We must also establish the best format for the courses. Some authorities provide a theoretical and a practical element but others provide only a theoretical element. Research increasingly shows that both are desirable in a speed awareness course. If we can establish that that is the case, it ought to be the national standard.

I want to consider cost. Authorities that have already set up speed awareness courses made the policy decision that the courses should be self-financing and they therefore charge the people to whom they make the conditional offer to attend a sufficient fee to cover all the costs. I believe that the figure is currently £90. As a matter of principle, that is right. A person who attends the course avoids a fine in court and three points on the licence. Those matters have a value and it is right that people should pay for a course to avoid those consequences. I would therefore oppose the suggestion of the hon. Member for Christchurch that the money from speed camera fines should be used to allow all the lawbreakers to go on courses for free. However, I am sympathetic to the point of the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) that, in the small number of cases when the individual cannot afford the option, there could be some sort of assistance through a hardship fund. I would be sympathetic to that.

The hon. Member for Christchurch thought that I was manoeuvring myself into the position of being able to vote with the Government and against his new clause 1. However, I am encouraged by the new clause. It provides an opportunity for the House to speak with one voice and to resist the small number of ferocious critics in the media who say that speed camera fines are all about raising money for the Treasury's coffers. The Minister ought to think carefully about grabbing this amendment. Let us label it "the Conservative amendment" or "the Chope amendment", and say to those few in the media with such hostile views that the whole House believes that speed camera fine income is genuinely used for road safety purposes, and that we would even use the money for road safety educational purposes. I would say to the right hon. Member for East

Yorkshire (Mr. Knight) that that money could be spent in schools on education relating to the safe crossing of roads, and on general educational projects on highway behaviour, but not on subsidising speed awareness courses for lawbreakers. That would be going too far.

I believe that there is a benefit in having speed awareness courses, and I would like to give a couple of examples. In Staffordshire, we looked at the courses that had already been established in Lancashire and Northamptonshire, and decided to go ahead with the programme. Indeed, I was given the honour of launching the Staffordshire schemes. About 12 months later, I went back and saw one of the schemes in action. Actually, it is slightly inaccurate to say "in action", because I arrived when everyone had gone out in their cars for the practical part of the course, so I only saw the classroom in which the theory had been taught.

I was able to see the reasons for breaking the speed limit that people had written down, and they seemed to fall into two groups. One group said that they had not appreciated that they were breaking the speed limit. Within that group, there must have been some people who had not been paying proper attention, although a few might legitimately have been able to claim that the signs were not as good as they could have been in some areas. The other group of people said that they had been under time pressure, and that that had caused them to speed. Many of those people had probably not allowed enough time for their journey and had had to break the law to catch up. However, there might be a sub-group involving people who drive for a living and who might have been subjected to unfair pressure from their employers. We need to tackle that problem with the employers.

In Staffordshire, the courses have made a good start and are proving very successful. Lancashire, however, provided the father and mother of the courses, and now has a lot more experience of running them. As a result, it also has a lot more evidence of their success. After the courses had been running in Lancashire for a short time, Staffordshire university was asked to carry out an evaluation of them. Dr. Michelle Meadows produced a report identifying significant improvements in "drivers' attitude to speed" and in "drivers' violating behaviour", and showing reductions in drivers' self-reported speeds ranging from 2.6 mph to 4.8 mph. It seemed that the improvements in driving behaviour were sustained for three months after attending the course.

Dr. Meadows made recommendations for changes to the design of the evaluation and for further research into reoffending rates. That advice was followed, and after a further period of research, Lancashire county council was able to identify a marked difference in reoffending rates between those who had attended speed awareness courses and those who had not. Among those who had been found guilty of speeding and had attended a course, the reoffending rate was 36 in 1,000; among those who had never attended a course, the rate was 98 in 1,000—nearly three times as high. So there is some evidence of the effectiveness of the courses.

I am grateful to Neil Cunliffe of Lancashire county council, who has sent me a copy of one of the latest letters that his team has received. It is from the wife of a man who attended one of these courses. She wrote:

"He was not impressed about attending the course, even less about the cost and very sceptical about what he would learn, but he didn't want the points! He returned from the course, full of praise, commenting it was money very well spent (regardless of saving his three points) and feeling it had really helped him to reassess his driving."

That is the genuine voice of someone with experience of a speed awareness course telling us that it had been a valuable thing to do.

I hope that the Minister will be sympathetic to the idea of being much more vigorous about adding this arm to our education programme for the prevention of future casualties, by making speed awareness courses much more mainstream and giving them national consistency in terms of how they are offered across the country.

Mr. Greg Knight: So far, this debate has been excellent and we have heard a number of diverging views. The hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) referred to the mood music on the Conservative Benches, which he identified as pro-motorist. I do not take that as an insult, but I do not think that it is particularly accurate either. I would say that we were trying to achieve fairness and balance, because we support lower speed limits where appropriate, as well as supporting higher ones in certain cases, as shown in new clause 12. New clauses 3 and 4 propose higher penalties and new offences, while new clause 19 proposes increased provision for mitigation.

We also support the tightening of the law so that, in appropriate cases, motorists cannot be prosecuted. My hon. Friend the Member for Christchurch (Mr. Chope) referred to the case of a motorist sitting in a line of traffic using a mobile phone. The hon. Member for Ellesmere Port and Neston (Mr. Miller) wanted to know where that had happened and how the case had been brought to my hon. Friend's attention. That is not the point. The point is that, under the present law, a prosecution could be brought in those circumstances. We ought to ensure that that could not happen, and that the police prosecute motorists only when their use of a mobile phone is clearly interfering with the standard of their driving.

I warmly support speed awareness courses. I would go further and introduce highway awareness courses for those who are not motorists but who have to cross the highway, namely children and other pedestrians. However, that is perhaps a debate for another day. The arrangements in place for speed awareness courses should never amount to a deterrent to a person who has been given the option to attend one. A case was brought to my attention by a personal friend who lives in Reigate and who was caught speeding by a speed camera. When the papers came through—he showed me the documentation involved—he was offered the option to attend a speed awareness course on a particular date and at a certain cost. Because of his diary commitments, however, he decided that he would rather take the penalty points and pay the fine, as that would be less disruptive to the work that he had been contracted to carry out on that day.

There are many other such cases. The hon. Member for Caithness, Sutherland and Easter Ross suggested that people might be deterred from attending a course for other reasons, perhaps because they were unwaged or of limited means. I hope that the Minister will explain what guidance exists on requiring motorists to pay for speed awareness courses. If a motorist can ask for, and

[Mr. Greg Knight]

be given, time to pay a fine by weekly instalments, surely a similar provision should apply to the payment of the fee for a speed awareness course. The whole thrust of the amendment tabled by my hon. Friend the Member for Christchurch is that we do not want the fees and the other arrangements for speed awareness courses to have a deterrent effect. I hope that the Minister will tell us whether a person of limited means—with no savings and perhaps no income, for example—would be able to apply for time to pay the fee if they were offered the option of attending a speed awareness course.

I look forward, I hope shortly, to hearing my hon. Friend the Member for Isle of Wight (Mr. Turner) refer to his new clause 7, which I find interesting. In the absence of hearing his argument, however, I cannot support it currently. I am particularly concerned about proposed new subsection (8), which indicates that two speed limits could be set, one by the Secretary of State, who, by the nature of the fact that he must examine the wider picture, would tend to pick the correct speed limit for the stretch of road in question, whereas a local council, under pressure from local lobby groups, might seek to appease a vociferous minority by setting a lower speed limit than appropriate. I therefore have great concerns.

2.30 pm

In certain parts of the country, local authorities already seek to undermine—I suppose that that is the correct word—existing speed limits. I am thinking of the erection of speed humps. In many cases, the speed limit on a particular road is 30 mph, but the local authority has erected speed humps such that it is impossible to travel at anything close to 30 mph without wrecking one's vehicle. If there is a case for having traffic travelling at, say, 20 mph or 15 mph, why is that not the speed limit? That sort of incident causes outrage and anger in local communities and among motorists. If there is a compelling case for lowering the speed limit, perhaps near a school, I would support that rather than leaving the speed limit at 30 mph and erecting speed humps.

I shall give the House a particular example, which I am aware does not come from my constituency. Occasionally, I must travel to Derby, and my usual route involves a road called Grampian way. Some years ago, the Labour-controlled city council in Derby decided to construct a plethora of speed humps along Grampian way. Initially, that was done under pressure from local residents who wanted traffic-calming measures—they did not specify speed humps, but that is what they got. Three of those speed humps regularly fouled the exhaust system on two of the motor vehicles that I own, no matter at what speed one sought to negotiate them. The pleasure of the local community at achieving traffic calming in the area soon turned to dismay and anger, because local residents realised that not only were those speed humps extremely intrusive but they had increased pollution—not just airborne pollution but, particularly irritatingly, noise pollution during the evening, such that they were regularly kept awake as heavier vehicles in particular negotiated the speed humps. A campaign then developed against those speed humps on Grampian way. In one of the safe Labour wards within the Derby city council area, an anti-speed hump candidate stood in the city council elections—

Mr. Deputy Speaker (Sir Michael Lord): Order. The hon. Gentleman is making the speech that he would have made had new clause 9 been selected for debate. He will be aware that it was not selected. I have been fairly generous so far, but perhaps he would bring to a close his remarks on speed humps.

Mr. Knight: Thank you, Mr. Deputy Speaker. I have been rumbled.

To conclude the point, the anti-speed hump candidate won the election, the Labour party lost control of Derby city council and the speed humps were removed.

Therefore, there are many other ways of dealing with the problem of inappropriate speed limits, which is the point on which I started. That is why we support flexibility on speed limits. New clause 12 is therefore to be welcomed. I hope that the Minister, having had time to reflect, will be more positive about accepting it today than was indicated in Committee.

I also hope that the Minister will respond positively to new clause 19, as it is an attempt to allow genuine mitigation to be taken into account—in those cases in which points should be put forward on behalf of the motorist for transgressing—which would lead a reasonable person to conclude that the penalty imposed in such an exceptional case should be lower than would otherwise occur. That would not lead to a free-for-all, as the Minister knows that guidance can be issued saying that, in all but exceptional cases, points should be imposed, and we fully accept that that ought to be the norm. However, hon. Members will know of the sort of cases to which I allude, perhaps from their own experience, in which a more lenient view could and should be taken.

I am not sorry that this debate may be the Government's transport swansong. I am sorry, however, that this debate may be the swansong for the Under-Secretary of State for Transport, the hon. Member for Plymouth, Devonport (Mr. Jamieson). In some respects, he has been an excellent Minister. I hope that he will make today's proceedings an event to remember by accepting new clauses 1, 6 and 19. If he does so, we would happily withdraw the rest.

Rob Marris: I find new clause 16 very interesting. I say that as someone who spent five and a half years as a professional driver, three of those as a bus driver, principally driving trolley buses, and who never had an accident of any description—whether someone having an accident with me or me having an accident with someone. That was because of the superb training that I received in Vancouver, Canada, from what was then called B. C. Hydro, which ran the metropolitan buses within the Greater Vancouver regional district. It is important to encourage people to have training courses. We already have a statutory driver re-education scheme for those who fall foul of the drink-driving laws. New clause 16, tabled by my hon. Friend the Member for Stafford (Mr. Kidney), is very attractive.

I want to focus my brief remarks on new clause 4. Some Members will know, and I know that my hon. Friend the Member for Stafford knows, that there was

recently an extremely sad case in Wolverhampton in which a 12-year-old boy, Jamie Mason, was knocked down by a driver who had no driving licence, no insurance, and, I believe, no tax. That boy was killed. That driver was speeding in a suburban area according to the police evidence, and was 50 per cent. over the drink-drive limit, and that boy died. Having pleaded guilty, the driver got a two-month custodial sentence. I, my hon. Friend the Member for Wolverhampton, North-East (Mr. Purchase) in particular, who cannot be here today and who wished this point to be made forcefully, and my hon. Friend the Member for Wolverhampton, South-East (Mr. Turner), find the sentencing powers and the discretion of the magistrates in relation to that case, in which the death of a 12-year-old boy occurred, extraordinary. We find a gap in the law.

I must say to the hon. Member for Christchurch (Mr. Chope), who tabled new clause 4, that I do not think that the wording is quite right, but he has identified a gap in the law. Another way to address that sort of issue might be that if someone is driving a motor vehicle, or to use the words of the amendment,

"a mechanically propelled vehicle on a road or other public place other than in accordance with a licence authorising him to drive a motor vehicle of that class",

such an individual should face a presumption if not an absolute legal certainty that he or she, driving without a licence, is driving carelessly. That would then match up with a new offence of causing death by careless driving, which has been a gap in our law. Under the Bill, there can be three offences of careless driving, dangerous driving or causing death by dangerous driving but not the natural fourth offence of causing death by careless driving.

In my view and that of my two Wolverhampton colleagues, that is the situation which, very sadly, faced young Jamie Mason. The individual who was driving had no licence. New clause 4 or what I am suggesting now—that someone would be presumed to have been driving carelessly if he or she was involved in an accident and had no licence—would not, of course, bring young Jamie back, but it would at least go some way towards dissuading people from engaging in such activity, and preventing the occurrence of another extremely sad incident of that kind.

I urge my hon. Friend the Minister to give thought to this issue.

Mr. Andrew Turner: The hon. Member for Wolverhampton, South-West (Rob Marris) has told a very sad story. We all sympathise with him and his two Wolverhampton colleagues, as well as—of course—the bereaved family.

It is common during road safety debates for Members to say that deaths could occur in certain circumstances, but I do not intend to take that line myself. Let me first express to my hon. Friend the Member for Christchurch (Mr. Chope) my support for his new clauses, and explain to my right hon. Friend the Member for East Yorkshire (Mr. Knight) that I tabled new clause 7 because my constituents wanted something to be done about the dangers involved in using rural roads—especially as pedestrians, cyclists or riders, but sometimes as motorists. I felt that devising and debating a new clause would do no harm.

There is considerable objection to the concept of national speed limits, because they are seen to take from the motorist the responsibility for making his own judgments about conditions pertaining on a particular road. I sympathise with that view: I believe that it is the responsibility of the motorist behind the wheel of a dangerous missile to decide at what speed that missile is less or more dangerous, and to adjust his behaviour accordingly. However, I also observe considerable concern about the proliferation of a range of different speed limits, and, for that matter, the proliferation of a range of signs on the highway, particularly in rural areas. I refer the Minister to an amendment that I tabled to the Planning and Compulsory Purchase Act 2004 when it was a Bill, which proposed that planning authorities should consult highway authorities on signage in areas of high environmental value, such as areas of outstanding natural beauty, national parks and conservation areas.

Many of us believe, and others have observed, that extra road signs do not make things safer, and that the kind of work so favoured by traffic engineers—establishing barriers around corners so that pedestrians cannot step off the pavement, driving pedestrians into cages before they cross roads, and producing a proliferation of lines and devices on the surfaces of carriageways and on lamp posts and signposts—does not make things easier. In fact, such measures give the motorist the false impression that he is safe.

I refer the Minister to documents circulated by the British Council of Shopping Centres, the Council for the Protection of Rural England and—this is the one that came to my attention most recently—English Heritage, in association with the women's institutes. They suggested that such signs not only make driving more dangerous because they create a false sense of security in the motorist's mind, but damage the environment. I therefore tried to devise an amendment that would achieve my constituents' objective but not lead to a proliferation of road signs. In the nature of things, that is likely to produce a blunt instrument. That is my explanation to my Front-Bench colleagues of the fact that I propose a national speed limit of sorts.

2.45 pm

My constituents, especially those who ride in the Upton Cross area, have observed increasing traffic speeds among people travelling from Newport to Ryde and avoiding the main road, on which there are a number of speed cameras. That is the situation described earlier by my hon. Friend the Member for Christchurch. Stroudwood road and the other roads in that area are very narrow, only just capable of carrying two lanes of traffic, and there are white lines, or hazard lines, down the centre. Motorists think, "There's a division in the middle, so we can adopt a reasonably high speed." They tend to ignore the high hedges abutting the carriageway on either side, the absence of verges and the fact that, given the many equestrian centres in the area, riders are likely to be crossing, and using, the road. It is said that there are more horses than people on the Isle of Wight; there are certainly more horses than there are small girls to ride them. Riding is not a toffs' sport on the Isle of Wight even if it is in other parts of the country, which I doubt.

[Mr. Andrew Turner]

I hope that my new clause can be said to be relatively carefully crafted, and will prevent a further incidence of mad sign disease—the defacing of our streetscapes with lumps of aluminium and plastic, and the defacing of our rural areas as well. First, it establishes what a rural road is. Under subsection (7), a rural road must fulfil three conditions: no speed limit other than the national limit must apply, there must be no street lighting and, most importantly, there must be no white line down the middle. If a local authority wishes to impose a limit, it need only remove the white line. That in itself will tend to make motorists more careful.

Secondly, I have given the Secretary of State power to designate speed limits for England, and the highway authority power to designate them in respect of a highway authority area, or an area of a principal authority subordinate to that highway authority. That is in subsections (3) and (4). Thirdly, I have proposed that no signage is necessary if there is a national scheme. If there is no street lighting, if there are no markings in the middle of the road and if there is no speed limit, it will be obvious to the motorist that a speed limit designated by the Secretary of State applies.

Rob Marris: It may be more difficult for those of us who live in and represent urban areas to understand entirely what the hon. Gentleman is talking about. I thought that we already had such limits de facto. If I go from Wolverhampton to the rural areas of Staffordshire or Shropshire, I see a derestriction sign which means a maximum of 60 mph unless a different limit is posted. Is the hon. Gentleman suggesting that what I would call a default speed limit should be less than 60 mph, or more?

Mr. Turner: I am suggesting that when the Secretary of State or the highway authorities so decide, the default speed limit should be less than the national speed limit, and that, when the Secretary of State so decides, no signs are necessary, and when the highway authority decides the same—this is covered by subsection (6)—the only sign necessary is one at the entry of the designated area, which shall be coterminous with the area of a highway authority, county council, unitary authority, metropolitan or other borough, or district in a rural area. In all those areas, designation will be by the highway authority. It is really quite simple.

Let me refer to the eighth point made by my right hon. Friend the Member for East Yorkshire. I propose that a highway authority should be able to set a speed limit below that designated by the Secretary of State. Areas differ, and the council of the Isles of Scilly may prefer a lower speed limit than that which is appropriate for some of the roads that the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) mentioned.

Rob Marris: May I gently suggest to the hon. Gentleman that his views on the issue may be coloured by the constituency that he represents—which is also where, I suspect, he lives—because it is an island? If I travel westwards from Wolverhampton in my constituency, I cross a peninsula—the southern part of Staffordshire—for approximately 8 km and then enter Shropshire. Under the scheme I understand him to be proposing, when I left Wolverhampton I might see a sign telling me that I was in Staffordshire and that the default speed limit was 50 mph. I then cross into Shropshire, where I might see one sign suggesting that the default speed limit was now 45 mph. If I missed that one sign and carried on driving at 50 mph in Shropshire, I would be doing 5 mph over the speed limit. If that is the system that he is suggesting in the new clause—the one-sign approach—it is a little impractical, and unfair on motorists. If people come from the Isle of Wight they will not know that in Shropshire, the default speed limit is 45 mph.

Mr. Turner: That is a fair point. Perhaps as a former geography teacher, I have an optimistic view of people's knowledge of county boundaries. The boundary of my county is very clear and no one enters it without knowing that they are doing so. As I have said, I tabled the new clause not because I intend to press it to a vote but because I look forward to hearing hon. Members' views and those of the Minister on it. There are considerable differences between different areas, and perhaps I have been unduly restrictive in the signage that I have proposed under subsection (6), but I am deeply aware of the need to avoid a requirement for local authorities to put intrusive road signs every 100 or 200 yd through rural areas. I am talking about rural roads here, not major roads—although I would like those restrictions to be applied to major roads, too.

That said, I take the view that the new clause is worth tabling and discussing. The proposal would certainly work in rural areas such as Devon, Cornwall, the Isle of Wight and the Isles of Scilly, where the boundaries are clear and well known. I sympathise with the hon. Gentleman, whose city used to be in Staffordshire and is now only geographically within it, and not administratively. That problem arose following the reforms many years ago, which we were unable to undo. However, the new clause is worthy of consideration and I hope that the House, and the Minister in particular, will give their views on it.

Mr. Jamieson: This debate has been very good and extraordinarily wide ranging. I have seldom seen put together in one group so many new clauses that represent so many different aspects of a Bill, but it has given us a good opportunity—this is almost like a Second Reading debate—to get stuck into some of these important issues.

New clause 1 seeks to amend section 38 of the Vehicles (Crime) Act 2001 on the unified power for the Secretary of State to fund speed cameras, which enables the Secretary of State to allow for payments to be made to public authorities in the safety camera programme netting off scheme to cover certain costs associated with issuing and enforcing conditional offers from fixed penalty notices for speeding offences. The money to fund the costs is reclaimed from receipts generated by fines. The receipts are passed from the Department for Constitutional Affairs to the Department for Transport, which reimburses the partnerships for approved expenditure incurred. Any surplus generated is paid over to Her Majesty's Treasury in the form of Consolidated Fund extra receipts.

The new clause seeks to include the funding of educational or training programmes among the allowable expenditure from reclaimed receipts.

However, the new clause is not required. The safety camera programme is delivering positive results under current rules on what the funding can be used for, and there is no reason to seek to change the rules that determine what can be funded by that income at present.

The hon. Member for Christchurch (Mr. Chope) referred to clause 1. That allows for local authorities to be funded by other revenue streams to enable them to fund the educational and training activities mentioned in the new clause. The safety camera programme has a distinct and different function: to strengthen detection, enforcement and deterrence of speeding and red light offences, which we have not heard much about in these debates, at places on the road network with particular problems. It complements the wider promotion of road safety already provided in the wider funding of the police and local authorities.

Opposition politicians—often spurring on some of the things we see in newspapers—and critics of the safety camera programme seek to undermine its success in reducing road deaths and injuries by making unfounded allegations that the police and local authorities are using it as a "stealth tax". We did not hear the hon. Member for Christchurch mention those words today, which must be something of a record. The present legislation and the way in which the safety camera partnership works demonstrates that that is not so, since it provides that the programme can be applied only to the deployment of cameras. That means that the police and local authorities have no incentive to deploy cameras for any other reason, however well intentioned they may be. It is important that we maintain public confidence that safety cameras are deployed for one purpose and one purpose alone.

It is unfortunate that, again today, the hon. Member for Christchurch made out that that was not the case. He used the glib phrase that we have greed cameras, not speed cameras, which will again feed little headlines in newspapers to undermine what the cameras are doing—reducing death and injury on our roads. As I have said, it is particularly children who benefit from that—mainly in urban areas, I have to say. Fewer children are being killed and injured on our roads now. I am very pleased about that. I think that the cameras have made a major contribution to improving the position.

The hon. Gentleman went on to say that some of the speed awareness and driver improvement courses for those who offend should be funded out of this income, too. My hon. Friend the Member for Stafford (Mr. Kidney) made the point extremely well: it is the offender who should pay. Effectively, the hon. Member for Christchurch is saying that the offenders course should be paid for by the taxpayer. I do not agree. If someone breaks the law and goes on one of those courses, they should pay for it. It should not be subsidised by the taxpayer.

Mr. Andrew Turner: Will the Minister address the point that I raised earlier—whether the penalties should be the same in all parts of the jurisdiction and whether it is not unfair that in some parts of the country, there can be a trade-off between a speed awareness course and a penalty, whereas in others there is no option?

Mr. Jamieson: It is the case that these courses have been pioneered in some parts of the country. Because they have worked so well in certain parts, we want them to be promoted more widely across the country. The hon. Gentleman will know that the Bill puts in place many measures that will ensure that we get consistency across the country, although there should also be some local discretion. I do not want to remove that entirely.

The hon. Member for Christchurch again alluded to cameras that were in the wrong place or that were not doing their job. We have trodden this ground many times. It was nearly 15 months ago that I challenged one of his predecessors on the Opposition Front Bench to tell us where are the cameras that are in the wrong place. As yet, 15 months on, after many invitations from me, the number of those sites that the hon. Gentleman and his friends have identified is precisely zero. He has not told us of one single site where cameras are in the wrong place—so it would be helpful if he would stop making comments unless he can back them up with solid facts, which he has declined to do so far.

New clause 2 is designed to make the benefits of a course available not only to offenders whose cases are dealt with by the courts, but to those who have acquired penalty points through the fixed penalty system. I am not unsympathetic to that aspiration in the longer term, but we must proceed gradually.

3 pm

I shall explain some of the background, because retraining for road traffic offenders takes different shapes and forms, and there has been confusion about the different schemes in operation. I am sure that hon. Members will be aware that since the early 1990s, the police have dealt with some careless driving offenders by offering them the opportunity to attend a one and a half day driver improvement course at their own expense. They can do that only if the police officers involved believe that the retraining will serve road safety better than a prosecution. If the course is not completed, the prosecution will be pursued.

Courses are provided in collaboration with the police by independent course providers using the national course model. The management content and applicability of courses are matters for the police and involve the Association of Chief Police Officers, but they have no statutory basis.

During the past few years, the police in several parts of the country have extended that approach to speeding offenders, which has given rise to a range of speed awareness courses that have been offered in lieu of fixed penalties. Similarly, although those are a matter for the police, the majority of such offences are detected remotely by cameras and the criteria for offering a speed awareness course are more automatic. It is important for the Government to know how well the different courses perform, because they may correct bad driving habits before they become entrenched.

The Bill is rather different. Its starting point is the drink-driving rehabilitation scheme, which was introduced by the Road Traffic Act 1991 and piloted from 1992 to 1999. The hon. Member for Christchurch may have been involved in introducing that legislation. It is clear from the details that Parliament did not want to allow people who committed offences as serious as drink-driving to have a remission in their disqualification period without rigorous provisions.

[Mr. Jamieson]

They included the courts being responsible for the decision to offer a course, ensuring that courses were available and checking whether the offender had successfully completed the course. Before the scheme was adopted nationally, firm evidence was sought and obtained to ensure that it was successful in reducing reoffending. The amendment would encourage motorists to go to court in the hope of avoiding a fixed penalty.

My hon. Friend the Member for Stafford spoke to new clause 16. I praise his excellent work as co-chair of PACTS—the Parliamentary Advisory Council for Transport Safety. He has a long-standing interest in such matters and is a guiding inspiration to many of us—I am leading up to saying that I cannot accept his new clause. However, speed awareness courses have been adopted by some police forces as an alternative to prosecution for speeding offences. The driver improvement scheme is overseen by a steering group in which key Government Departments, including mine, participate.

I understand that existing speed awareness courses have evolved in a less regulated way and there have been some differences in practice and some inconsistency in eligibility for courses in different parts of the country, as the hon. Member for Isle of Wight (Mr. Turner) said. I am also advised that the position has improved and I entirely agree with my hon. Friend the Member for Stafford that such matters should be dealt with uniformly and consistently. However, the courses are the responsibility of the police and are offered at their discretion. It would not be appropriate for central Government to step in and regulate them. I am sympathetic to the ideas behind the amendment, but we must allow time for them to roll out and allow ACPO to take the lead in ensuring consistency and rigorous standards.

Mr. Kidney: I am grateful for my hon. Friend's kind comments about me, but will he at least take a personal interest for a short time in establishing that the police have a grip on the matter and that they intend to ensure that there is a national standard throughout the country? Would his Department be mildly encouraging of every force and safety camera partnership that adopts such schemes?

Mr. Jamieson: I certainly give my hon. Friend that assurance.

The hon. Member for Christchurch hoped that we would accept new clauses 3, 4 and 6 without demur. I am sympathetic to them, but the difficulty is that Home Office consultation is due to finish on 6 May—I do not know whether that date may be of interest to hon. Members—and it would be premature for the Bill to introduce those changes before the consultation has been completed.

Mt hon. Friend the Member for Wolverhampton, South-West (Rob Marris) spoke movingly about the case of a 12-year-old boy in his constituency, which shows why we need changes. Although it is difficult in such circumstances, I hope that he will be patient, because we need to consider all offences across the board instead of picking some of them off piecemeal. However, I am deeply sympathetic to the views he expressed.

My hon. Friend the Member for Ellesmere Port and Neston (Mr. Miller) made the same points. He was right in saying what he did, but some of the penalties may be more onerous that those that are ultimately intended. We must listen to the consultation and then consider the whole package of measures.

Mr. Miller: Can my hon. Friend confirm that after the consultation, the Government's policy is to bring the offences in the three new clauses into legislation?

Mr. Jamieson: That is the intention that was set out by the Home Office. My Department does not deal with the matter, but the intention is that the Home Office will introduce appropriate changes when the consultation has been completed.

I have some sympathy with new clause 7, which was tabled by the hon. Member for Isle of Wight, but my hon. Friend the Member for Wolverhampton, South-West unpicked the problems rather well. There could be considerable difficulty with enforcement. Reference was made to county boundaries, especially in Devon and Cornwall, and whether they are clear. They are not always clear there—certainly not between Devon, Dorset and Somerset—and that could lead to considerable confusion.

Speed limits on roads are a matter for local authorities. The approach that I prefer, and which the Government are encouraging, is that local authorities decide the appropriate speed for each individual road and see how many casualties there are. If there are no casualties, there is no need for action, but where there are casualties—they often occur in villages and small settlements—it is in the gift of the local authority to introduce a different speed limit, even as low as 20 mph. Local authorities are doing just that in many areas.

This is not just a matter of changing the sign on the road and introducing a different speed limit. It is important that any changes are related to other changes, such an engineering changes, a change in the road design or improvement to a junction and so on.

Mr. Andrew Turner: Two points arise from the Minister's comments. First, I am sorry to hear him say that if there are no casualties there is no need for action. Pedestrians, cyclists, riders and so on are often driven off the roads because they fear that they may become casualties. That is the evil that we must deal with. Secondly, and far less importantly, I hope that the Minister will deal with the proliferation of signage that appears to be required by his Department when speed limits are introduced.

Mr. Jamieson: If people are being driven off the roads—for example, children cannot walk to school along a road—that is clearly a case for action by the local authority. The need for action may be related not to casualties but to the convenience of local people, if there are no footpaths and the road is very dangerous.

I have read the views of *Commercial Motor* on new clause 12, and many others have expressed similar views. I would be sympathetic to new clause 12 if I thought that no increase in danger would result from allowing heavy goods vehicles to travel at 50 mph rather than 40 mph on narrow roads. We rehearsed the arguments well in

Committee, and the 40 mph speed limit for such vehicles on a single carriageway is in place for a good reason. Heavy goods vehicles take much longer to stop than cars, and the number of casualties and collisions involving such vehicles on those roads is much higher than it is for cars.

In new clause 19, the intention is to make the endorsement of licences a discretionary matter for the courts. That still poses several technical problems. It could throw out an entire framework for keeping records of previous driving offences. I do not know whether it is part of the policy of the hon. Member for Christchurch to disregard the problem of repeat offending. It is not clear how he proposes to deal with fixed penalties that involve the imposition of penalty points. If the court thinks that there are special reasons not to endorse a licence, it may choose not to do so, but those special reasons have to be established by case law, which is beyond the scope of the debate today.

I was interested by what the hon. Gentleman had to say about mobile phones. I am beginning to wonder what the modern Conservative party—if that is not a contradiction in terms—has against road safety and the efforts that we have made to reduce casualties. If people are using a handheld mobile phone while driving, it constitutes a danger on the road. The hon. Gentleman mentioned the issue of whether someone is driving or not. When someone is drunk and in control of a vehicle, that can include standing near the vehicle or sitting in the vehicle with the engine turned off, because we know that in the next few minutes they will not become sober again. That is different from someone who pulls in to the side of the road, turns the engine off and makes a call on a mobile phone.

As Members of Parliament, we have to be careful about what we say in this Chamber. The hon. Gentleman spoke of a case in which a police officer had gone down a line of cars booking people who were using their mobile phones while the cars were standing still—but when he was challenged by my hon. Friend the Member for Ellesmere Port and Neston, he could not tell us when or where that happened. If he wishes to intervene and put on the record when that event took place, I will look into it and take the issue up. However, if he cannot say when it was, perhaps he should keep his silence on such matters and avoid putting urban myths on the record. He appears to have no intention of intervening, so it is probably safe to say that that case did not exist and we may dismiss it.

Mr. Chope: No.

Mr. Jamieson: Well, the opportunity is there.

We have had a useful and helpful debate on a wide range of issues. I thank the right hon. Member for East Yorkshire (Mr. Knight) for his charming and pleasant comments. However, he may have to put up with me for another 15 or 16 months yet.

3.15 pm

Mr. Chope: We have had an excellent debate, but I am not persuaded by the Minister's arguments on new clause 1. Indeed, the hon. Member for Stafford (Mr. Kidney) made a compelling argument in support of that new clause and we look forward to him joining us in the Lobby later.

The Minister accepted that new clauses 3, 4 and 6 were worth while, but he prayed in aid the old defence of Ministers—that of prematurity. That does not wash in this case, because the Government set up a review of the offences back in May 2003. The review ran so slowly that it did not report until the end of January, but now the Minister is playing for more time by talking of a consultation period that will end in May. I think that the House has made up its mind that the offences identified in new clauses 3, 4 and 6 should be on the statute book. We cannot test the House's opinion on all those new clauses, but I hope that we will be able to do so on new clause 6, which deals with the most serious offence identified and would send a clear message that people should not drive while disqualified. If they do so, and cause an accident that results in death, they should expect the full force of the law to come down heavily upon them.

The Minister said that several of the cases that we made are not borne out by the evidence and had a general go about the inappropriateness of our approach to speed cameras. We feel that speed cameras are still too much abused. Too many are in the wrong place. The Minister keeps asking us to specify particular examples, so I shall remind the House of the case last year in which a genuine speed camera was implicated in the death of an elderly pedestrian. Myra Nevett, who was 69, was fatally injured as she crossed a road in Disley, near Stockport. At her inquest, the south Manchester coroner, John Pollard, said that the motorist was apparently distracted by the sight of a speed camera. He said:

"Cameras are sometimes responsible for distracting drivers, who look at their speed rather than the road. These cameras are a valuable safety measure when properly used, but they are in danger of becoming a hazard."

Recently, in Dorset, we had a case in which someone who was fed up with speeding motorists outside his house and put up a fake speed camera, which led to a fatal accident nearby. That is another example of a speed camera causing problems rather than solving them.

Finally, on new clause 19, we believe that scope should be allowed for mitigation of the fine and penalty points. It is not unreasonable that, if there are mitigating circumstances, a driver should receive fewer or no penalty points on their licence. That is the idea behind new clause 19 and I hope that we will have the opportunity to vote on that later. In the meantime, I commend new clauses 1 and 6 to the House.

Question put, That the clause be read a Second time:—

The House divided: Ayes 175, Noes 271.

Division No. 115] **[3.19 pm**

AYES

Ainsworth, Peter *(E Surrey)*	Bellingham, Henry
Amess, David	Bercow, John
Ancram, rh Michael	Beresford, Sir Paul
Atkinson, David *(Bour'mth E)*	Blunt, Crispin
Atkinson, Peter *(Hexham)*	Boswell, Tim
Bacon, Richard	Bottomley, Peter *(Worthing W)*
Baldry, Tony	Brady, Graham
Baron, John *(Billericay)*	Brake, Tom *(Carshalton)*
Barrett, John	Brazier, Julian
Begga, Roy *(E Antrim)*	Breed, Colin
Beith, rh A. J.	Browning, Mrs Angela

Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Conway, Derek
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harvey, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Marsden, Paul *(Shrewsbury & Atcham)*
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Roe, Dame Marion
Rosindell, Andrew
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shephard, rh Mrs Gillian
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Wiggin, Bill
Wilkinson, John
Willetts, David
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Ayes:
Mr. Geoffrey Clifton-Brown and Andrew Selous

NOES

Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Dawson, Hilton
Denham, rh John
Dismore, Andrew
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Edwards, Huw
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foulkes, rh George
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jamieson, David
Johnson, rh Alan *(Hull W)*

Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Mr. Nick Ainger and
Mr. Tom Watson

Question accordingly negatived.

New Clause 6

CAUSING DEATH BY DRIVING WHILST DISQUALIFIED

'If a person causes the death of another person by driving a mechanically propelled vehicle on a road or other public place while disqualified from driving by order of a court he is guilty of an offence.'. —*[Mr. Chope.]*

Brought up, and read the First time.

Question put, That the clause be read a Second time:—

The House divided: Ayes 177, Noes 272.

Division No. 116] **[3.33 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Conway, Derek
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Heald, Oliver
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey

Tellers for the Ayes:
Mr. Mark Hoban and
Mr. Andrew Mackay

Maples, John
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Shephard, rh Mrs Gillian
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Ayes:
Andrew Selous and
Mr. Geoffrey Clifton-Brown

NOES

Abbott, Ms Diane
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Denham, rh John
Dismore, Andrew
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Edwards, Huw
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foulkes, rh George
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Godsiff, Roger
Goggins, Paul
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hoey, Kate *(Vauxhall)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Humble, Mrs Joan
Iddon, Dr. Brian
Illsley, Eric
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Oliver, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*

Prentice, Gordon *(Pendle)*
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Chris *(Islington S & Finsbury)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Mr. Nick Ainger and
Mr. Tom Watson

Question accordingly negatived.

New Clause 11

SECONDARY LOCKING DEVICES

"The wheels of every heavy goods vehicle shall be fitted with a secondary locking devices.". *—[Mr. Knight.]*

Brought up, and read the First time.

Mr. Greg Knight: I beg to move, That the clause be read a Second time.

Madam Deputy Speaker (Sylvia Heal): With this it will be convenient to discuss the following:

New clause 13—*Reflective clothing*—

'The Road Traffic Act 1988 (c.52) is further amended, by inserting after section 16 (wearing of protective headgear):—

"16A Wearing of protective clothing

The Secretary of State shall make regulations requiring, subject to such exceptions as may be specified in the regulations, persons driving or riding in motor vehicles of any class specified in the regulations to wear EN471 compliant reflective garments when leaving the vehicle at a roadside, except where the vehicle is parked.".'.

New clause 15—*Protective headgear for children under 16 riding cycles*—

'(1) Except as provided by regulations, it is an offence for any person to whom this subsection applies to cause or permit a child under the age of 16 years to ride a cycle on a road unless the child is wearing protective headgear of such description as may be specified in regulations, in such manner as may be so specified.

(2) Subsection (1) above applies to the following persons—

(a) any person who—

(i) for the purposes of Part 1 of the Children and Young Persons Act 1933 (c. 12) has responsibility for the child, or

(ii) for the purposes of article 5 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (NI 2)) has parental responsibilities in relation to the child, or

(iii) in relation to Northern Ireland has care of the child or is, otherwise than by virtue of article 5 of the Children (Northern Ireland) Order 1995, legally obliged to maintain the child, or

(iv) for the purposes of Part 2 of the Children and Young Persons (Scotland) Act 1937 (c. 37) has parental responsibilities (within the meaning given by section 1(3) of the Children (Scotland) Act 1995 (c. 36) (parental responsibilities)) in relation to the child, or has charge or care of the child;

(b) any owner of the cycle, if the owner is above the age of 15 years;

(c) any person other than its owner who has custody of or is in possession of the cycle immediately before the child rides it, if that person is above the age of 15 years;

(d) where the child is employed, his employer and any other person to whose orders the child is subject in the course of his employment.

(3) A person guilty of an offence under subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale.'.

New clause 18—*Amendment of Road Traffic Act 1988*—

'The Road Traffic Act 1988 (c. 52) is further amended, by inserting after section 80 (approval marks)

"80A Retro-reflective markings

The Secretary of State may by regulations made by statutory instrument require the fitting of retro-reflective tape complying with ECE 104 to international category vehicles N2 and N3 and on goods trailers under the international classification 03 and 04 newly registered in the UK.".'.

New clause 21—*Amendment of Road Traffic Act 1988*—

'In section 41 of the Road Traffic Act 1988 (c. 52) (regulation of construction, weight, equipment and use of vehicles), at the end of subsection (2) insert—

"(m) for prohibiting the modification or retrofitting to the front of a motor vehicle any equipment which in the opinion of the Secretary of State may render the vehicle more likely to cause injury to a third party in the event of an accident.".'.

3.45 pm

Mr. Knight: New clause 11 may seem to some Members to be dealing with a rather obscure point, but the reference to wheels is to road wheels not steering wheels. Although the provision covers a fairly rare occurrence, it is nevertheless a serious problem that some experts estimate leads to 10 fatalities a year on our roads, when lorries shed not their load but one of their wheels.

I draw the attention of the House to a report in the *Daily Express* of 23 October 2004. Under the headline, "School run mother of five killed by runaway truck tyre", it stated:

"A spokesman for Devon and Cornwall Police said its officers were working with Department of Transport vehicle examiners to investigate how the nuts and bolts holding the wheel came free or broke. Several were found at the side of the road close to the spot

[Mr. Knight]

where the lorry stopped. Police Sergeant Bryan Hancock said: 'Most incidents we attend would involve some element of driving, but this is something that has happened with the vehicle. We are now carrying out an investigation with our vehicle examiners and the Department of Transport, and a report will be prepared for the coroner.'."

Mr. Mark Louch of the company, Wheelsure, wrote to my hon. Friend the Member for South Suffolk (Mr. Yeo) about the incident and the report in the *Daily Express* to which I have just referred. The letter stated:

"It is of course inappropriate to comment on the individual circumstances that surround this case. However you should be aware that an incidence such as that described is neither a 'freak' nor 'unexplained phenomenon'. Instead it is highly likely that the wheel-loss has occurred due to vibration nut loosening, an engineering design problem that has beset the transport industry for years. Wheel-nut loosening and wheel loss are frequent occurrences and well known to those who operate professional logistics businesses."

The letter confirms a point I made a few moments ago, adding:

"It is estimated by Brake, the leading Road Safety Charity, that up to 10 fatalities each year are caused by wheels flying off vehicles."

I have first-hand experience of the problem. About eight years ago, I purchased a new set of wheels for a sports vehicle that I owned. As I was approaching junction 10 of the M1, travelling at 70 mph, I suddenly felt a violent vibration from one of the wheels. I managed to stop the vehicle in time and on examining the front wheel I saw that four of the five studs that held it in place had sheered off. It later transpired that that was a wheel design problem and I understand that subsequently the wheel was redesigned. That is not only a frightening experience for the driver, but a dangerous experience for other road users.

Various hon. Members have raised this issue with Ministers over the years. In 1997, it was raised by the hon. Member for Peterborough (Mrs. Clark), who asked

"when the results of the wheel loss survey . . . will be published."

The then Minister replied that the Government were looking into the matter, but

"expect to make these results known by the end of January 1998."—[*Official Report*, 19 December 1997; Vol. 303, c. *353*.]

Also in 1997, the hon. Member for Crewe and Nantwich (Mrs. Dunwoody) asked a similar question, and the then Minister—the hon. Member for Hampstead and Highgate (Glenda Jackson)—said:

"Data on the specific causes of accidents are not routinely collected".

However, she continued:

"Following joint discussions with the Vehicle Inspectorate and the Association of Chief Police Officers, a nation-wide survey looking at the extent of the problem of wheel detachment from heavy goods vehicles and passenger vehicles was started in February this year."

Of course, that was February 1997. She went on to say:

"The survey has recently finished and the results are being analysed."—[*Official Report*, 10 June 1997; Vol. 295, c. *410*.]

We and, I think, the House would like the Minister to tell us what is the present state of play with regard to the analysis of that problem. Are we any nearer establishing the cause of the problem?

I am lucky enough to own a 1950s Bentley, which is now regarded as a classic car. Bentley, realising that cost was less of a problem when that car was new, designed it so that the wheel nuts on one side loosen the opposite way to those on the other side. Clearly, Bentley had concluded that, with the movement of the car, it would be safer for some nuts to tighten clockwise and some to tighten anticlockwise, so that the movement of the vehicle would not tend to loosen the wheel nuts on one side only. That practice is not widespread today. Certainly most motor cars in production today do not have that extra safety feature present, and all wheel nuts tighten clockwise.

Is that safety feature present on heavy goods vehicles? Perhaps the Minister will tell us. Has the lack of such a feature been identified as the reason for the problem? Is an added problem perhaps that wheel studs become stressed, thus lengthening or fracturing?

We are talking about the loss of life, so we would like a progress report from the Minister. In effect, new clause 11 is probing in nature. I hope that she can reassure the House that the issue is being looked at and that the Government are seeking to reach an early conclusion.

Rob Marris: The right hon. Gentleman may be aware that, certainly until recently—it may still be the case—certain specialist sports cars were produced in north America with left-hand threads for the wheels nuts on one side. Does he agree that it would help if we had some comparative information from other countries about whether such a safety device, in contradistinction to the one directly referred to in new clause 11, were fitted?

Mr. Knight: That would certainly be helpful. I have no knowledge of any vehicle with counter-running threads on one side suffering the problem of its wheels loosening. That may well happen in a few cases, but I am not aware of it. I should have thought that producing a vehicle with threads that tighten in the opposite direction on one side would cost relatively little. The House would welcome such a feature if it led to vehicles becoming much safer on the road, particularly when travelling at speed.

New clause 13 is entirely probing in nature and is intended to tease out from the Minister whether the Government are considering best practice in reducing accidents and considering the experience of other countries. Being a Conservative, I always hesitate to argue for more red tape, especially when my right hon. Friend the Member for Wokingham (Mr. Redwood), the Cabinet Minister for deregulation, is sitting behind me—*[Interruption.]* I am sorry; he is a member of the shadow Cabinet, certainly until 6 May.

Although we do not want to accept the one-size-fits-all attitude of many Labour Members when considering our European partners, we should look at the practices of other countries if statistical evidence has been gathered about them, if only so that we can dismiss them and look for an alternative solution. A similar regulation to new clause 13 forms part of Spanish law. Motorists who travel in Spain must ensure that they have coloured jackets in their vehicles. The regulation applies if a vehicle is stopped, but not parked. For example, motorists who discover that they have a flat tyre on a motorway are required to wear a yellow jacket if they leave their vehicle to replace it.

I raise the matter against the background that, in the past seven days, a person on the hard shoulder of a motorway in the UK was killed after he and his car were hit by a heavy goods vehicle. Eighteen months ago, there was a widely reported case in which four female passengers who got out of a car that had broken down on the third carriageway of a motorway were killed. Several motorists each year are injured, some fatally, while on the hard shoulder. Unfortunately, not all stretches of this country's motorways have the benefit of lighting.

I would like to tease out from the Minister what the Government are doing to bring home to drivers how dangerous it is to get out of their vehicles on motorways in the United Kingdom. If she does not intend to follow the practice adopted by Spain, what else is being done to educate drivers about the danger that exists?

We wait with interest to hear what the hon. Members who tabled new clauses 15, 18 and 21 will say. May I perhaps pre-empt what the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) will say about new clause 21? I think that it has been drafted to address bull bars. Although it is widely accepted that bull bars fitted to a vehicle can be dangerous to pedestrians in certain circumstances, not all bull bars pose such a danger. I understand that one company produces the equivalent of traditional bull bars, but made out of rubber, and people who study such matters have taken the initial view that they make vehicles safer. Additionally, given the number of foreign vehicles on our roads, might not the matter be better addressed internationally rather than unilaterally? I look forward to hearing what the hon. Gentleman will say with interest.

Mr. Martlew: I want to speak to new clause 15. Hon. Members might realise that it is similar to a private Member's Bill that I introduced last year, which unfortunately did not get a Second Reading. I have tabled the new clause to try to find out whether the Government have changed their policy on the measure.

We still have the problem that more than 500 children suffer serious head injuries and more than 36 are killed due to incidents involving cycles each year, but about a third could be saved if they wore helmets. The new clause would require children under the age of 16 who were cycling on a public road or in a public place to wear helmets. Things have changed, however, since I introduced my Bill. Much was made by its opponents, some of whom are here today, of the fact that the British Medical Association did not support it. Since the Second Reading of the Road Safety Bill, the BMA have looked at the issue again, and they support making the wearing of a helmet compulsory for both children and adults. I do not believe that we can make helmet wearing compulsory for adults, because once they are 16 people can make up their own mind. However, it is the responsibility of the Government and the public to protect children.

4 pm

When I introduced my Bill, I encountered a great deal of opposition from organisations that sell bicycles. I received many letters, especially from small cycle shops, which have been given misinformation by the Cyclists Touring Club. Since then, Halfords, the largest retailer of cycles in the country, held a board meeting at which it concluded that, even though the measure could affect its business, it would be unethical not to support the Bill. It therefore supports making the wearing of helmets compulsory for children. Hon. Members will remember receiving little cards from the CTC giving seven reasons for opposing the Bill. A complaint was made to the Advertising Standards Authority, which found that many of the CTC's claims were spurious and ruled against the organisation.

The last time that we debated this issue, therefore, the House and hon. Members were misled. The position has changed, but what we really want is a change in the Government's view. Before I introduced my Bill, there was a great deal of debate about the issue in Cabinet. Some Cabinet Ministers supported the proposals, some opposed them, and they decided that they could not agree. That was a great pity. However, the problem remains. The number of youngsters who are being injured is probably increasing.

Jane Griffiths (Reading, East) (Lab): Does my hon. Friend agree with the Bicycle Helmet Initiative Trust, which is based in my constituency, that between 70 and 80 per cent. of head injuries affecting child cyclists take place off road? If the provision were accepted, we would prevent only a very small proportion of injuries to children.

Mr. Martlew: I agree with the trust more than my hon. Friend, who is one of the measure's main opponents. The new clause makes provision for helmet wearing on roads and other public places, because it is difficult to legislate for behaviour off road or on private property, as she knows. That is one reason why we find it difficult to enforce seat belt legislation in such areas. Every year, we allow the equivalent of a primary class of young children to die, because we will not introduce legislation. I am afraid that the Government's policy of trying to persuade the target group of teenaged boys between 12 and 16 to wear helmets is failing. The Minister might be able to give us some figures showing that the number of youngsters in that age group who wear helmets has gone down, despite the fact that a considerable amount of money has been spent on advertising.

The Government's policy is failing because of peer pressure. Youngsters are saying, "Look at mushroom-head over there". They do not think that it is cool to wear a helmet, even though some of them are extremely well designed. They are pressured into thinking that if they wear one they are a coward. They would therefore like legislation to be passed, because then they could say, "I have to wear a helmet, because it is the law." There is a similar problem with school uniforms. If children are told that wearing school uniform is optional, of course they will not wear it. They will wear trainers and so on. But if it is compulsory to wear school uniform, all the youngsters do.

I hope that when the Minister responds, she will take into consideration the facts that I have highlighted—that the BMA now supports the compulsory wearing of helmets; that Halfords, the largest cycle retailer in the country, says that wearing helmets is ethically right; that the CTC's propaganda has been discredited; and finally,

[Mr. Martlew]

that the Government's policy of trying to persuade youngsters to wear helmets has failed. Sooner or later, the Government will have to legislate on the matter.

Mr. Keith Bradley (Manchester, Withington) (Lab): As the House knows, I am a member of the Select Committee on Health. We recently produced a report on obesity, and childhood obesity in particular. One of the reasons that we identified for that was lack of exercise. The number of children who walk or cycle to school has fallen because of dangers on the road. Is it not incumbent on all of us to try to increase children's level of activity, and to make children as safe as possible by promoting safer routes to school and the wearing of appropriate equipment, such as helmets, to encourage that activity?

Mr. Martlew: My right hon. Friend is right. I was pleased to see that the Select Committee did not fall into the trap of saying, "We know it is unsafe, but if we want fitter children, we should allow this practice to continue." What the Committee wants and what I want is for more children to cycle, but to cycle safely.

In conclusion, the Minister must realise that the slaughter of youngsters—I do not use emotive language—must stop. *[Interruption.]* The hon. Member for Reading, East (Jane Griffiths) scoffs. I find that quite distasteful. We must stop the slaughter. The Government have it in their power to stop it, and sooner or later they will do so. Obviously, that will not be part of the Bill, but I hope legislation will soon be introduced to do it.

John Thurso: I shall speak principally to new clause 21 in my name and that of my hon. Friend the Member for Teignbridge (Richard Younger-Ross), but before I do so, I shall comment on the other clauses grouped with it.

The first two were introduced by the right hon. Member for East Yorkshire (Mr. Knight) and described by him as probing amendments. New clause 11 deals with secondary locking devices. I had a briefing some months ago from the company with which he has been in correspondence. As I understand it, the problem, which mostly affects heavy goods vehicles, is that the normal wear and tear of road use could cause a securely and tightly locked nut to become loose through vibration. The secondary device deals with that. I shall be interested to hear what the Government have to say in that regard. The proposal seems straightforward and sensible, if the problem that has been highlighted is, indeed, caused by vibration. It would be interesting to know the outcome of any relevant research.

New clause 13 deals with reflective clothing. We had an interesting debate on that in Committee. I am not sure that I am ready yet to legislate that everybody should have a reflective jacket in the back of their car. It is bad enough remembering to have the red triangle, although when I broke down outside Edinburgh not long ago, it was a very useful thing to have in the boot of the car. I wonder whether any research has been done to see whether there is a genuine lifesaving impact. I wait to hear the Government's response.

On new clause 15, which the hon. Member for Carlisle (Mr. Martlew) has just discussed, I was here when his private Member's Bill was debated, although I was prevented from contributing because the Bill was talked out. At that point, I examined the evidence, and although I fully understood the safety case, I was seduced by the fitness case. Although I did not agree with the hon. Gentleman then, I have since attended many briefings and discussions, and my views have changed.

The terms in which new clause 15 is couched make it easier to support than the private Member's Bill, some aspects of which I did not agree with—for example, the hon. Gentleman has introduced the important distinction that the legislation will be confined to the road. I have also heard that some of the facts that were adduced at that time were not accurate, so I am moving in his direction.

Mr. Martlew: I am grateful for the way in which the hon. Gentleman is addressing new clause 15, but I shall be churlish. On Second Reading, he wrote me a nice letter saying that he had not made up his mind on which way to vote. However, somebody slipped me a copy of a letter that he sent to Liberal Democrat Members, which stated that although the Liberal Democrats oppose the Bill, responses should be couched in personal terms to avoid their looking like part of a campaign. He has now seen sense, for which I am grateful.

John Thurso: That point is not churlish; it is an accurate reflection of the truth. When I wrote to the hon. Gentleman, I had not made up my mind, but I would have opposed the private Member's Bill, had it come to a vote. I gave that advice to my hon. Friends, but I added that they should make up their own minds, because I should not dictate what they should do on such an issue. I also said that my hon. Friends should couch their responses in suitable terms.

We have not yet discussed new clause 18, which I hope that we reach. At this point, I should declare my non-pecuniary interest as a patron of Reflect. I tabled an amendment on that matter in Committee, so I can safely say that I completely agree with new clause 18.

As the right hon. Member for East Yorkshire has rightly said, I tabled new clause 21 to deal with the question of the retro-fitting of bull bars, which serve no purpose in this country. Bull bars may have a purpose on safari, but they serve no purpose on the M4.

Rob Marris: Or the A9.

John Thurso: I have never seen a rhinoceros on the A9. Hitting deer is a problem, but it can be dealt with by means other than bull bars, which nobody seriously suggests would help in that situation.

Turning to the points raised by the right hon. Member for East Yorkshire, I was fascinated to discover that rubber bull bars are available. If rubber bull bars work and are not dangerous, new clause 21 would not cover them. Given that the vast majority of bull bars in this country are fitted to vehicles as adornments to make a fashion statement, I suspect that wobbly rubber bull bars that do not cause danger will not attract the same adornment value as shiny chrome bull bars, but if they are safe, I have no particular objection to them.

The right hon. Member for East Yorkshire has raised a serious point about foreign vehicles. I agree with him that this is one of those areas in which the European Union could successfully introduce a helpful pan-European law and would welcome his party's support for such an obviously correct European initiative. However, we should not be deflected from legislating domestically because we may cover a few foreign cars.

Mr. Greg Knight: Is not the drafting of the hon. Gentleman's new clause defective in that any vehicle that had, for example, a snow plough attachment fitted to the front would fall foul of his definition? I happen to know of someone in the construction industry who has more than one JCB, and in the winter fits a snow plough scoop on to one vehicle to help him to clear snowbound roads. As I read it, the new clause could oblige the Secretary of State to ban such vehicles.

4.15 pm

John Thurso: I am grateful to the right hon. Gentleman for raising that point, but I do not agree. I worded the new clause as carefully as I could. That does not mean that it is not defective—it means that it is the best effort that I could come up with. I deliberately did not include a prescriptive list detailing specific equipment, but referred instead to

"any equipment which in the opinion of the Secretary of State may render the vehicle more likely to cause injury to a third party in the event of an accident."

I suspect that the Secretary of State would, on balance, be of the opinion that a snow plough, used properly, would not fall into that definition because of the vehicle's likely speed and location. The same might apply to other equipment, as long as it is properly fitted—for example, winches are required on some 4x4 vehicles that are used in the country.

The fitting of bull bars, however, would be covered by the new clause. We have to take into account the fact that large 4x4 vehicles have become far more popular in urban settings, whereas 20 or 30 years ago they were broadly found where they were designed to be used—in the countryside—and by their very design tended to be suited for that use. Since then, they have been developed as vehicles that are also comfortable to drive on motorways and in towns and are therefore extremely popular in urban use. As I walk to the House from my flat in Pimlico, I pass a school, and at 9 o'clock in the morning it is bumper-to-bumper with extremely large 4x4 vehicles—none of which, I suspect, has ever seen mud in anger. When living at home in the Scottish countryside, I sometimes use a Land Rover and other 4x4 vehicles. I have never seen any working 4x4 on any farm in my constituency that has bull bars. Some have protective grilles in front of the lights—I fully understand why those are in place, and they would be exempted by my new clause—but none has a full set of chrome bull bars of the kind that it is aimed at.

Mr. Greg Knight: As the hon. Gentleman appears to be trying to deal exclusively with the problem of bull bars, why does not his new clause refer only to them?

John Thurso: There are two reasons for that. First, it became obvious as we discussed the matter that there would be considerable difficulty in defining bull bars. As is often the case in such circumstances, we may know broadly what we mean, but that is entirely different from defining it in legislation.

Secondly, although bull bars are the most obvious example of what I am considering, it seemed rather stupid to devise a new clause that dealt specifically with them and might have exempted another piece of kit that could be abandoned equally usefully. Consequently, the new clause was drafted to give discretion to the Secretary of State.

It is important to consult users and to allow people to present evidence before the Secretary of State makes his decisions. I have also learned a little from considering the odd Bill: it is easier to draft a new clause and let somebody do the work afterwards than to try to get the primary legislation spot on from the start.

Some 60 per cent. of fatalities and serious injuries occur on roads that have speed limits of 40 or 30 mph. We have often discussed the number of child pedestrians who are killed. Bull bars make the likelihood of serious injury or death that much greater and therefore effectively negate the purpose of the 30 mph speed limit. We all know that the probability of the victim being killed is twice as great at 35 mph as at 30 mph. The lower speed limit is effectively negated by fitting such equipment.

There is no practical reason why that equipment is required in this country. It is only an adornment and many people who have such items on their vehicles are unaware of the possible consequences. The new clause is therefore reasonable. It gives the Secretary of State the power to make the decision and is not therefore prescriptive. I feel strongly that it could usefully be included in the measure. When we reach the appropriate moment, I would like to test the opinion of the House. I commend the new clause to hon. Members.

Mr. David Drew (Stroud) (Lab/Co-op): I want to consider new clause 18. It stands in my name and that of the right hon. Member for Bracknell (Mr. Mackay) but, as the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) rightly said, he tabled an identical new clause in Committee. I am also pleased to receive the support of my hon. Friend the Member for Stafford (Mr. Kidney).

Like the right hon. Member for Bracknell and the hon. Member for Caithness, Sutherland and Easter Ross, I am a patron of Reflect, and we shall continue to advocate the cause of adding retro-reflective tape to heavy goods vehicles because the problem of conspicuity will not go away. Until the Government sign up to regulation ECE 104, all the issues that pertain to that will not be resolved. In passing, I emphasise that I heartily support the views of my hon. Friend the Member for Carlisle (Mr. Martlew), but I intend to concentrate on new clause 18.

I shall not go through all the debates that have been held on the matter, except to consider the stage that the study, which is looking into the matter, has reached. I want to ask my hon. Friend the Minister whether she has any additional information on that.

Those who support the change can feel somewhat aggrieved that the usual arguments are used against it. It is argued that the change does not need to be included in primary legislation, yet Italy has done so. It is

[Mr. David Drew]

contended that such a provision would be excessively costly, yet we are considering between £50 and £100, which is not a great sum for those who own or drive heavy goods vehicles to pay to save someone's life. Other arguments focus on whether such a change would be effective.

No one has proved to my satisfaction that the proposal would involve anything other than a minor change to vehicles. Most heavy goods vehicles, not only the newest, are eligible for it, although it is sometimes argued that it would be easier to introduce it for new vehicles. So the reality is that this would be a minor change, but anyone who drives at night, as I suspect most of us do, knows that coming across a heavy goods vehicle—particularly side-on—that is neither lit not fitted with retro-reflective tags can be highly dangerous. I take that as read.

I would like to ask my hon. Friend the Minister to give us some additional information. We were led to believe that the study being undertaken by the ergonomics and safety research institute at Loughborough university should have been completed in February 2005. It would be good to know what results it has produced, and whether any recommendations that it has made are with the Department for Transport. If so, may we have some reassurance—in another place, if not here—that they will be looked at, so that this minor change can be put into place sooner rather than later, through secondary legislation if not through primary legislation?

Reflect has run a very good campaign on this issue, and many lobby groups have worked very hard on it. This is a very specific and—dare I say it—almost minor issue, but those groups have really put their shoulders to the wheel to get this change introduced. I hope, therefore, that the House will listen to them, that the Minister will provide us with the information that I have requested, and that we can be assured that we shall get some satisfaction on this matter even if the new clause is not adopted, and that the provision can be introduced. We should all feel safer when driving at night if that could happen.

The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins): In replying to the debate on new clause 11, I would like to say that the extent of HGV wheel loss is still uncertain. I know that the right hon. Member for East Yorkshire (Mr. Knight) cited Brake's figure of 10 fatalities, and that might well be accurate. However, we are not clear as to the scope of the problem, and we would need to have that information before contemplating any action. Having said that, we are committed to carrying out further research, and that research has been approved by Ministers. It will look into HGV wheel loss, update existing data and explore the current situation on wheel detachment. In particular, it will look at wheel fixing standards and the advantages and disadvantages of directional wheel stud threads and methods of tightening, and carry out an assessment of after-market wheel locking and indication devices. Some of those devices can be misleading, so we need to ensure that we are not going to make the situation worse.

Research has demonstrated that a major factor in HGV wheel loss is a lack of regular and effective maintenance. Whether devices are fitted—and whether such fitting is mandatory or not—maintenance must remain of overriding importance. Anti-loosening wheel nuts and other devices aimed at preventing, or warning of the imminence of, wheel loss are on the market. At present, our understanding is that they would not totally prevent wheel loss. However, the new research will, among other things, consult various stakeholders on this issue.

In the Department's view, anti-loosening wheel nuts will not prevent the fundamental problem, which is the loss of clamp force. Research carried out on behalf of the British Standards Institution shows that a loss of clamp force can take place without any rotation of the nut, so the use of locking nuts would not counteract the problem. We need to do more work on this issue before we decide whether the right hon. Gentleman's proposal would solve the problem. It would make matters worse to introduce a system that masked the problem and created confidence that it had been resolved, when in fact the lack of maintenance was the key issue. Further research is therefore needed. For that reason, I hope that the new clause will be withdrawn.

Mr. Greg Knight: I appreciate the tone and content of the Minister's reply. First, is she able to give the House some idea of when the research will be complete and of the time scale by which the Government hope to be able to reach a conclusion? Secondly, will she undertake to see that the research is published at that time?

4.30 pm

Charlotte Atkins: I am not exactly sure when the research will be available. It will certainly be published, however, and we want to make sure that we investigate the matter in some detail. Although the right hon. Gentleman has expressed his concern about this matter, and it is devastating when it occurs even if it is a relatively small problem, we do not have the information about how often it happens. *[Interruption.]* I am now reliably told that the research will take about a year. It is therefore important to get it right rather than to dash to some sort of solution. Plenty of products are on the market, but it is not clear whether they will resolve the problem. I repeat that maintenance is the key to ensuring that such wheel loss, with its devastating effects on all concerned, does not occur.

On new clause 13, I am not aware of the Spanish experience of using reflective clothing or of whether they would have greater ease in enforcing such a measure than we would. Certainly, I support the comments about the requirement for everyone to carry reflective gear—we might even be talking about reflective babygros if we are not careful. This is a serious problem, especially if one happens to be on a motorway, and it is important that people can be seen. Clearly, the new clause relates only to reflective clothing worn when leaving a vehicle, except when it is properly and lawfully parked—effectively, therefore, it relates only to circumstances in which the vehicle is illegally parked. Apart from that, we advise pedestrians, cyclists and motorcyclists to wear fluorescent clothing during the day and reflective clothing at night, to improve their visibility to other road users. The advice is also

contained in the highway code, on which we rely in this country to advise people about how they should behave in such an accident situation. This country adheres generally to the highway code and people see it as the bible in this regard.

Mr. Martlew: Would the Minister make representations to manufacturers that such equipment should be included in the boot of new cars when they are sold?

Charlotte Atkins: Certainly, we can consider that. Whether one is carrying the red triangle or appropriate reflective clothing, anything that helps the motorist and their passengers to remain safer after an accident or when they have had to stop for whatever reason is worth considering. Obviously, we are keen to bear down on unnecessary accidents, and on unnecessary injuries, which happen frequently, after an accident has occurred. Our leaflet, "A guide to safer motorway driving", contains advice on what to do when vehicles break down on motorways. We believe that drivers and their occupants are not at great risk when they follow that advice. Basically, the advice to them is to wait on a nearby bank, if they are on a motorway, not on the hard shoulder. We have all heard of awful incidents in which people who thought that they were safe on the hard shoulder were not. I was involved in an accident in which I managed to get my car half on to the hard shoulder, and was then able to get away from the car to safety, having called the police.

It is important for people to understand what they should do in such circumstances. Others who had been involved in the accident sat in their car, which was very unsafe. If a car had collided with my car, there could have been a huge pile-up.

Mr. Drew: I am not sure that I entirely understand. Is this an insurance issue?

Charlotte Atkins: I am talking about whether it is advisable to accept new clause 13, which would require people to have reflective clothing to wear if they leave an illegally parked vehicle. Following an accident or breakdown, those leaving the vehicle would have to be visible to all concerned. In the highway code, we advise people on motorways—which is where they are probably most at risk following an accident, or when they have had to stop their cars for some other reason—to leave the site of the vehicle, because it will not be the safest of places. If they have reflective clothing, they should wear it when they leave, but we are not currently in a position to suggest that everyone should be required to have such clothing in their cars and to use it in such circumstances.

Mr. John MacDougall (Central Fife) (Lab): Many people who travel to Europe discover that there is a different system there, and find that inconvenient. How compatible can we make our regulations with a general move towards deregulation? Everyone would benefit from consistency.

Charlotte Atkins: We are working hard to secure consistency across Europe, as I shall demonstrate when I deal with the issue of bull bars. Everyone who goes to Europe knows what the rules are. I believe that the red triangle was a requirement in Europe before it was a requirement in the United Kingdom. Most people who take their cars abroad should and probably do consult the regulations to ensure that they are obeying them, but we are working on a range of directives with our European neighbours, and trying to ensure that we level up rather than down when it comes to safety requirements.

New clause 15 would make it compulsory for children under 16 to wear cycle helmets. My hon. Friend the Member for Carlisle (Mr. Martlew) explained his new clause very persuasively. I am familiar with his arguments because he presented them equally persuasively during the Second Reading debate on a private Member's Bill that he tabled, for which I was present. Members in all parts of the House supported him then, but there were some who disagreed with him.

This is a passionate issue. Everyone has to be passionate about child safety. Many parents will require their children to wear helmets when they go out on cycles on the road but do not wear helmets themselves, which seems a little odd. Most parents who are being responsible recognise that children are more vulnerable on bicycles than adults and therefore require them to wear helmets. I am certainly one of those parents. I ensure that my daughter has a helmet and wears it. Clearly, the safety of our children on the roads is a very high priority.

We are trying to increase cycling, whether it be off road or on. Sustrans has done a lot of good work in promoting and building the national cycle network. By 2003, deaths and serious injuries for child cyclists were down by 47 per cent. compared to the mid-1990s, which was our baseline, but we are in no way complacent. I am delighted that my hon. Friend the Member for Carlisle pointed out that Halfords has now changed its mind about the legislation. That demonstrates that it is taking the issue of cycle safety much more seriously. I hope that that means that it will promote cycle helmets much more rigorously, although I am sure that it does promote them.

We have ensured that we look closely at the education of children and their carers, put in place better child cycle training and improve the infrastructure. We have also improved the promotion of helmets. I will give some examples of what we have done. The highway code includes a section for drivers on using extra care when driving near cyclists. The practical driving test has been lengthened to ensure that the issue of vulnerable road users is addressed. The theory test question bank includes questions on vulnerable road users and hazard perception testing.

Probably one of the most important things that we have done is to introduce a new national standard for child cyclist training. Many people remember the old proficiency test. I in my ignorance a few years ago thought that it still existed. Nowadays, most cycling training is done by local authorities and it is patchy. We have brought back the national standard for child cyclist training. We have published "Arrive Alive", a highway code for young road users, which includes a section on cycling. We have worked with Disney on the cycle smart campaign to promote safer cycling among children.

[Charlotte Atkins]

We know, as does my hon. Friend the Member for Carlisle, that helmet wearing among boys is far too low. Against the generally rising trend, the wearing rate for boys has gone down from 16 per cent. in 1994 to 12 per cent. in 2002. Inevitably, a large proportion of those not wearing helmets are young adolescent boys and they have accidents. It is a real problem that they do not consider the cycle helmet to be cool.

I am not able today to accept my hon. Friend's new clause but I give him a commitment, as the Minister who deals with cycling, to continue to look closely at the issue and to ensure that we do our utmost to promote helmets.

Mr. Martlew: I am grateful to my hon. Friend for the time that she has given to the matter and to the thought that she has given to her reply. Unfortunately, not everyone has a mother like my hon. Friend. As she has said, usage among the most vulnerable groups is decreasing, despite the fact that we are spending a lot of money on it. Surely, sooner or later, we will have to say that the policy is not working and we will have to legislate. Other parts of the world have done so and the results are encouraging. The Government have to stop being too timid on the matter. I do not think that it will lose or win us votes at the election. We have to say that this is an issue, this is how we deal with it and this is how we save lives.

Charlotte Atkins: I appreciate my hon. Friend's point. The issue is not just about having a law, but about ensuring that we can enforce it. Our position on compulsion is to review the matter and I promise my hon. Friend that I shall take the matter seriously. We must ensure that provisions are workable and that there is no problem with enforcement.

4.45 pm

Mr. Martlew: I received a letter from the previous Home Secretary, my right hon. Friend the Member for Sheffield, Brightside (Mr. Blunkett), who said that it would not be a problem for the police to enforce such a provision. Surely it is a matter for the Home Office and not the Department for Transport.

Charlotte Atkins: There is still a problem. If a youngster borrowed a bike and rode it on the road without wearing a helmet, who would be responsible? Would it be the parents of the child who lent the bike? Would schools and teachers be responsible for enforcing the provision, and if they did not, would they be responsible if someone rode a bike on the road without wearing a helmet?

We are trying to promote cycling to school along cycle routes and along roads, but we want to ensure that people cycle safely. I appreciate the point about helmets. We promote the use of helmets and I am surprised that, given their excellent new design—to my eyes, they look extremely attractive—young adolescents do not think that they are cool. The idea that someone having their head smashed open is cool is ridiculous.

I cannot accept the new clause. I know that that will disappoint the right hon. Member for East Yorkshire, although he will not be surprised. However, I promise to continue to consider the matter and to work with the cycling organisations. We have set up a new cycling body, which will consider a range of initiatives and I hope that it will also consider this matter.

On new clause 18, I share the concern of the right hon. Member for Bracknell (Mr. Mackay) about retro-reflective tape. The power to regulate the use of that material by statutory instrument is already available under section 41 of the Road Traffic Act 1988, so the amendment is unnecessary. The Department has commissioned a review of the benefits and costs of mandating the use of that material and the right hon. Gentleman referred to that research. He said that it should have been available in February 2005, and he will be delighted to know that it is about to be published—by the end of March. I will place copies of the report in the Library when it is available.

The review has updated our understanding of the matter and suggested a more favourable cost benefit ratio than the previous research. The Department will now consider how best to take the matter forward. We are making progress. It makes sense to make large vehicles more conspicuous because that increases safety for people who are driving behind or coming alongside such vehicles.

On new clause 21, the Government take the safety of pedestrians seriously and support a new European directive requiring car fronts to be more pedestrian friendly. It will take effect later this year. We debated earlier whether the new clause would affect snow ploughs. I understand that it would apply only to cars below 2.5 tonnes. Normally, snow plough attachments would be attached to 4x4s, and most of those are above 2.5 tonnes. Therefore, such attachments would not be affected. However, we do not believe that new clause 21 is necessary. Although we do not want to see the unnecessary fitting of aggressive, chrome-plated bull bars to vehicles, and we support action to control such devices, we believe that the vehicle market and, to a large extent, the component market is international—as the right hon. Member for East Yorkshire pointed out—and therefore action to control them is best achieved at European level. Car manufacturers selling into Europe have already agreed that from 2002 onward aggressive bull bars will not be fitted to new vehicles. The European Commission has proposed a new directive, which contains strict standards for the design of such devices, both for new vehicles and as separate components. We believe that the directive will effectively ban metal bull bars while permitting devices that are safe, such as the rubber ones that the right hon. Gentleman mentioned, which are even safer than the base vehicle itself.

Mr. Greg Knight: Can the Minister confirm that she would be prepared to consult on a possible list of exemptions to the directive? For example, where would it leave the 4x4 vehicle that is under 2.5 tonnes and has a winch affixed to the front? Can she confirm that the directive will not be retrospective and would not require any changes to be made to historic vehicles and any adornments they may have on the top of their radiators?

Charlotte Atkins: The directive will not be retrospective, and we will consider any exemptions necessary. The directive is being discussed at present, and it will be put forward very soon. It would then have to be transposed into UK law, using the existing provisions of section 41 of the Road Traffic Act 1991. Therefore, no changes to primary legislation would be necessary. We all recognise that such adornments can be dangerous. The press has also focused in recent weeks on those vehicles whose front ends are not safely designed, and the impact that they can have on pedestrians.

I hope that I have explained why we cannot accept the new clauses, and I urge the right hon. Gentleman not to press them.

Mr. Greg Knight: We have had an interesting, wide-ranging and constructive debate. The more I listened to the Minister, the more alarmed I became, because I found myself agreeing with most of what she said. That is always a dangerous position to be in.

The House accepts that the hon. Member for Carlisle (Mr. Martlew) spoke from the best of motives and with the best of intent, but the Opposition agree with the Government on that issue. Education on the need to wear helmets must come first, and we hope that public acceptance will follow. None of us would want fewer cyclists to take to the roads because of what they regarded as heavy-handed legislation.

I was pleased to hear what the Minister had to say about new clause 21 and I hope that we will have the opportunity to consider a list of exemptions. In the light of the discussion that is taking place in Europe, and given that so many car manufacturers are international—with parts for vehicles of different makes supplied by a relatively small number of companies—I hope that the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) will be satisfied by the Minister's response.

On new clause 13, I was pleased and heartened that the Minister suggested that the Government will consider safety measures along the lines of those adopted by our European partners. When I mentioned the new clause in my introduction, I was not suggesting that we should follow the Spanish example. However, there are lessons to be learned from that and I think that the Government should take them on board.

New clause 11 touches on a matter of ongoing concern to heavy goods vehicle operators and to those who want road safety improved. I am pleased that the Government are pursuing research on this matter. Before we reach any conclusion about what new rules and regulations may be necessary, we need to be aware of the effectiveness of any statutory requirement that we may decide to impose.

The Minister said that locking wheel nuts were not the way forward and that more research was needed, which she thought would take another year to complete. I hope that she will stay on the case to ensure that there is no slippage, as action needs to be taken as soon as possible. However, the Minister's positive response to new clause 11 means that I shall not press it to a vote.

I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

New Clause 17

VEHICLE DATA RECORDING DEVICES

'(1) A Vehicle Data Recording Device ("VDRD") is a device which records such data relating to the progress and manner of driving of a motor vehicle as the Secretary of State may by regulations prescribe.

(2) The Secretary of State may by regulations designate a class or classes of motor vehicles which shall be fitted with a VDRD.

(3) The Secretary of State may by regulations prescribe—

(a) the data which a VDRD must record, and how and by whom and for how long such data must be retained; and

(b) the technical specifications of a VDRD.

(4) Before the Secretary of State makes regulations under subsections (1) to (3), he shall consult with the Society of Motor Manufacturers & Traders and such other organisations as he considers appropriate.

(5) The power to make regulations under this section is exercisable by statutory instrument; and a statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A person commits an offence if he uses a motor vehicle of a class which the Secretary of State has, by regulations made under subsection (3) designated as a class of vehicle to which a VDRD must be fitted, and that person knows, or has reasonable grounds to believe, that the motor vehicle—

(a) does not have a VDRD fitted; or

(b) has a defective VDRD fitted.

(7) A person commits an offence if he knowingly causes or permits another person to use a motor vehicle of a class which the Secretary of State has, by regulations made under subsection (3), designated as a class of vehicle to which a VDRD must be fitted, and knows or has reasonable grounds to believe that the motor vehicle—

(a) does not have a VDRD fitted, or

(b) has a defective VDRD fitted.

(8) A person who commits an offence under subsections (6) or (7) shall on conviction be liable to a fine not exceeding Level 4 on the standard scale.

(9) A person who does anything with the intention of preventing data being recorded or retained by VDRD is guilty of an offence, unless the motor vehicle in which that VDRD was fitted has been destroyed and he knows that there are no court proceedings likely to be started or pursued.

(10) A person who commits an offence under subsection (9) shall on conviction be liable to a fine not exceeding Level 4 on the standard scale.

(11) Subsections (6) and (7) shall not come into effect until regulations made under subsections 1 to 3 have come into effect.

(12) Data recorded or retained by a VDRD fitted to a vehicle involved in a road traffic incident in which an injury occurs may be used only—

(a) for the purposes of bona fide research,

(b) by the police or other lawful authorities when investigating the causes of any such accident, or

(c) in connection with the bringing of court proceedings (whether criminal or civil) as a result of any such accident, whether or not any such proceedings are in the event commenced, but shall not be used for any other purpose.'. —*[Rob Marris.]*

Brought up, and read the First time.

Rob Marris: I beg to move, That the clause be read a Second time.

Madam Deputy Speaker: With this it will be convenient to discuss new clause 20—*Road Accident Investigation Service*—

[Madam Deputy Speaker]

'(1) Within 12 months of the coming into force of this Act the Secretary of State shall by regulations establish a Road Accident Investigation Service ("the Service") which shall—

(a) investigate the causes of road accidents particularly where they result in death or serious injury,

(b) commission and publish the results of research into the causes and consequences of road accidents, and

(c) make recommendations to the Secretary of State.

(2) Regulations under this section may provide for the organisation, operation and powers of the Service.

(3) The Secretary of State may make financial provision for the Service.

(4) The power to make regulations under this section is exercisable by statutory instrument.

(5) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.'.

Rob Marris: New clause 17 addresses a matter that may be familiar to some hon. Members. However, it may be less familiar to others and to those outside the House who follow our debates. That is why I shall start at a level that some may consider to be somewhat basic.

Many vehicles sold in the UK and around the world now have on-board computers, which are said to be more powerful than those used in the 1969 Apollo mission to the moon. They record various information and sometimes govern—through electronic traction controls and anti-lock braking systems, for example—how a car can be driven. I shall return to that in a moment, but the computers are also sometimes called black boxes—a term that will be familiar to the House, as it is often used in connection with aircraft. The new clause calls such an instrument a "vehicle data recording device", and I take this opportunity to thank the Slower Speeds Initiative for its help with this matter.

Many data recording devices are linked to air bags, which were introduced in 1974 and are now incorporated in every new car sold in this country. They have become very sophisticated and no longer expand when a car goes over a bump in the road, for example. New technology controls the extent and speed of an air bag's inflation, according to external information gathered by sensors and fed into the black box. Air bag sensors log pre-crash speed, engine revolutions per minute and accelerator and brake pedal positions. They can also detect whether a driver's seat belt was fastened and whether a car was started after the air bag had been deployed.

Interestingly, the sensors also monitor minor impacts that do not trigger inflation. The sensors are very sensitive, and take fresh readings of speed and control pedal positions, for example, every five seconds. They store that information for up to 60 days, but some sensors and computer chips in cars are now so sophisticated that they can detect and store a lot more data.

The National Transportation Safety Board in the US wants the fitting of such sensors and black boxes to be mandatory for all vehicles by 2009. The latest figures I have are for about a month ago, when 15 per cent. of vehicles in the US had been fitted with these devices. They have been used for prosecutions both in America and in Canada—a point to which I will return.

Some people are concerned about the cost of these black boxes.

5 pm

Mr. Greg Knight: The scope of the hon. Gentleman's new clause would appear to allow the Government to order the retrospective fitting of these boxes to vehicles currently on the road. Is he arguing for that, or only for fitting them to vehicles that have yet to be manufactured?

Rob Marris: Unusually, in a sense I am arguing for both. I am not seeking for the Government the power to retro-fit black boxes, but the new clause would allow them to access information contained in black boxes already to fitted to vehicles. So this is a question not of retro-fitting but of future fitting to vehicles that do not have them, and the retrospective accessing of information from vehicles on the road that already have such boxes.

These devices cost between £200 and £300, which is a lot of money in vehicle manufacturers' terms but perhaps not so much in safety terms. I stress that the new clause relates only to impacts causing injury; such a device would not be a Big Brother in the cab that could be used, pursuant to the new clause, to "do" people for speeding. The police, accident investigators acting on the state's behalf in criminal prosecutions and those wishing to pursue civil proceedings could interrogate the information in a black box only when there has been an injury following a collision. That is a key point in terms of public acceptance.

Norwich Union is already giving insurance discounts to certain drivers in a pay-as-you-drive scheme that uses such technology to determine how many miles they are driving, at what time of day, and so on. Under the terms of such a policy, the person in question agrees not to drive between 11 pm and 6 am. The technology is already being used by the private sector, and it is being introduced by motor manufacturers not for vehicle safety reasons in the sense of preventing and investigating accidents, but in order to prevent injuries such as those relating to airbags, to which I have referred.

I mentioned cases in north America in which such information has already been used. According to *Maclean's* magazine of 22 March 2004—for those few Members who do not know, it is a weekly Canadian news magazine—

"Eric Gauthier, 26, was convicted of dangerous driving after the data recorder for the airbag in his Pontiac Sunfire proved he was driving 154 km an hour—three times the limit—seconds before he hit another car, killing its driver. This is the first . . . case in which a car's black box evidence was accepted in court."

More than a year ago, the Canadian authorities were using such information for criminal prosecutions. In Ontario it has been used since the late 1990s.

The Department for Transport does not know whether such information is being used for prosecution in this country, but I suspect that it is not. I asked a question for written answer last year—addressed to the Home Office, not the Department for Transport:

"To ask the Secretary of State for the Home Department how many road traffic prosecutions used evidence based on black box vehicle data recorders to indicate the speed of the vehicles involved in *(a)* 2002 and *(b)* 2003."

The Home Office did not know—although to be fair to the Minister concerned, I must explain that the exact answer was:

"The information is not collected centrally."—[*Official Report*, 26 April 2004; Vol. 420, c.765W.]

During the last Session, I tabled early-day motion 1186 on that very issue, expressing disappointment, and it seemed to me that the Road Safety Bill would be a very appropriate means by which to introduce a new clause on the subject.

Data collected from black boxes could be used for criminal and civil proceedings following an accident in which injury occurred, pursuant to my new clause. Such data could also be used for some medical purposes and for research and crash prevention. I have referred to the court proceedings angle, but for medical purposes, the data from black boxes could be used retrospectively in trauma research to improve injury predictions, support decisions about service provision and improve the responses of emergency services to crashes and so forth. A study showed how measured

"crash direction and force data can markedly improve injury prediction, algorithms, biomechanics, cost of injury research, and identification of problem injuries".

That was a quote from a study by R. Martinez in 2003—"Medical Use and Emergency Response, SAE Vehicle Recorder Topical Technical Symposium"— from a symposium of June 2003 in Virginia USA.

The data could also be used for road safety research, as well as the medical research to which I have adverted. It could be made available to bona fide researchers, as the new clause would allow, to improve the understanding of the "crashworthiness" of vehicles and the potential for crash avoidance. The data will help researchers find out what went wrong before a crash—perhaps a Gautier going at 154 kph in a 50 kph zone in Montreal. The quality of crash investigation statistics could improve substantially, which also ties in with new clause 20 in the same group.

We need to bear in mind that cars change. My hon. Friend the Member for Stafford (Mr. Kidney), having been a solicitor, will remember that when road traffic accidents led to injury, the police used to go out and measure the skid marks. That used to provide some indication, usually within about 10 or 15 per cent., of the speed at which the vehicle was travelling before the brakes were applied. It would then be possible to measure the point at which perhaps a child had been knocked down. With anti-lock braking systems, that can no longer be done, because those systems, which are fitted to most cars sold in the UK today and have been fitted to many for several years, stop the wheels from locking. There are no longer any skid marks, so information that used to be vital to the police in investigating road traffic accidents is no longer available. I see my hon. Friend the Member for Stafford nodding in agreement. If black boxes were fitted to every new vehicle, and if the information in those already fitted to vehicles on the road were made available to crash investigators, it would help with prosecutions or civil proceedings, and also with research and crash prevention.

An analogy could be made with tachographs in heavy goods vehicles, which have been around for years. There is some evidence that drivers who are aware that black boxes—vehicle data recording devices—are fitted to their vehicles actually drive more carefully. The Metropolitan police conducted a study and attributed a 25 per cent. reduction in crash rates to a safe driving programme that included the fitting of VDRDs. I appreciate that that poses the question of how much of the 25 per cent. improvement was due to the safe driving programme. An awful lot, I suspect, but some of it could have been connected with the fact that the drivers were aware of the black boxes within the vehicles. A Dutch study of driver response to black boxes used in several vehicle fleets estimated a crash reduction of 20 per cent. Again, that is not necessarily cause and effect, but one starts to see a correlation. A German study of young drivers found that awareness of a black box being fitted to a vehicle forced a change in driving habits and made the young drivers much safer.

Clearly, we are talking about a potentially important safety device and the technology is already there. Black boxes are already fitted to many vehicles and the practice of fitting them is likely to become more widespread. As far as I can determine, however, the information is not accessible to researchers, investigating authorities or the courts. The problem is that standards differ between different motor manufacturers who sell vehicles in the UK. Understandably, for data protection reasons, those manufacturers are reluctant to allow anyone access to the information contained in the black boxes that they have fitted to vehicles.

The UK Government should take a lead within the EU on the issue of vehicle data recording devices. Pursuant to my new clause, or something like it, we should specify a date, perhaps 2009, by which all vehicles sold in the United Kingdom would have to be fitted with vehicle data recording devices and access would have to be permitted to the software in those devices.

As one of the 25 member states of the European Union, we should be pushing for such initiatives to be taken across the EU. It is certainly the case that with some EU countries we would be pushing at an open door. To set a date of 2009—four years hence—may seem to give only a short time for the development of such sophisticated technology but we are in no way starting from scratch. The technology exists; it is already being used in other countries and is increasingly being fitted to cars. I urge the Government to consider seriously my new clause, or something like it, so that we can get a move on and save lives. If people change their driving habits and/or we can obtain information that allows better crash investigations and better medical investigation of the injuries sustained in crashes, so that we know how the injuries came about because we know more about the crash, we shall lessen injuries and save lives.

The new clause is simple and, I hope, fairly straightforward. It includes penalties for people who interfere with the devices—because, sadly, in this day and age one has to do that. However, the thrust of the new clause is to get the Department for Transport, working with other Departments, to make mandatory the fitting of VDRDs—so-called black boxes—to all

[Rob Marris]

new vehicles from a given date, which I hope will be 2009, and to allow access to data that is already being gathered from the black boxes fitted to many vehicles in the UK.

John Thurso: I rise to speak to new clause 20, which would create a road accident investigation service. I have done my best to draft the provision in a way that the Government will find acceptable—a forlorn hope, but I keep trying.

The new clause states that, within 12 months of the coming into force of the Act, a road accident investigation service will be set up, which would, first,

"investigate the causes of road accidents particularly where they result in death or serious injury".

Secondly, it would

"commission and publish the results of research into the causes and consequences of road accidents, and... make recommendations to the Secretary of State".

The rest of the new clause would permit the Secretary of State to set up the necessary administration to achieve that end.

I realise that the new clause may not find favour with the House or the Government, but the subject is serious. The proposal is really a probing amendment. The reason for it is that for all other modes of transport there is a body to investigate accidents, look into their causes and make recommendations. When we discuss road accidents in Westminster Hall, in Committee, as we did on the Bill, and in the Chamber, people often refer to statistics showing that, in terms of casualties, the equivalent of a major rail crash occurs almost daily on our roads. It is thus important that we can establish accurately not only the primary cause of an accident but also the contributing factors.

When I debate with people outside the House whether speed cameras and other measures are effective, I notice that those in favour of a measure will use all available data to prove, for example, that speeding is a major contributory factor, while other people will argue that the road engineering of a particular stretch of road is the problem, or whatever it may be. In many cases, the answer is that there is no single, overriding factor that is the sole cause of an accident. Often an accident may have a primary cause, but other factors contribute. We do not always hold a proper investigation of accidents so that we can build up a picture and a pattern based on evidence.

I am interested in new clause 17, tabled by the hon. Member for Wolverhampton, South-West (Rob Marris), and the concept of using a black box, because that would fit neatly into new clause 20 and the ability to base what we do on scientific and engineering analyses of what is actually happening. For example, we might win the battle with those few remaining doubters in respect of speed cameras if we could say, "Here are 10 accidents. Here is what has happened. Here are the primary factors. Here are the contributory factors. This is why it is a good idea to put a camera in a certain location."

5.15 pm

We might also be able to consider how often accidents are caused by the state of the vehicle. I do not know, for example, whether our current MOT certificate laws, which we all take for granted, are as up to date as they should be. It would be interesting to know whether the quality of modern cars is such that the number of those accidents has diminished since the passage of that legislation. I simply do not know and I am not sure whether that information is readily available.

A body that exists specifically for investigating accidents, commissioning research and making recommendations would be a very useful start in the fight for greater road safety. I have been told that one argument against such a body is the question whether it would fit in with the police. How would it cut across what they might do? If one considers what happens with rail or marine accidents, where accident investigation branches exist, the function of the police investigation is to determine whether there is criminal responsibility.

The involvement, as may happen in some cases, of health and safety investigators in no way prevents the accident branch for that mode of transport from undertaking its work. In practical terms—for example, with a rail crash—police arrive and look at their bit and the health safety people arrive and look at what they are interested in, after which the accident is handed over to the rail accident investigation branch for full investigation.

Such a body need not be large or particularly costly. A great deal of its work would involve collating information, but it could make a positive contribution to road safety. I will not press new clause 20 to a Division, but I hope that the Government will consider whether there is not some merit in it.

Mr. Jamieson: First, I commend my hon. Friend the Member for Wolverhampton, South-West (Rob Marris) on the way that he moved the motion and his thoughts on new clause 17, which are profound. He has thought through the issues carefully. The new clause would provide for the installation of electronic recording devices in road vehicles with the purpose of capturing data about the behaviour of the vehicle's driver and certain functional parameters of the vehicle. In the event of an accident involving injury, the use of such data would be restricted.

Such technology would offer benefits in research and accident reconstruction—there is little doubt about that—but it may be viewed as unacceptably intrusive with respect to the driver. In circumstances other than those of an accident that involves injury, it is not clear what, if any, use of such data is, or could be, envisaged. Indeed, there may be human rights concerns. In particular, the right to respect for private and family life under article 8 of the European convention on human rights may apply to provisions that, by a combination of requirements and offences, seek to ensure that data relating to a person's movements and actions are recorded and possibly made accessible to others.

We need to do some more work on how some of the data collected under new clause 17(12) could be used in circumstances other than an accident having taken place. If such data were to exist, a court could subpoena someone to provide that information, but the

investigation might not relate to a specific collision on the road or any research being conducted on an accident.

I know that there is significant interest in such devices. Consultation has recently taken place in the United States with vehicle manufacturers about the voluntary fitting of a standardised recorder. The European Commission has just let a research project to evaluate their possible usefulness. The research will consider competing technologies, their compatibility with all classes of vehicles and their usefulness in accident reconstruction. The two-year programme will review the legal implications for their use in litigation, both at European and national level. It will conclude with recommendations on the possibility of establishing European law on the fitting and approval of these devices within the European type approval framework. The recorders are likely to rely on data provided by other vehicle systems and their construction will be governed by international regulation. It is thus important for due consideration to be given to the compatibility of any future device. As I have said, the topic is on the agenda in the international arena and I believe that that is the most appropriate place to develop such standards.

Mr. Greg Knight: What will be the British Government's position on retrospection in the ongoing discussion? I declare an interest at this point, but such recorders would not be necessary or desirable for historic vehicles.

Mr. Jamieson: The right hon. Gentleman's pre-war Rolls-Royce will probably survive having such a device fitted to it—the figure on the radiator will probably not be affected either. Older classic vehicles are seldom used on the road and have a low mileage. They are usually driven in special circumstances, so they are not used routinely for commuting or to cover long distances. He will know that the number of collisions involving such vehicles is extremely low, mainly because they go slowly and their drivers treat them preciously because they fear that they might get bumped or scratched. I hope that my points have helped my hon. Friend the Member for Wolverhampton, South-West and I am grateful to him for raising the subject.

On new clause 20, I agree with the hon. Member for Caithness, Sutherland and Easter Ross (John Thurso) that the thorough investigation of road accidents is a critical foundation of our effort to reduce casualties. However, the measure tends to ignore the scale and nature of road accidents and existing arrangements for investigating them.

There are significant differences between the investigations required for road accidents and incidents involving other modes of transport. The hon. Gentleman alluded to the number of deaths on the roads. In 2003, 3,247 incidents resulting in a fatality occurred on the roads, although there were obviously more fatalities than that because several accidents involved more than one person. That figure alone is indicative of the significant resources that would be involved in the investigations that he suggested.

The difference between road casualties and rail, air and sea casualties is that most road casualties are caused by an individual human failing, rather than the failure of equipment or procedures. I know from the maritime investigations in which I have been involved that they generally examine the failure of equipment or procedure, but such an investigation would not be appropriate for a road accident. Road incidents are almost entirely due to a failure of some sort on behalf of the driver of a vehicle or others driving near them. Aircraft are almost entirely controlled by equipment, so in the rare circumstances in which there is a casualty involving an aircraft, that is almost always due to an equipment failure rather than human error. The difference between the causes of such incidents explains why their investigation requires a different approach.

The police undertake a thorough investigation of all road incidents that lead to death and most that lead to a serious injury. In the past three years, they have undertaken a manual procedure of investigation. Some people say that that is too onerous and prevents the road from being cleared quickly enough, but the individuals involved and their relatives naturally want a thorough investigation.

The police investigate fatalities and treat the scene as if there has been a suspicious death. There is a thorough investigation and police forces and local authorities share information and look at patterns of road casualties. They consider whether engineering improvements are needed or whether people need to be educated locally. My Department maintains a national database of road accident statistics and uses the data to inform research studies and policy development. The data also help us to check that we are delivering our target for reducing deaths and injuries on the road. Finally, we have in hand several research studies that are considering the factors that contribute to accidents. That research is used to shape policy that is much more likely to lead to improved road safety. Although I am sympathetic to the general thrust of new clause 21, I am not sure that a formal organisation to investigate road accidents is appropriate, so I urge the House to resist the measure.

Rob Marris: I thank my hon. Friend the Minister for his thoughtful response. I am glad that the Government recognise the benefits of vehicle data recording devices and interested to hear of the European Union research that will be completed within two years.

As my hon. Friend pointed out, information from the devices may be intrusive, and we must consider how the data that are recorded may be used. As a non-practising solicitor in civil law, I can tell the House that sooner or later someone will deploy what used to be called discovery—it is now called disclosure under the civil practice rules—to gain access to information. A defendant driver must produce it because, legally, the information on the black box is a document for the purposes of disclosure. It may not be accessible within matrimonial proceedings to see whether or not someone was in Brighton on a Saturday night, but it may be used to see whether they were driving a car at a certain speed and caused someone an injury. Once the lawyers get their act together, cracks will appear in the dam of privacy as a result of civil proceedings.

[Rob Marris]

The compatibility of devices, both within the EU and across other continents and countries, is important. However, I must stress to the right hon. Member for East Yorkshire (Mr. Knight) that the devices already exist. I am not suggesting that they should be used for purposes other than those set out in proposed subsections (12)(a)(b) and (c) of my new clause. I am not suggesting—and I do not think that any of the measure's proponents have done so—that legislation should be passed to retrofit devices to vehicles that are already on the road. If we introduced the measure with a commencement date of, for example, 2009, there would be three types of vehicle on the road. There would be vehicles without a black box, vehicles manufactured before 2009 that had been fitted with a black box and would be susceptible to accessibility regulations made by the Secretary of State and, from 2009 onwards, new vehicles to which it would be mandatory to fit black boxes. There is no question of retrofitting—it is a question of recognising that a growing proportion of vehicles already have black boxes, which have safety benefits for road users and for research on road safety. As discussions and research are under way in the EU, it would be premature to pass legislation tonight to deal with the issue. I am glad the Government have the matter in hand and hope that they continue to push for further progress in the EU. On that basis, I beg to ask leave to withdraw the motion.

Motion and clause, by leave, withdrawn.

New Clause 19

Amendment of Road Traffic Offenders Act 1988

'Schedule 2 to the Road Traffic Offenders Act 1988 shall be amended by substituting the word "discretionary" for the word "obligatory" in column 6.'. —*[Mr. Chope.]*

Brought up, and read the First time.

Question put, That the clause be read a Second time:—

The House divided: Ayes 166, Noes 273.

Division No. 117] **[5.29 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Collins, Tim
Conway, Derek
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*,
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Maples, John
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Shephard, rh Mrs Gillian
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Ayes:
Mr. Geoffrey Clifton-Brown and
Andrew Selous

NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel

Begg, Miss Anne
Bennett, Andrew
Berton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Jackman, Liz
Bouteng, rh Paul
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Denham, rh John
Dismore, Andrew
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, Michael *(Worcester)*
Foulkes, rh George
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hinchliffe, David
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, John *(Glamorgan)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Margaret Moran and
Mr. Tom Watson

Question accordingly negatived.

New Clause 21

Amendment of Road Traffic Act 1988

'In section 41 of the Road Traffic Act 1988 (c. 52) (regulation of construction, weight, equipment and use of vehicles), at the end of subsection (2) insert—

"(m) for prohibiting the modification or retrofitting to the front of a motor vehicle any equipment which in the opinion of the Secretary of State may render the vehicle more likely to cause injury to a third party in the event of an accident.".'.—*[John Thurso.]*

Brought up, and read the First time.

Motion made, and Question put, That the clause be read a Second time:—

The House divided: Ayes 48, Noes 387.

Division No. 118] **[5.43 pm**

AYES

Barrett, John
Bottomley, Peter *(Worthing W)*
Brake, Tom *(Carshalton)*
Breed, Colin
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cotter, Brian
Davey, Edward *(Kingston)*
Dodds, Nigel
Donaldson, Jeffrey M.
Doughty, Sue
Flynn, Paul *(Newport W)*
Foster, Don *(Bath)*
George, Andrew *(St. Ives)*
Gill, Parmjit Singh
Harvey, Nick
Heath, David
Holmes, Paul
Hughes, Simon *(Southwark N)*
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kirkwood, Sir Archy
Llwyd, Elfyn
Moore, Michael
Oaten, Mark *(Winchester)*
Öpik, Lembit
Paisley, Rev. Ian
Price, Adam *(E Carmarthen & Dinefwr)*
Pugh, Dr. John
Rendel, David
Robertson, Angus *(Moray)*
Robinson, Mrs Iris *(Strangford)*
Salmond, Alex
Sanders, Adrian
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Stunell, Andrew
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tyler, Paul *(N Cornwall)*
Webb, Steve *(Northavon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wishart, Pete

Tellers for the Ayes:
Bob Russell and
Richard Younger-Ross

NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Amess, David
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atkins, Charlotte
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Austin, John
Bacon, Richard
Bailey, Adrian
Baird, Vera
Baron, John *(Billericay)*
Barron, rh Kevin
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bennett, Andrew
Benton, Joe *(Bootle)*
Bercow, John
Beresford, Sir Paul
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Blunt, Crispin
Boateng, rh Paul
Boswell, Tim
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brady, Graham
Brazier, Julian
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Cash, William
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chapman, Sir Sydney *(Chipping Barnet)*
Chaytor, David
Chope, Christopher
Clappison, James
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Kenneth *(Rushcliffe)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clifton-Brown, Geoffrey
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Conway, Derek
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cousins, Jim
Cox, Tom *(Tooting)*
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curry, rh David
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davis, rh David *(Haltemprice & Howden)*
Denham, rh John
Dismore, Andrew
Djanogly, Jonathan
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Farrelly, Paul
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flight, Howard
Flint, Caroline
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, rh Derek
Foster, Michael *(Worcester)*
Foulkes, rh George
Francois, Mark
Gale, Roger *(N Thanet)*
Gardiner, Barry
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Gummer, rh John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hammond, Philip
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Healey, John
Heathcoat-Amory, rh David
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hendry, Charles
Hepburn, Stephen
Heppell, John
Hermon, Lady
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hoban, Mark *(Fareham)*
Hodge, rh Margaret
Hoey, Kate *(Vauxhall)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Horam, John *(Orpington)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Howarth, Gerald *(Aldershot)*
Hoyle, Lindsay
Humble, Mrs Joan
Hunter, Andrew
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkin, Bernard
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Boris *(Henley)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kennedy, rh Jane *(Wavertree)*
Key, Robert *(Salisbury)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Laing, Mrs Eleanor
Lait, Mrs Jacqui

Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Leigh, Edward
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Liddell-Grainger, Ian
Lidington, David
Linton, Martin
Lloyd, Tony *(Manchester C)*
Loughton, Tim
Love, Andrew
Lucas, Ian *(Wrexham)*
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIntosh, Miss Anne
McIsaac, Shona
Mackay, rh Andrew
McKechin, Ann
McKenna, Rosemary
McLoughlin, Patrick
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Malins, Humfrey
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Martlew, Eric
Meale, Alan *(Mansfield)*
Mercer, Patrick
Merron, Gillian
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Moss, Malcolm
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murrison, Dr. Andrew
Naysmith, Dr. Doug
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
O'Hara, Edward
Oiner, Bill
Osborne, George *(Tatton)*
Osborne, Sandra *(Ayr)*
Ottaway, Richard
Owen, Albert
Page, Richard
Paice, James
Palmer, Dr. Nick
Paterson, Owen
Pearson, Ian
Perham, Linda
Picking, Anne
Pickles, Eric
Pickthall, Colin
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Portillo, rh Michael
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prisk, Mark *(Hertford)*
Prosser, Gwyn
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, John *(Glasgow Anniesland)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rooney, Terry
Rosindell, Andrew
Ruddock, Joan
Ruffley, David
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Sevidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Selous, Andrew
Shaw, Jonathan
Sheerman, Barry
Shepherd, rh Mrs Gillian
Sheridan, Jim
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, John *(Glamorgan)*
Soley, Clive
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Swire, Hugo *(E Devon)*
Syms, Robert
Tami, Mark *(Alyn)*
Tapsell, Sir Peter
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Sir Teddy
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Trimble, rh David
Truswell, Paul
Turner, Andrew *(Isle of Wight)*
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Williams, rh Alan *(Swansea W)*
Wills, Michael
Wilshire, David
Wilson, rh Brian
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek
Young, rh Sir George

Tellers for the Noes:
Margaret Moran and
Mr. Tom Watson

Question accordingly negatived.

Clause 14

ALCOHOL IGNITION INTERLOCKS

Amendment made: No. 1, in page 17, line 27, leave out 'Secretary of State' and insert 'appropriate national authority'.—*[Mr. Jamieson.]*

Clause 27

DISQUALIFICATION UNTIL TEST IS PASSED

Amendment made: No. 2, in page 37, line 23, at end insert—

'( ) Omit subsection (14) (no order to be made under subsection (3) after end of 2001 unless one previously made).'.—*[Mr. Jamieson.]*

Clause 35

EXTENSION TO SCOTLAND AND NORTHERN IRELAND

Amendment made: No. 3, in page 41, line 29, leave out from 'of' to end of line 36 and insert

'notice under Part 7 of the Magistrates'

Courts (Northern Ireland) Order 1981.

For the purposes of the time limit for bringing an appeal under subsection (1) the appeal is to be treated as brought—

'(a) in England and Wales, on the making of the complaint,

(b) in Scotland, on the lodging of the summary application with the sheriff clerk, and

(c) in Northern Ireland, when a notice is served on the clerk of the petty sessions under Article 76(2)(a) of the Magistrates' Courts (Northern Ireland) Order 1981.'.—*[Mr. Jamieson.]*

Clause 44

PRIVATE HIRE VEHICLES IN LONDON

Mr. John Horam (Orpington) (Con): I beg to move amendment No. 9, in page 47, line 43, after 'passengers', insert '(a)'.

Mr. Deputy Speaker (Sir Alan Haselhurst): With this it will be convenient to discuss amendment No. 10, in page 47, line 43, at end add

'and

(b) at end insert "or a vehicle which solely provides services to public authorities."'

Mr. Horam: The amendment seeks to remove a piece of massive over-regulation from the Bill. Under the clause to which the amendment refers, particular vehicles are caught whose sole purpose is to take special needs children from their homes to the schools of their choice. That will mean that the drivers of those vehicles, who are often part-time or offering their services voluntarily, will have to have a public service vehicle licence. Consequently, many of those people will not be willing to carry on undertaking that important social task. Therefore, the companies who are solely under contract to local authorities will not be able to carry on. A sensible long-standing arrangement, which is welcomed and widely used in many areas—and particularly in my area, Orpington—whereby such vehicles have a sole contract with the local education authority, will have to be brought to an end, to everyone's loss.

The Minister, in Committee, said that he had a heartfelt concern about the problem and that his only worry was that there might be abuse. In the particular case of which I am thinking, which relates to P & J Travel in my constituency, there can be no abuse because the vehicles are used only for the purpose of taking special needs children from home to school. Therefore, I recommend to the House this excellent amendment, on which I hope we have the opportunity to vote.

Charlotte Atkins: I wonder what the right hon. Member for North-West Hampshire (Sir George Young) thinks of this amendment. When he took the relevant private Member's Bill through the House, he was definitely of the view that he wanted to close all of what he considered to be loopholes. Clearly, I appreciate that the Private Hire Vehicles (London) Act 1998 has been immensely valuable. It introduced stringent suitability checks on operators, drivers and vehicles. To introduce this loophole would open up gaps that we would want filled. The exemption from licensing, which the hon. Member for Orpington (Mr. Horam) wants to introduce, was deliberately omitted from the 1998 Act, even though that situation does not exist outside London. It therefore seems perverse to suggest that we should open up this loophole when the Act was originally planned to ensure that there was no such loophole.

I appreciate, of course, that public authorities using unlicensed operators, drivers and vehicles would do their own suitability checks. I have concerns about that approach, however, bearing in mind that we are talking about very vulnerable people, including special needs children being transported in such unlicensed vehicles. I worry about whether the checks would be suitably robust. The responses to the consultation on this proposal also raised concerns about the thoroughness of checks. My understanding is that if a driver had been checked, but then went off sick, someone else could take his place and that person would not have been vetted.

There is also the issue of fair competition. Clearly—

It being Six o'clock, MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [11 January].*

Question put, That the amendment be made:—

The House divided: Ayes 165, Noes 258.

Division No. 119] **[6 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baron, John *(Billericay)*
Beggs, Roy *(E Antrim)*
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Doughty, Sue
Duncan, Alan *(Rutland)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lansley, Andrew
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
May, rh Mrs Theresa
Mercer, Patrick
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Redwood, rh John
Rendel, David

Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Shephard, rh Mrs Gillian
Simmonds, Mark
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Williams, Roger *(Brecon)*
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Ayes:
Andrew Selous and
Mr. Peter Atkinson

NOES

Abbott, Ms Diane
Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Denham, rh John
Dismore, Andrew
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, Michael *(Worcester)*
Foulkes, rh George
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hoey, Kate *(Vauxhall)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mactaggart, Fiona
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Mountford, Kali
Mudie, George
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Olner, Bill
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, John *(Glamorgan)*
Soley, Clive
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*

Turner, Dr. Desmond *(Brighton Kemptown)*
Twigg, Derek *(Halton)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Wills, Michael
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woolas, Phil
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Margaret Moran and
Mr. Tom Watson

Question accordingly negatived.

MR. DEPUTY SPEAKER *then proceeded to put the remaining Questions necessary to dispose of the business to be concluded at that hour.*

Schedule 1

GIVING OF FIXED PENALTY NOTICES BY VEHICLE EXAMINERS ETC.

Amendment made: No. 4, in page 59, line 7, after 'clerk', insert', in both places,'.—*[Mr. Jamieson.]*

Schedule 3

ENDORSEMENT: ALL DRIVERS

Amendment made: No. 5, in page 71, line 40, at end insert—

'(4) In the heading, for 'Counterparts issued to' substitute 'Information about'.—*[Mr. Jamieson.]*

Schedule 4

DRIVING INSTRUCTION

Amendment made: No. 6, in page 89, line 38, leave out from 'above' to end of line 43 and insert

'"relevant prescribed condition" means—

(a) in the case of a registered disabled instructor, a condition prescribed under section 125A(7) of this Act, and

(b) in any other case, a condition prescribed under section 125ZA(3) of this Act.'.—*[Mr. Jamieson.]*

Schedule 6

REPEALS AND REVOCATIONS

Amendments made: No. 7, in page 108, line 19, leave out '2, paragraph (bb)' and insert '3, paragraph 2(bb)'.

No. 8, in page 116, line 36, at end insert—
'Road Traffic Offenders Act 1988 (c. 53)—Section 36(14).'.—*Mr. Jamieson.]*

Order for Third Reading read.—[Queen's Consent, on behalf of the Crown, and Prince of Wales's consent, on behalf of the Duchy of Cornwall, signified.]

6.14 pm

Mr. Jamieson: I beg to move, That the Bill be now read the Third time. The Government are committed to reducing death and injury on Britain's roads. We have long had a strategy for achieving that and last year we updated it. We are making good progress towards our targets, but we take nothing for granted.

In 2000, we set ourselves a target to reduce the number of people killed and seriously injured on our roads by 40 per cent. and to reduce the number of children killed and seriously injured by 50 per cent. Overall, we have achieved a 25 per cent. reduction, but for children the result is better and we are more than three quarters of the way towards achieving our target. That has been due to the efforts of many people, not only the Government but local government, the police and the many voluntary organisations that contribute to improving road safety in many ways. Nor should we forget the engineers and others who design and build our roads. All those people have played a part in reducing casualties.

I am proud to say that we have done well in this country and that that is now recognised across Europe. We have one of the best records in this area, and other countries in Europe, and even in other parts of the world, are looking to us as a model on road safety. Our record compares with the best in the world, such as Sweden, Luxembourg and the Netherlands.

Mr. Mark Lazarowicz (Edinburgh, North and Leith) (Lab/Co-op): My hon. Friend the Minister is right in what he says about this country's record and I pay tribute to his contribution to that. The Bill will allow the Secretary of State to introduce graduated fixed penalties, and that is generally accepted. However, there is concern about the possible reduction from three to two points for speeding in a 30 mph area. That issue was raised in Committee and my hon. Friend agreed to reflect on it, so can he reveal his current thinking on the issue?

Mr. Jamieson: My hon. Friend has pre-empted some of the comments that I was about to make. As he knows, a discussion note was issued in September, inviting comments on some of the benchmark ideas for the graduated scheme. We made it clear then—and it is evident in the Bill—that the structure will be the subject of further consultation and debate in the House. So far, the debate has largely concentrated on the argument that the two-point penalty should not be available to people who break the 30 mph speed limit. Views are divided on the issue and we want to hear further views from the statutory consultation before we lay further orders on the issue.

David Taylor (North-West Leicestershire) (Lab/Co-op): My hon. Friend's role in the progress that has been made should indeed be recognised. However, although the figures are heading in the right direction, some 100 people are still killed or seriously injured every day. Does my hon. Friend think that serious attention will be given in the future to lower alcohol limits, lower speed limits in residential areas, random breath-testing and other such initiatives? More progress could be made.

Mr. Jamieson: As my hon. Friend says, some 100 people are killed or seriously injured each day. The number of people killed on our roads has remained static for the past few years, but the rate is falling because we now have more traffic on the roads. The number of people who are seriously injured is falling dramatically and I am delighted that that is especially true for children. I am pleased with the progress that we are making on that issue.

Interestingly, the static number of deaths has been a cause of concern in other countries with good records. The number of deaths a year has levelled off in the Netherlands and Sweden, and a similar trend is emerging in France and Germany. The figures come down so far, but it is then difficult to get them down further. The serious injury rate is falling, but we still face serious challenges in reducing deaths on the road. One concern is the number of deaths on two-wheelers. Had the number of deaths for people riding two-wheelers not risen, there would have been a reduction in overall deaths last year.

My hon. Friend the Member for North-West Leicestershire (David Taylor) asks about the alcohol limit. My concern is not so much the 80 mg limit, but the small hard-core minority who drink well beyond that limit and then drive. They are the people who are causing the casualties, not—as a rule—those who have drunk just over the limit. The overwhelming majority of people in this country take this matter seriously and are conscientious about not driving after drinking. That is true of the vast majority of younger people, as well as of those who belong to the older generation.

We want local authorities to reduce speed limits on their roads and to use engineering to make roads safer, especially in rural areas. Again, the number of casualties on those roads has reached a plateau. My message is that a lot is being done, but that—my goodness—a lot more needs to be done.

Mr. Andy Reed (Loughborough) (Lab/Co-op): My hon. Friend the Minister will recall that I raised the question of graduated penalties in Standing Committee. The House will know that the outcome when a person—and especially a child—is hit by a car travelling at 30 mph is very different from what happens when the car is travelling at 40 mph. The difference is so significant that we must not send out the signal that penalties will be reduced for people driving between 30 and 40 mph. In the consultation process, will he take the very strong message from me and my constituents that we must not give out that signal?

Mr. Jamieson: My hon. Friend repeats a point that he made very powerfully in Committee. We are very aware of the debate that is taking place on this important matter, both in this House and outside. Those who want to change the status quo must make their views known, but we need a sensible and vigorous debate in the next stage of the consultation so that we can get the matter right. We can talk and think about the issue, but the important thing is to get it right in the end.

I hope that we might even get some cross-party consensus on whatever is ultimately achieved in that respect. The right hon. Member for East Yorkshire (Mr. Knight) perked up at those words, but the hon. Member for Christchurch (Mr. Chope) is still looking at his notes. We can read what we like into that.

New primary legislation has never been a prerequisite for road traffic laws, and other laws form an important part of road safety policy. Not all problems call for a legislative solution, but that is an element of the strategy whose time has come. The Bill presents a package of measures which, taken together, will make an important contribution to achieving our goal.

Most of the measures in the Bill have been public knowledge for some time. They have been examined in some depth, not least by road safety experts and lobby groups. They have also benefited from careful scrutiny by the Select Committee on Transport, and I see that the Committee's Chairman, my hon. Friend the Member for Crewe and Nantwich (Mrs. Dunwoody), is in her place. We very much welcome the views expressed by the Committee, and I dare say that it will express further views in future. Moreover, the Joint Committee on Human Rights offered additional advice in its eighth report, which we are now considering.

Over the past year, speeding has been the subject of one of the biggest debates in connection with road safety, and the Bill contains various provisions to tackle the problem. One of them is educational, in the sense that speed offenders might, in certain circumstances, be referred by a court of law to undertake retraining courses. However, we need sticks as well as carrots, and the proposals for a graduated system of fixed penalties deserves careful consideration.

The focus on speeding may have caused some to overlook that fact that the graduated fixed-penalty proposals will apply to offences other than speeding. They will be especially useful in commercial operations, in which the police and the Department's vehicle inspectors, furnished with new powers by this Bill, will be able to enforce more effectively against roadworthiness offences.

Other provisions in the Bill contribute to better enforcement, in some cases through better or more streamlined administration. However, the modernisation of administrative practices is also behind many proposals governing licensing and testing. All the proposals help to plug gaps in the system, and will contribute to improvements in road safety.

The Bill has made positive progress through the House. We have had some very good and sensible debates both in this House and when the Bill went Upstairs. It has been an instructive process, giving us food for thought for the future in important areas, and I am grateful to Members from all parts of the House for their contributions during the Bill's passage. It is a good Bill and it should command support both in this House and outside it. I commend it to the House.

6.25 pm

Mr. Chope: I am most grateful to the Minister for the way in which he has conducted the Bill's passage in Committee and through this House. I should also like to say how much we will miss him when he retires from this House at the coming election. *[Interruption.]* The Under-Secretary of State for Transport, the hon. Member for Staffordshire, Moorlands (Charlotte Atkins), is obviously getting cold feet about her own constituency, because she seems to be saying that she hopes that the general election is 15 months away. We will find out in due course. I do not believe that the Minister will be lost to Parliament, however, because I suspect that he will appear in the other place. He is just the sort of warrior that Labour will need there in order to deal with being in opposition following the election.

[Richard Younger-Ross]

Richard Younger-Ross (Teignbridge) (LD): The hon. Gentleman should be aware that Plymouth, Devonport is not a Liberal Democrat target seat, so the Minister is quite safe.

Mr. Chope: I do not know how to deal with that. I understand that Christchurch is not a Liberal Democrat target seat either, but just because a seat is not a target, it does not mean that any well-respected Member of Parliament should be complacent. I am sure that the Minister is working just as hard now for his constituents as he has throughout.

Having said all that, this Bill is a missed opportunity. It could have contained important provisions to strengthen the law against bad driving, and the law against those who kill or maim while driving without a licence, or while disqualified. It could, and should, have addressed the growing problem of motorists driving with illegal drugs in their bodies, and it could, and should, have done more for road safety education and training.

In its current form, the Bill outlaws equipment that identifies the location of speed cameras. That runs counter to the Government's own argument that speed cameras should be clearly identified and visible, on the basis that prevention of accidents is better than cure. We have no argument with the proposal that equipment that interferes with speed cameras should be outlawed, but we have sought, unsuccessfully, to amend the Bill so that that is the limit of such outlawing. We believe that equipment that identifies speed cameras should remain legal.

The Bill criminalises those using mobile telephones when their cars are stationary and their engines are switched off by imposing a mandatory fine and endorsement. We support penalties for those who cause danger to themselves or to others through the use of mobile telephones while driving, but the Bill goes unjustifiably further. Why should a person sitting in a five-mile traffic jam not be allowed to make a telephone call? We believe vehemently that bad law brings the whole law-making process into disrepute.

Mrs. Gwyneth Dunwoody (Crewe and Nantwich) (Lab): Will the hon. Gentleman give way?

Mr. Chope: In a moment.

The Bill introduces a power to charge motorists for handing in old-style paper licences and to penalise them if they do not comply, despite the Government's saying that they have no present need to recall, or intention of recalling, such licences. It is now my pleasure to give way to the hon. Member for Crewe and Nantwich (Mrs. Dunwoody).

Mrs. Dunwoody: I am grateful to the hon. Gentleman for giving way. I just want to ask him a very simple question. He knows that laws that are plain and straightforward are those that are acceptable and put into operation. Does he really think that a law could be applied stating that as long as a person could prove that they were sitting in a traffic jam, they could use a mobile phone? This legislation has been introduced because there is a danger involved in such activity, which is not in anybody's interests. Why does he not make that point clear?

Mr. Chope: In Committee—I know that the hon. Lady did not have the chance to follow our proceedings there—we moved an amendment that was not accepted by her Government, and which would have made it a complete defence for somebody to use a mobile phone in a car if it is stationary and the engine is switched off. The hon. Lady will know from the definition of driving in this country's decided legal cases that, under the law, when a car is stationary and the engine is switched off, the driver is still regarded as driving. That is why we believe that incorporating that definition within a new offence of using a mobile phone when driving is too extensive. It should be made a narrower and more specific offence, particularly when it can result in penalty points and, ultimately, perhaps the loss of a licence.

We believe that proper discretion should be exercised and the best way of ensuring that is having clear law that reflects the intentions of Parliament. I would not be at all surprised if the hon. Member for Crewe and Nantwich, who is fair minded, shared my views on this matter. I hope that she would regard the use of a mobile phone by a driver when the car is stationary and the engine is switched off as a perfectly reasonable way of behaving. Unfortunately, the Bill says otherwise.

The Bill introduces a power to increase flexibility in the penalty points system, but the Government are evasive about their precise intentions. We believe that such an important reform should be built directly into primary legislation rather than left to unamendable regulations.

The Bill introduces some modest extensions to the system of encouraging driver improvement but, inexplicably, the Government refused to accept our proposal, set out in new clause 2, which would have allowed many more motorists to benefit from reduced penalty points in return for self-improvement of their driving standards.

The Government have given the impression that they wish to allow common sense, discretion and flexibility in the operation of the fixed penalty system, but today they have rejected our imaginative proposal to introduce discretionary rather than mandatory endorsement for fixed penalty offences to reflect mitigating circumstances. That could have been a significant development, ensuring greater respect by motorists for the fairness of the law. The Bill is a nearly empty vessel, but some of what it contains is unfair to motorists and will be counter-productive to road safety.

The Government are committed to returning to the subject of penalties for the most serious road traffic offences and are now consulting on Home Office proposals on the outcome of the Halliday review, with a closing date for submissions of 6 May. Legislation will be necessary later this year to reflect the outcome of that review.

I criticise the Government for having put the Bill into the slow lane during this Session of Parliament, but one silver lining is that it will not reach the statute book

before the forecast general election. That will ensure that an incoming Conservative Government will be able to bring forward common sense road safety legislation, which will meet the needs of the travelling public and contribute to a reduction in fatalities on our roads, just as previous Conservative Governments achieved.

As the Minister conceded in his opening remarks, the Government have failed to reduce the number of fatalities on our roads.

Mr. Jamieson *indicated dissent.*

Mr. Chope: The number killed last year was almost identical to the number killed in 1997. I believe that the Government are missing out on the best contribution that any Government could make to road safety—restoring the number of police on our roads to the levels experienced during the last Conservative Government. The present Government have reduced the number of operational traffic police from 9,201 in 1996–97 to 6,276 in 2003–04—a drop of 2,925.

Interestingly, a Green Flag report on safe driving in 2004 asked motorists:

"Which of the following would persuade you personally to take more care on the road?"

It was found that 63 per cent. of respondents prioritised "more visible traffic policing"—the very area where the Government have cut back on activities over the last eight years. We are not alone in believing—I know that the hon. Member for Crewe and Nantwich agrees with me—that we need more visible traffic policing, which would contribute significantly to reducing the number of fatalities on our roads. There has been a consecutive increase in fatalities on rural roads over the past four years: from 1,747 in 1999 to 1,818 in 2002 and 1,891 in 2003, despite all the Government's targets.

In the interests of road safety, roll on the general election.

6.35 pm

John Thurso: I, too, begin by expressing my gratitude to the Minister for the way in which he dealt with the Bill, in Committee especially but also today, on Report. He has tried to answer constructively all the arguments put to him, a number of which I feel that he will, at the very least, think about. That is good of him. In the main, our dealings in Committee were constructive—despite some odd outbursts.

This is broadly a good Bill. We have been calling for such a road safety measure for about three years, so it would be churlish of me to pick it apart. There are many good things in the Bill, although they are not all set out precisely as I might want. However, the broad thrust of the Bill and what it seeks to do are good.

There were some missed opportunities. I have alluded to some aspects that might have been dealt with— *[Interruption.]* I am not used to receiving brief on the hoof. It was clear from our debate in Committee that there is deep unease about the whole question of graduated fixed penalties, not about the concept of graduation and the overall principle that there should be different punishments to fit the varying severity of the crime, but about the particular case, already mentioned by the hon. Member for Loughborough (Mr. Reed), of the reduction in points in the 30 to 40 mph range. The Minister said that he has taken on board what was said during our deliberations so I hope that there will be no relaxation on that matter.

There were some debates on speed limits more generally. I am sorry that we did not have more time in Committee to look at some of the ideas proposed from both sides. For example, we should consider having more 20 mph limits and making a more definite distinction, especially in urban areas, between thoroughfares that are principal roads used by cars and mixed-use thoroughfares where there are pedestrians, cyclists and others, and the car is but one user. The more that I see 20 mph zones in operation, the more I think that, in the appropriate places, they are worth while.

In one of our debates, we touched on the idea of 20 mph zones around schools. That very weekend I went home to find that a school just outside my drive had fitted a sign that flashed "20 mph" during the 20 or 30 minutes when pupils were leaving and arriving. It was amazing to observe the effect on drivers: they obeyed it.

Clearly there are things that can be done. We should not just consider lowering speed limits. In principle, there is nothing wrong with slightly increasing speeds on motorways, perhaps to 80 mph as has been suggested, because such roads are engineered for the car. That is the great distinction I wanted to make. I should also like to see the reverse. Where the road is not engineered solely for cars, there should be lower speed limits.

We also talked about drink-driving, which, sadly, remains a problem and one that is increasing. More people appear to be disregarding the limits. I echo the Minister's comment; I am more concerned about trapping people who have drunk twice the limit than about lowering it to 50 mg.

We also had a very important debate that was initiated by the hon. Member for Wellingborough (Mr. Stinchcombe), when he raised issues that related to the family of a casualty. I am not sure what that family made of that debate, but it brought out very graphically why we need that new penalty. I say, "Roll on the review", whoever is speaking at the Dispatch Box. If by some complete miracle I find myself there, I will certainly undertake to ensure that the legislation is dealt with with the utmost dispatch.

A number of issues raised are not in the Bill. For example, we moved some amendments that came from Network Rail that related to level crossings, and I hope that the Department for Transport will continue to consider that issue. I hope that my dear friend the retro-reflective conspicuity, about which we had another go today, will be dealt with, and I was encouraged by the Minister's comments. We can therefore say that, on balance, the Bill will have had a good passage through the House, and that we will be all the better for putting the Bill on the statute book.

I hope that I have been reasonably fair to the Government, but I come to the one thing that concerns me. Having looked at the business timetabling in another place, I see that the Bill has been given no time and, furthermore, that there are no gaps in the timetable that it could go into, and I do not see any business that is likely to be moved to accommodate it. The possibilities therefore are that, even if the other place manages to

[John Thurso]

squeeze in a Second Reading debate, it will be forced either to take the Bill as it stands without any debate on consideration, which would be a mistake, and pass it in the "wash-up"; or that the Bill will be lost.

I hope that the Bill is not lost, but equally, it needs to receive the further scrutiny that is required. There are a lot of ifs in this, but if 6 May does have the significance that various people keep according to it and if we find ourselves having to do all this over again, I hope that it will be introduced as rapidly as possible, so that it can be dealt with. Many people in the country trust us—as a group of politicians, not simply as representatives of a party—to make the roads safer. I believe that we agree on far more than we disagree on, so I should like to see this important Bill on the statute book, with a few changes, I hope.

6.42 pm

Mr. Kidney: I learned with astonishment today that my youthful and hon. Friend the Minister will not seek re-election at the next general election. He is an excellent Minister in the transport team, and if I am fortunate enough to be elected to the next Parliament, I shall miss his expertise, forcefulness and wit.

I agree with the Minister that this is a very good Bill. It is more extensive than many people give it credit for, with 51 clauses and six schedules. It demonstrates the Government's commitment to improving road safety. In that respect, it complements a very successful 10-year safety strategy. As he says, we are well ahead of some challenging targets for reducing the number of those killed and seriously injured on our roads. That is particularly impressive with the target relating to children—the toughest target in the strategy.

Of course, as my hon. Friend also said, we have reached a bit of a plateau in the reduction in fatalities in the past couple of years. There are two main reasons for that; one is the increase in deaths among motor cyclists and the other is the increase in the number of deaths caused by drinking and driving. I welcome the publication of the Government's new national motor cyclists strategy since the completion of the Bill's consideration in Committee, and I look forward to the implementation of that strategy in helping to get the number of deaths among motor cyclists under control, and start reducing it again.

The Bill contains welcome measures on drinking and driving, but I regret that the Government still do not agree with me that we should reduce the drink-drive limit and thus help to bring down the number of deaths caused by drink-driving each year. Regarding the enforcement of all our road traffic laws, but especially those on drinking and driving, I welcomed the joint statement issued on the day of the Bill's Second Reading by the Association of Chief Police Officers, the Department for Transport and the Home Office on improving the visibility of policing on our roads and reducing the number of deaths and injuries on our roads through better policing.

During the Committee stage, we had the belated publication of the Home Office consultation following the Halliday report, which covered offences including driving resulting in deaths on our roads. It is right to take time over the consultation, and when we draw up offences as a result of the document. It is important to get the links between the different offences right, to consider what the correct sentences will be, and to decide the evidence that should be admissible for that set of offences.

I wish to draw attention to the fact that our newly qualified first-time drivers are at the highest risk of being casualties or causing casualties on our roads. Although young new drivers constitute only 10 per cent. of the total number of drivers, they are involved in 29 per cent. of the crashes that result in an injury or fatality. People are most likely to cause death or injury on the road during the first two years after qualification.

Although it is fair to say that we have improved the standards of instruction and the quality of the driving test in recent years—that has included introducing the new theory test and the more recent hazard perception test—more needs to be done. The Bill attempts to do something more about the quality of instructors and says a little more about the test. Even though this is not addressed in the Bill, I must point out that throughout the entire process of learning and practising for the test and passing it, people do not have to prove that they have the competence to drive at night or on a motorway. We need to give attention to those matters. In fact, there is a good scheme that can be undertaken after passing the test called pass plus. It is successful and allows people to experience those driving conditions. I do not know how much assistance the Department gets from the insurance industry to promote the scheme, but it at least offers reduced premiums to people who have been through it. I think that we could do more to promote the scheme and persuade more new drivers to undertake it, because that could reduce the number of casualties on our roads.

Adopting central European time in this country is beyond the Bill's remit, but changes to our clock could give us more daylight in the evenings. Research has shown that that could dramatically reduce the numbers of deaths and injuries on our roads, so it is a shame that we do not discuss the contribution that such a change could make to road safety more often.

The Bill is welcome because its measures could improve road safety in the future. I would like more emphasis to be put on education about casualties and the prevention of them, which explains why I tabled new clause 16 on speed awareness courses. Many of the measures that we have discussed, including my proposals on education and prevention, would not necessarily require primary legislation, so although I commend the Bill to the House, I urge the Department to continue to drive down the number of casualties on our roads using all the powers and levers at its disposal, not just the legislative one.

Question put and agreed to.

Bill accordingly read the Third time, and passed.

DELEGATED LEGISLATION

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

NORTHERN IRELAND

That the draft Higher Education (Northern Ireland) Order 2005, which was laid before this House on 8th February, be approved.—*[Mr. Jim Murphy.]*

The House divided: Ayes 250, Noes 116.

Division No. 120] **[6.49**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Allen, Graham
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Bayley, Hugh
Beard, Nigel
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Best, Harold
Betts, Clive
Blackman, Liz
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brown, rh Nicholas *(Newcastle E Wallsend)*
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Coaker, Vernon
Coffey, Ms Ann
Cohen, Harry
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Corbyn, Jeremy
Cousins, Jim
Cranston, Ross
Cruddas, Jon
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Dawson, Hilton
Dismore, Andrew
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Ellman, Mrs Louise
Farrelly, Paul
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, Michael *(Worcester)*
Foulkes, rh George
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Griffiths, Jane *(Reading E)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hinchliffe, David
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howarth, George *(Knowsley N & Sefton E)*
Hoyle, Lindsay
Humble, Mrs Joan
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Iranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Ann *(Brentford)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
King, Ms Oona *(Bethnal Green & Bow)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Levitt, Tom *(High Peak)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKenna, Rosemary
Mactaggart, Fiona
McWalter, Tony
McWilliam, John
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Marshall-Andrews, Robert
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Mitchell, Austin *(Gt Grimsby)*
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Mountford, Kali
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Naysmith, Dr. Doug
O'Hara, Edward
Oliver, Bill
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purnell, James
Rapson, Syd *(Portsmouth N)*
Reed, Andy *(Loughborough)*
Robertson, John *(Glasgow Anniesland)*
Rooney, Terry
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Short, rh Clare
Simpson, Alan *(Nottingham S)*
Skinner, Dennis
Smith, John *(Glamorgan)*
Soley, Clive
Starkey, Dr. Phyllis
Stainberg, Gerry
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Truswell, Paul
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Walley, Ms Joan
Ward, Claire
Wareing, Robert N.
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Wills, Michael
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Mr. Tom Watson and Margaret Moran

NOES

Ainsworth, Peter *(E Surrey)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Barcow, John
Boswell, Tim
Brady, Graham
Brazier, Julian
Breed, Colin

Burnside, David
Burt, Alistair
Butterfill, Sir John
Campbell, Gregory *(E Lond'y)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Collins, Tim
Davey, Edward *(Kingston)*
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Evans, Nigel
Fabricant, Michael
Flook, Adrian
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Greenway, John
Grieve, Dominic
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heath, David
Heathcoat-Amory, rh David
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Jones, Nigel *(Cheltenham)*
Key, Robert *(Salisbury)*
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Llwyd, Elfyn
Loughton, Tim
McIntosh, Miss Anne
Maclean, rh David
McLoughlin, Patrick
May, rh Mrs Theresa
Moore, Michael
Moss, Malcolm
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Rendel, David
Robathan, Andrew
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Shephard, rh Mrs Gillian
Simmonds, Mark
Spink, Bob *(Castle Point)*
Spring, Richard
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Thomas, Simon *(Ceredigion)*
Thurso, John
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Williams, Roger *(Brecon)*
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Peter Luff and
Mr. David Amess

Question accordingly agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Fees and Charges

That the draft Immigration (Application Fees) Order 2005, which was laid before this House on 10th February, be approved. —*[Mr. Jim Murphy.]*

Question agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Town and Country Planning

That the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2005, which were laid before this House on 9th February, be approved. —*[Mr. Jim Murphy.]*

Question agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Public Audit

That the draft Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005, which was laid before this House on 9th February, be approved.—*[Mr. Jim Murphy.]*

Question agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

Social Security

That the draft Tax Credits Up-rating Regulations 2005, which were laid before this House on 31st January, be approved.—[*Mr. Jim Murphy.*]

Question agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

That the draft Child Benefit and Guardian's Allowance Up-rating (Northern Ireland) Order 2005, which was laid before this House on 31st January, be approved.—[*Mr. Jim Murphy.*]

Question agreed to.

Motion made, and Question put forthwith, pursuant to Standing Order No. 118(6) (Standing Committees on Delegated Legislation),

That the draft Child Benefit and Guardian's Allowance Up-rating Order 2005, which was laid before this House on 31st January, be approved.—*[Mr. Jim Murphy.]*

Question agreed to.

Local Government Finance (Southend)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Jim Murphy.]*

7.5 pm

Mr. David Amess (Southend, West) (Con): I address the House tonight with the emotions of sadness and anger. I feel sad about what I have to say because, as the Minister will no doubt recall, I raised Southend's financial settlement in January last year, again on the Adjournment, and I very much regret that many of the points that I made then I will have to repeat this evening. I feel angry because there is a great sense of injustice about the way in which Southend residents believe that they have been treated over the local government financial settlement.

I want to draw the Minister's attention to two headlines in our local newspapers this week. The headline in the *Southend Times* is, "Who would want to take on this job?" It is talking not about the job of Prime Minister—my right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) is keen on that job, and I very much hope that he gets it after the general election—but the job of leader of Southend council, for it continues: "Southend Council in search of new leader to take on the unenviable task". The headline in the *Yellow Advertiser* is, "Council leader resigns over population figures 'debacle'", followed by, "Forced out by row". Having seen the correspondence between the Minister and the present leader of Southend council, I hope that the Minister agrees that it is very sad that Councillor Howard Briggs has decided to resign as leader of the council in May.

On Valentine's day, the mayor and mayoress of Southend went to No. 10 Downing street, leading an all-party delegation comprising a wide variety of local groups. We handed in this scroll, which said:

"Save our Southend

Please don't R. I. P. the heart out of Southend

Survival of vital services to our Borough and its residents which we as the Local Authority are expected to deliver through their public mandate

Survival of our town as the cultural hub of Thames Gateway South Essex as prescribed by the Office of the Deputy Prime Minister

Survival of our businesses and the continued regeneration of the town both now and for its future generations as stated by Ministers of the Crown

Survival and retention of jobs along with improved conditions for our local government employees as per Central Government policy

We ask you & your Ministers to ensure that the accuracy of the ONS 2001 Census figures are checked immediately and that when the formula on which the local government finance settlement is based is reviewed later this year, the impact on Southend on Sea's finances is thoroughly examined and we are lifted from the grant floor, thereby enabling us to give the kiss of life to the town and thus the survival of its services."

Many organisations that represent the local community, including the Southend Association of Voluntary Services, Friends of the Palace Theatre, the Southend Carers Association, Growing Together, Trust Links and Southend Youth Council, to name a few, supported the scroll.

Since I have been Member of Parliament for Southend, West, the council has not been solely led by the Conservative party. From 1994 until 2000, it was run by the Liberal and Labour groups. I stress to the Under-Secretary that I am not responsible for running Southend council—no Member of Parliament is responsible for running a local authority. The councillors and the leaders do not phone the local Member and ask what they should do about a specific issue—that is not the job of a Member of Parliament. However, whatever the political complexion of the local authority, if the council feels hard done by, it is the Member of Parliament's job to raise the problems.

I get the impression that there has been a good relationship between the Conservative council and the Government. Indeed, the Conservative-led council would say that it had done everything that it could to support the various Government initiatives. However, the council now feels badly let down because of the census. I want to share with the Under-Secretary a few extracts of Councillor Howard Briggs's budget speech.

Councillor Howard Briggs was born in the town and is well known, but I do not think that he could be described as a professional politician. He was a popular and successful local dentist. Eventually, local people thought that he had a civic contribution to make and thus he became a councillor and genuinely believed in what he and others wanted to achieve for the town.

Councillor Howard Briggs spoke about cuts in his budget speech and said:

"In addition to such services as subsidies to theatres, community centres and bus routes lost this year we will next year be losing massive slices of the non-mandatory social care provided to our disadvantaged residents of all ages from the very old to the very young, further cultural facilities, much of the beneficial environment in which we live and much of our ability to respond to the needs and concerns not only of our residents but of the multiplicity of inspectorates which find ever increasing ways to help us spend money but bring nothing in the way of income to help us achieve our objectives."

He continues:

"When I took over the leadership of this Council two years ago I knew that I was undertaking an enormous challenge . . . I believed that we could control Southend's destiny and make it a better place to live . . . two years ago I had not fully appreciated the disaster to come through the lack of revenue funding, mainly as a result of the census which had taken place in 2001 but the results of which were not published until 2003. This reduced our population from 176,000 in the 1991 census to 160,000 . . . We have not lost 10 per cent. of our population in ten years."

It is crazy for the Government to accept that Southend has lost 10 per cent. of its population in 10 years.

Councillor Briggs goes on:

"Our elderly are still living to ever greater ages".

The Under-Secretary will recall that, when I took part in a debate a few weeks ago, I said that my constituency was No. 1 out of the 659 for people aged between 100 and 112. Councillor Briggs states:

"our electoral register has increased, we have 178,000 patients on our doctors lists, our schools are almost full to capacity, our housing waiting lists longer than ever . . . we are trying to run a town of about 178,000 people with the money for 160,000 and the census has lost us an estimated £11—£12 million in those two years."

On 14 February, Councillor Briggs and others met the registrar of the Office for National Statistics to try to resolve the issues. The ONS believed that the primary care trust and housing figures were insufficiently robust to be a factor in the calculation, although it accepted that there were disturbing variations in our figures that

[Mr. David Amess]

were not to be found anywhere else. The basis of its argument was that the 2001 census was accurate, and that the 1991 census and all the mid-year estimates since then must have been wrong. It was obviously unaware of the disastrous effects that its conclusions had had on the income stream in Southend and admitted that it might have handled the problem in a different manner had it known of them. It would have been possible for the Office of the Deputy Prime Minister to accept the figures and apply them to Southend over a period of years.

Councillor Briggs went on to say that he had adopted

"a policy of keeping expenditure down to SSA (Standard Spending Assessment). This is the formula which the Labour government considers we should be spending to maintain our services when it does its calculations nationally and is the factor which controls the level of our Revenue Support Grant. This was followed up last year by its replacement known as FSS (Formula Spending Share) and we have kept to that."

Councillor Briggs ended his budget speech by saying:

"I have found this entire process extremely stressful . . . it is affecting my health. I did not join this Council or become its leader to supervise the destruction of our community . . . The warnings that I gave last year have come to fruition and I have now produced two budgets both of which are heading in the same downhill direction . . . I will not be standing for re-election as Leader of this Council".

I want to end with some thoughts for the Minister. People in Southend feel an enormous sense of injustice. Local residents feel unjustly treated in terms of the health service, education, law enforcement and the way in which asylum and immigration issues are handled. Most of all, they feel unjustly treated in terms of the financial settlement. I know that the Minister has heard many of these points before because I have initiated a number of Adjournment debates over the years, with mixed success. I fully understand the limits faced by Ministers, who have to take advice, in these circumstances, but I am asking the Minister tonight to hold out his hand to help Southend. We feel as though we have been kicked in the teeth. We had some terrible publicity recently from a BBC1 television programme entitled "Drunk and Dangerous", which did not show any of the participants in a good light.

Southend is full of hard-working, honest, genuine people who just want to make the most of their opportunities, whatever the Government of the day are. To say that we have a shortfall of this huge number of people—nearly 20,000—is just crazy. Every time I conduct a surgery, a number of asylum seekers come to see me with their problems and I do my very best to help them. They always show me letters telling them that they should not remain in the country, but they now have families. Of course, they never took part in the census, yet not one person was prosecuted in our town. How can we have 178,000 people registered for health care, when we are told that we have only 160,000 people in Southend? Over the past few weeks, I have tabled all sorts of questions that Ministers have answered honourably. All those questions indicate that Southend has many more than 160,000 people.

I want to end with this request. I ask the Minister to consider again how those census figures were handled and, if it is not too late, to try to reconsider the basis on which the financial settlement was made. I say genuinely to the Minister that I am prepared to ask all the residents of Southend to stay in their properties on one day and, if he has the time, perhaps he and I will go around all the properties and do a count. There is no way that the population has shrunk in Southend. Some of our big houses have been divided into flats. We have many more people living in Southend now than in 1991.

I am not here tonight to argue politics with the Minister. I am merely asking for justice in Southend and I ask him and his colleagues to do everything that they can to re-examine the census figures and make sure that justice is done for local residents.

7.21 pm

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope): Let me begin by congratulating the hon. Member for Southend, West (Mr. Amess) on securing this debate. It gives me another good opportunity to clarify the Government's view on what he has said this evening and similar points that he raised in the local government settlement debate in the House on 2 February. He, the hon. Member for Rochford and Southend, East (Sir Teddy Taylor), who is also present in the Chamber this evening, and Councillor Howard Briggs, the leader of Southend council, to whom the hon. Member for Southend, West referred, have engaged in lengthy correspondence with the Office of the Deputy Prime Minister about Southend's budget position. They will all know our responses.

Let us establish some facts. Southend has received generous grant settlements from this Government. It will receive a 4 per cent. grant increase from Government in 2005–06. This is the third year in a row in which Southend has had an above-inflation increase. Southend has also received specific grants for particular purposes—next year estimated to be some £26,627 million—on top of the 4 per cent. basic grant increase. Moreover, additional funds through innovations such as e-government, from which all councils have benefited, will also benefit Southend. Southend cannot possibly reconcile the 4 per cent. grant increase, nearly £27 million of specific grants and other grants that it receives, with claims that it has been underfunded.

Southend keeps raising its council tax by more than the rate of inflation. I understand that it has set a 5.25 per cent. council tax increase for 2005–06. I am sure that it has not gone unnoticed among the council tax payers of Southend that the Chartered Institute of Public Finance and Accountancy estimates an average council tax increase for England of 4 per cent. next year. Therefore, Southend is setting a council tax increase of 5.25 per cent., whereas the average council tax increase for the rest of the country is 4 per cent. Many Southend residents might want to ask why their council tax increases are consistently above the average when the council has consistently had above-inflation grant increases in the past and will do so in future.

The council tax increase of 5.25 per cent. next year comes on top of increases of 6.8 per cent. in this financial year, when the average increase across the country was 5.9 per cent. and—these figures are extraordinary—an increase of 15.7 per cent. in 2003–04 when the average

was 12.9 per cent. Do the hon. Members for Southend, West and for Rochford and Southend, East believe that council tax increases of 15.7 per cent., 6.8 per cent. and 5.25 per cent., which are all above the national average for each year, are justified? We have detected a pattern. Southend keeps setting council tax increases that are not only well above inflation, but well above the average increase in the country.

The hon. Gentleman should note that Southend benefits from the floor system that the Government have introduced to the local government grant formula. He mentioned the scroll presented at Downing street in which Southend asked to be lifted from the grant floor. In fact, the floor protects Southend's grant to the tune of some £3 million. If the Government had not imposed a floor on the increases that councils are receiving, Southend would be £3 million less well off next year. As a result of our calculation, Southend will receive not only what is due to it but £3 million more, because we wanted to ensure that no council received an increase amounting to less than the inflation rate.

We have given Southend generous grant settlements and it has benefited from the floor system. But it has set high council tax increases, and if that proves anything it is that Southend has no case for its claim that it is poorly funded. Consistently good settlements from the Government ensure that all properly run authorities can provide a good service without making excessive demands on the council tax payer.

The hon. Gentleman said at the end of his speech that he did not want to make this into a debate on party politics, but he began by saying that he looked forward to his right hon. and learned Friend the Member for Folkestone and Hythe (Mr. Howard) taking on the job of Prime Minister following the general election, whenever that comes. I think that, as a member of the Conservative party, he should be a bit more honest with his electorate about the impact on the people on Southend were his party ever to gain power. The Conservatives have pledged to make a £35 billion-a-year cut in public spending, which includes a cash freeze on the money that local authorities would receive—not the 5.4 per cent. increase promised by the Government, but the equivalent of a 4 per cent. cut in next year's budget. The impact on council tax, on services and on all the individuals and organisations that signed the scroll would be devastating.

The hon. Gentleman has regularly come to the House demanding more money for his council, and as he rightly said that is an entirely legitimate and appropriate role for a constituency Member. He must, however, ask himself whether his request for more money bears examination, given that his party—which he hopes will become the Government—would cut his authority's grants significantly.

The hon. Gentleman made a specific point about the population estimates. He said that the estimate for Southend by the Office for National Statistics was inaccurate. When calculating formula grant applications, the Government use the best and most up-to-date data available on a consistent basis, across all authorities. In the case of population, they are the 2003 mid-year estimates produced by the ONS. The calculation involved in population estimates is a matter for the ONS, and queries about their derivation and accuracy should be raised directly with it.

We have always been clear about the fact that we would issue an amending report for the 2003–04 and 2004–05 settlements if the ONS revised the population estimates. It is only fair that authorities receive the correct amount of grant relative to the updated population estimates. Indeed, we consulted on options for the amending reports last summer. Revised population estimates were published by the ONS in September 2004 following the completion of its 2001 census-based local authority population studies. Southend is one of the authorities that the ONS investigated as part of that work. After consideration of all the analysis, the ONS concluded that no adjustment should be made for Southend.

Amending reports must be made by the end of the financial year following the year of the report. As hon. Members will know, the 2003–04 amending report has now been made. We have decided to postpone the issuing of the amending report for 2004–05 until next year to ensure that all possible revisions to the data used in the 2004–05 settlement are included.

Using new census data in the funding formula is not a simple task. It is technically incorrect to update the census data, for example, in the police formula. In other areas, the changes needed to incorporate the 2001 census data would break the formula freeze and could cause large changes to the distribution of formula spending share.

We will look to incorporate 2001 census data into the funding formula once the formula freeze has ended. That formula freeze is designed to give stability over a three- year period. We are in the final year of that freeze. We will look at the formula, now that the three-year period is coming to an end, when we come to the next three-year period, but to say that the population statistics are inaccurate is a matter, as I say, for the ONS. However, we have used the most up-to-date statistics that are available to us.

The hon. Gentleman read at length from the speech of Councillor Howard Briggs, who is intending to resign. Indeed, he wrote to me on 8 December telling me that Southend was considering setting a council tax increase not of 5.8 per cent. but of 9 per cent., and he asked for an assurance that his authority would not be capped.

Would the hon. Gentleman have supported a 9 per cent. increase in council tax for next year, given that there is an above-inflation increase of 4 per cent. in the grant, plus all the specific grants I have mentioned, which Southend council is to receive? I suspect that he would not support that, but I do not know. Running a large council is a difficult job that many would shirk from given the demands. However, given the extra funding that the Government have provided for local government, it is a task that can be undertaken with purpose and confidence.

I have mentioned the budget increase of 5.25 per cent. that is planned by the council for next year. I was asked by Councillor Briggs whether we would consider not capping the council tax increase. No decisions on capping have been taken, but we have made it clear that we expect to see an average council tax increase of less than 5 per cent. and will take even tougher capping

[Phil Hope]

action next year if that proves necessary. The Deputy Prime Minister will take decisions on capping after authorities have set their budgets for 2005–06.

I have talked about the statistics and the extra money available. I have talked about how we do not want to see council tax increases being consistently above the national average or, indeed, above inflation, as we have seen in Southend. There is one other big important agenda, which will free resources for local government to deploy on the front line: our proposals on greater efficiency in delivering services in local government.

We recognise that local government is efficient in many ways and want to support existing efforts to develop and to apply best practice across all local authorities. We believe that there is scope for achieving efficiency gains of at least 2.5 per cent. per annum in local government to deliver efficiencies of at least £6.45 billion by 2007–08. Higher gains may be attainable. Importantly, those efficiency savings are retained by the authority. That is 7.5 per cent. over three years in Southend, half of which will be productivity improvements, half of which we expect to be cashable—to be spent on other services or, indeed, if the council chooses, to keep the council tax down.

The efficiency agenda is important for councils such as Southend. It is an opportunity for local authorities to free up as much resource as possible to redirect that resource to front-line services or to keep council tax low. Crucially, efficiency is not about cutting services. It has to generate genuine savings in the ways that the council operates to free up resources for use in the ways I have described. The regional centres of excellence will play an important role in supporting local authorities to identify and to deliver efficiency gains.

I understand why the hon. Gentleman comes back repeatedly to the House to plead on behalf of his authority. As the local Member of Parliament, he is more than entitled to do so, but I emphasise to him and to his constituents that they have had very good grant increases over the previous two years and next year, that successive council tax increases will not be tolerated and that, were his party to get into power, he would have to explain to his constituents why they would receive a cash freeze to their grant settlement in future years.

The motion having been made after Seven o'clock, and the debate having continued for half an hour, MR. SPEAKER *adjourned the House without Question put, pursuant to the Standing Order.*

Adjourned at twenty-five minutes to Eight o'clock.

House of Commons

Wednesday 9 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

INTERNATIONAL DEVELOPMENT

The Secretary of State was asked—

Fair Trade

1. **Anne Picking** (East Lothian) (Lab): What action his Department is taking to support fair terms of trade for developing countries. [220737]

The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas): The UK Government are committed to achieving fairer trade rules and removing barriers to trade. We are working for an outcome to the World Trade Organisation round that delivers on the ambition of the Doha development agenda, which for the first time puts developing country concerns at the heart of the WTO process.

Anne Picking: I thank my hon. Friend for that answer. It is relevant that on Make Poverty History day we have questions on international development. Will he join me in congratulating the people of East Lothian, who have worked extremely hard to raise money for the disaster of the tsunami and for the fair trade movement? In particular, the people of East Lothian have worked hard for the people of Africa, who suffer plight and poverty every day.

Mr. Thomas: I take this opportunity to join my hon. Friend in congratulating not only the people of East Lothian on their work in fundraising for the tsunami, but the people of Britain in general. All Members will recognise the fantastic response to the tsunami appeal.

I share my hon. Friend's view that the Make Poverty History campaign is generating considerable interest in the UK, across Europe and throughout the wider developed world. That interest will continue to be important in helping to secure a much fairer trading system as we approach the Hong Kong ministerial meeting, at which it is hoped we will get fairer trade rules agreed as a result of the WTO round.

Mr. John Redwood (Wokingham) (Con): What progress are the Government making with agricultural reform? Does the Minister agree that to make progress in this important area on the day of the great campaign, we need fundamental reform of the common agricultural policy so that developing countries have a chance to sell us their products?

Mr. Thomas: I am sure that the right hon. Gentleman will be the first to congratulate my right hon. Friend the Secretary of State for Environment, Food and Rural Affairs on her successful negotiations on the CAP in June 2003, which for the first time began to break the link between production and subsidies. That has enabled the EU to offer to end export subsidies. We hope that the EU's commitment will help to achieve similar commitments and similar outcomes from other developed countries and, as a result, help to get an agreement at the Hong Kong ministerial meeting in December.

Ms Julia Drown (South Swindon) (Lab): There are serious concerns for developing countries that economic partnership agreements are being negotiated, forcing developing countries to liberalise their markets in a way that will put real pressure on the poorest people and the poorest farms in those countries. What is my hon. Friend doing to ensure that the voice of poor countries is heard properly and that poverty is given the central focus in terms of renegotiations on trade?

Mr. Thomas: Our ambition for economic partnership agreements is that they are tools to promote development. Commissioner Mandelson has reaffirmed before the Select Committee in this place that the EU has no commercial interest in economic partnership agreements. My hon. Friend will be aware that negotiations have just started on what EPAs will look like in practice. We are continuing to work with African, Caribbean and Pacific countries and the European Commission to ensure that EPAs achieve their objective of being pro-development and pro-reform.

Mr. Julian Brazier (Canterbury) (Con): On Make Poverty History day, will the Minister say whether he is really happy with the generalised system of preferences plus document that we will be discussing in Committee tomorrow? Does he realise that this means that for many poor countries there will be access to EU markets only if they sign up to 27 treaties, many of them very expensive? Will he consider the concerns of Oxfam and other organisations that this could turn into protectionism through the back door against some of the world's poorest countries?

Mr. Thomas: I welcome the reform of the GSPs. A number of developing countries that were hard hit by the tsunami asked for further assistance in helping them with trade negotiations. The GSPs reform provides an opportunity to do so. We continue to talk to Oxfam and a range of other non-governmental organisations with an interest in fairer trading rules. We are continuing to work with them. We are continuing to work with ACP country Governments, as well as other least developing countries, to get a fairer set of trading rules, in particular in the run-up to the Hong Kong ministerial conference.

Chris Ruane (Vale of Clwyd) (Lab): What assessment has my hon. Friend made of the all-party campaign to

cut the subsidies to the richest 2 per cent. of farmers in the EU, which are currently £10 billion a year, to £5 billion, and to ring-fence that funding for the poorest countries in the world in southern Africa?

Mr. Thomas: I welcome the all-party campaign, as it directs attention to trade-distorting subsidies not only within the European Union but in many other countries. Many west and central African cotton producers are prevented from selling their products at competitive prices in the EU and US markets because of those huge subsidies. The fact that the EU has offered to end its export subsidies is an important signal of its intention to produce a fairer set of trading rules this year at the Hong Kong ministerial conference, and we need to urge other countries, such as our friends in America, to follow its example.

Africa (Multinational Aid)

2. **Simon Hughes** (Southwark, North and Bermondsey) (LD): If he will make a statement on the proposals for a multinational aid plan for Africa.

[220738]

The Secretary of State for International Development (Hilary Benn): If Africa is to prosper it needs peace and stability, good governance, a doubling of aid through progress in reaching the United Nations 0.7 per cent. target and through the international finance facility, 100 per cent. multilateral debt relief and fairer trade rules. The Government are pressing for action on all those fronts, and the recommendations from the Commission for Africa will be published on Friday.

Simon Hughes: The Secretary of State will know that colleagues on both sides of the House and I fully support a Government initiative that some have called the new Marshall plan for Africa. Specifically, what role does he expect the United States of America to play, and what role does he expect the European Union and its member states to play?

Hilary Benn: The single most important step that the EU could take would be to agree a new aid target to which its member states are prepared to commit, so that they can help development in Africa and other developing countries around the world. That process has begun in discussions between Development Ministers in the General Affairs and External Relations Council, and Louis Michel, the new Commissioner, will make a proposal. If the United States of America, the other G8 countries and, indeed, all donor countries, accept the argument that a doubling of aid for Africa and other measures are required, they must consider what their contribution will be to creating a different prospect for the next generation in Africa.

Mr. Tom Clarke (Coatbridge and Chryston) (Lab): I thank my right hon. Friend not just for his responses today but for his excellent work in seeking to make poverty history. On HIV/AIDS, will he continue to work with Nelson Mandela and others to ensure that that terrible scourge, which arises from poverty, does indeed become history?

Hilary Benn: I am grateful to my right hon. Friend for raising the matter of HIV and AIDS, not least because today we are co-hosting a conference in London with the French Government, Ambassador Randall Tobias, the US global AIDS co-ordinator, and Peter Piot of UNAIDS. It aims to ensure that the money that we have already raised in the fight against AIDS is used to the best effect so that we can bring care, support, treatment and anti-retroviral drugs to people who are suffering from this terrible epidemic. At the same time, by doubling aid to Africa and increasing aid to other developing countries we can raise the additional finance that we need to turn that expression of the world's support into help for people in the communities where they live. With treatment, more doctors, more nursing, more testing and more counselling we can help to keep more people alive, avoid millions of human tragedies and help to provide an opportunity for developing countries to grow and prosper. Without such an opportunity they will not relieve poverty.

Tom Brake (Carshalton and Wallington) (LD): The success of the Marshall plan for Africa will depend to a great extent on the additional funds from the international finance facility, yet there are great concerns about the way in which it will operate. Louis Michel, the EU Development and Humanitarian Aid Commissioner, set out his concerns in a letter to me, in which he said he was anxious about its governance,

"the way its resources would be allocated and spent, and perhaps most importantly, the danger it might pose to aid flows after 2015—when repayments to the IFF would exceed its disbursements"

to developing countries. Does the Secretary of State wish to reconsider his response to me on 15 December 2004, when he said bluntly that he would not consider alternatives to the IFF? Will he agree to liaise with Treasury officials, who are looking at alternatives set out in, for instance, the Landau report?

Hilary Benn: No, I do not take back a single word, because as countries increase their aid programmes to reach the 0.7 per cent. UN target we face a challenge. We now have the timetable that the Chancellor announced last summer. We have 10 years to go until 2015, but we cannot wait until then because it would be too late to raise the necessary finance to deliver increased aid and join the battle against HIV and AIDS, get more children into school, and employ more doctors and nurses. The question for the House and every country is how we raise the additional finance for development today. The international finance facility now has support from France, Germany, Italy and, most significantly in one sense, Sweden, which announced just over a month ago its willingness to participate in the pilot project with GAVI—the Global Alliance for Vaccines and Immunisation—which we think could raise an additional $4 billion and save an extra 5 million lives over the next 10 years. If not, the international finance—

Mr. Speaker: Order. May I ask the Minister to keep the answers shorter?

Helen Jackson (Sheffield, Hillsborough) (Lab): I commend my right hon. Friend for the work that he and the Chancellor of the Exchequer have done to promote the international finance facility, and particularly for the fact that it is gaining ground in the European

Community. Does he agree that it is the duty of every party in the United Kingdom to come in behind the international finance facility, so that every party and every country in the European Union and the G8 across the world will back it and we can make a real difference during this year?

Hilary Benn: In deference to your strictures, Mr. Speaker, I shall just say that I agree with every word of my hon. Friend.

Mr. Alan Duncan (Rutland and Melton) (Con): If we are to have a successful international aid plan, is it not better to have agreement not just between donor countries, but within those countries? We published our plans today, which include—the right hon. Gentleman will recognise the terms—increasing aid spending by £800 million, working towards the 0.7 per cent. target, focusing on the poorest, promoting good government, championing freer and fairer trade, and delivering faster and deeper debt relief. I believe in establishing a broad, honest cross-party consensus so that the United Kingdom can unite in action to address the challenges of global poverty. Will the Secretary of State confirm that he—*[Interruption.]*

Mr. Speaker: Order. Let the spokesman for the Opposition speak. It is bad manners to interrupt him—very bad manners.

Mr. Duncan: Thank you, Mr. Speaker.

Perhaps we can now hear whether the Secretary of State will confirm that he, too, will join in that cross-party consensus so that together we can all focus on the challenges of global poverty.

Hilary Benn: I am all in favour of focusing on the challenge of global poverty and I welcome support from every quarter. There are promises and commitments that people and parties make, and there are things that Governments actually do. If people look at the Government's record, they will see that we have not just promised to increase development assistance and to do all the things I outlined—we are actually doing them. That is the choice that people face.

Mr. Duncan: Perhaps the Secretary of State can steal a phrase from his own manifesto and look forward, not back, and desist from deceitful party fundraising, asking for party donations on the ground that we would cut spending, which is patently untrue. It is obtaining money by deception.

Bad government is the enemy of good aid. In addition to greater donor activity, there need to be African solutions to African problems. Does the right hon. Gentleman agree that the Commission for Africa will deliver results only if it requires each and all of the participant African countries to subscribe to a collective commitment to govern well? Without good governance the Commission for Africa will not succeed. Does the Secretary of State agree?

Hilary Benn: I agree, of course, that if all the commitments that Africa has entered into and all the recommendations of the Commission for Africa are not fulfilled, we will not make progress. I am very much in favour of looking forward. One of the reasons why I do not want to look back is that I do not want to go back to the 18 years when the hon. Gentleman's party cut the aid budget.

Millennium Development Goals

3. **Chris McCafferty** (Calder Valley) (Lab): If he will make a statement on the millennium development goals review in September 2005 in relation to sexual and reproductive health targets. [220739]

The Secretary of State for International Development (Hilary Benn): The millennium project report emphasises the importance of reproductive health and rights if we are to achieve the millennium development goals. Access to reproductive health is identified in the Sachs report as one of the "quick wins" for speeding up efforts to reduce poverty. We are working with others, including the European Union, to ensure that these strong messages on reproductive health are reflected both in the Secretary-General's report due in March and in the summit outcome document.

Chris McCafferty: Is my right hon. Friend aware of the millennium project taskforce report on child and maternal health and gender equality? It suggests a new target for universal access to reproductive health care by 2015 to help pull people out of poverty.

Hilary Benn: I am aware of that report. May I pay tribute to the all-party group on population, development and reproductive health, which has published a report, "The Missing Link!", that makes the link between the fight against HIV/AIDS and the importance of sexual and reproductive health? Around the world, 120 million couples do not use contraception, despite their express desire to plan how many children they will have. It is important that we give couples access to information to allow them to determine their own fertility.

Dr. Jenny Tonge (Richmond Park) (LD): I am glad that the Secretary of State appreciates and understands the link between good reproductive health and AIDS, which is such a scourge. He knows that the withdrawal of funds by the United States of America from the United Nations Population Fund has caused the loss of programmes across the developing world and diminished the prevention of AIDS and other diseases in those countries. What will he do to persuade the USA to resume its funding to UNFPA?

Hilary Benn: We have already done the most useful thing that we can do, which was to increase our funding to UNFPA, of which the UK is a strong supporter, by, if I remember rightly, an additional £10 million last year. UNFPA does vital and valuable work, and it deserves support from across the world.

Africa (Tuberculosis)

4. **Paddy Tipping** (Sherwood) (Lab): What support he is giving to programmes to combat tuberculosis in Africa. [220740]

The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas): The UK is a key donor to the global fund to fight AIDS, TB and malaria, to which we have pledged some $280 million through to 2008. More than 60 per cent. of global fund grants go to Africa, and some $245 million has been committed for TB. We also fund the global stop TB partnership, support the global TB drug facility and have spent more than £1.5 billion on strengthening health systems, so that better care, including for those with TB, is provided.

Paddy Tipping: Does the Minister accept that there is a serious crisis in Africa, where around 10 million people are co-infected with HIV and TB? TB cases are rising by 4 per cent. a year in Africa, but in parts of the region only one in three have a full course of TB drugs. Will that issue be raised at the G7 summit?

Mr. Thomas: My hon. Friend is right to issue that warning. If TB controls are not strengthened, we estimate that an extra 1 billion people will be infected with TB between now and 2020, that more than 150 million people will get sick, and that some 36 million people will die. G8 countries and EU countries undoubtedly have a role to play in providing more funding for the global fund. We will host the global fund replenishment conference in September, when we will hold discussions with all those countries on further funding.

Michael Fabricant (Lichfield) (Con): Is the Minister aware that every second of every day in the year, someone new is infected with the TB bacillus, which now infects one third of the planet? Given the spread of TB in Africa, does he agree that it is important to eradicate TB in Africa not only for Africans' sake, but because it is in our interests, given the movement of people between Africa and the UK?

Mr. Thomas: I agree with the hon. Gentleman that we must do more to fight TB. We must be aware of the strong links between TB infection and the HIV/AIDS epidemic, which is why my right hon. Friend the Secretary of State announced the doubling of our funding to the global fund last year and why we want to host the global fund replenishment conference in September.

Multinational Aid

5. **Alan Simpson** (Nottingham, South) (Lab): If he will make representations that no economic policy conditions be attached to aid from multinational donors, with particular reference to the International Monetary Fund and the World Bank. [220741]

The Secretary of State for International Development (Hilary Benn): The UK's new policy document, "Partnerships for poverty reduction: rethinking conditionality", states that we will no longer seek to impose policy choices upon partner Governments, including in relation to sensitive areas such as privatisation and trade liberalisation, as part of our aid programme. The World Bank and the IMF are both undertaking reviews of their approach to conditionality this year, and I will work to persuade those institutions only to support programmes which are agreed, rather than imposed.

Alan Simpson: The Secretary of State will know that developing nations are telling us that the hidden privatisation requirements that attach to debt relief programmes are making poverty worse rather than better. Can he tell the House whether he and other Ministers, in their roles in relation to the World Bank and the IMF, have ever made formal proposals that those conditions be dropped, and whether we are now dropping our partnership with the Adam Smith Institute, which has a vested interest in ensuring that privatisation is built into our programmes?

Hilary Benn: Indeed, at last year's annual meeting we did persuade the World Bank to undertake the review of conditionality that is now occurring, and I look forward to seeing its outcome. The point about privatisation—it is important that we recognise this—is that it in some cases it might be the right route to take, while in some cases it might not. My view is that that decision should be taken by developing countries themselves. Tanzania and Ghana have invited in the private sector to help to deal with the problem of getting more clean water to more people. That is where the decision should be taken, not by us as aid donors and not by the World Bank, and that is what I am trying to achieve.

Tony Baldry (Banbury) (Con): In his document, the Secretary of State says, among other things, that we need to find a more effective way to strengthen countries' policy expertise. Will he consider seconding DFID officials to those countries where we now give aid mostly through budget support, in order to help them and their Governments to work up policy more effectively and to increase their capacity? DFID has more fast-stream civil servants than any other Department in Whitehall; perhaps they could be shared with some of the countries to which we give aid. *[Interruption.]*

Mr. Speaker: Order. Before the Secretary of State replies, may I ask hon. Members to be quiet?

Hilary Benn: The hon. Gentleman raises an extremely important point. In fact, we already do a great deal in that regard through the technical assistance that we give, including the use of consultants to work with developing country Governments, at their request, to build the kind of capacity that he describes. Without that, we will not enable them to be in a position to take certain decisions and to know what their consequences will be. I undertake to reflect further on his suggestion, although, as he knows, a lot of dialogue already takes place between DFID civil servants with the relevant expertise in the developing country partners with which we work.

Ann McKechin (Glasgow, Maryhill) (Lab): My right hon. Friend will be aware of the international parliamentary petition which has gained support from more than 280 parliamentarians here at Westminster and which calls for greater accountability of the World

Bank and the IMF. Does he agree that those institutions need to engage more, not only with Ministers but with the elected representatives of Parliaments in the developing nations?

Hilary Benn: I do agree, although it is ultimately for developing countries themselves to decide to what extent their parliamentarians and public participate in the process of drawing up their own poverty reduction plans, and there should be nothing in what we do as donors that prevents that process from happening. I would positively encourage it, because a plan that does not have the support of Parliament and the people is less likely to be successful in making progress on reducing poverty.

Sub-Saharan Africa

6. **Andrew Selous** (South-West Bedfordshire) (Con): What steps the Government are taking to encourage good governance in sub-Saharan Africa; and if he will make a statement. [220742]

The Secretary of State for International Development (Hilary Benn): As part of most of our activities in Africa, we work with Governments and civil society to tackle corruption, strengthen the means of democracy and build states that are accountable to their people. We also support the African-led peer review mechanism, which reviews country performance in governance and development. Peer reviews are already under way in Mauritius, Ghana, Kenya and Rwanda, and the first two should be completed by this summer.

Andrew Selous: Does the Secretary of State agree— *[Interruption.]*

Mr. Speaker: Order. The hon. Gentleman is entitled to be heard.

Andrew Selous: Does the Secretary of State agree that if we are, rightly, to make poverty history in Africa and elsewhere, good governance is indispensable; and that African leaders' side of the bargain is to push for peaceful democratic change and to say clearly that corruption and money laundering are as unacceptable in Africa as anywhere else?

Hilary Benn: I agree entirely, because corruption gets in the way of promoting economic development and investment. Recently, I was in Zambia, which is taking a strong lead in the fight against corruption. I applaud that and the British Government are supporting that lead.

Islamic Relief

7. **Tony Cunningham** (Workington) (Lab): If he will make a statement on his Department's work with Islamic Relief. [220743]

The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas): We have worked in partnership with Islamic Relief since 1994, supporting long-term development projects as well as relief operations in several countries including Bangladesh, Afghanistan and Mali.

Tony Cunningham: I pay tribute to the Department's work with different faith groups, but what are the Government doing to help the Muslim community in Kashmir?

Mr. Thomas: I take the opportunity to pay tribute to the work of Islamic Relief in particular, and all faith groups that work in developing countries.

To answer my hon. Friend's specific question, we are funding Islamic Relief for a £1 million health programme in the Neelum valley in Pakistan, thus helping 40,000 people to get access to basic health care.

PRIME MINISTER

The Prime Minister was asked—

Engagements

Q1. [220722] **Mr. Alan Reid** (Argyll and Bute) (LD): If he will list his official engagements for Wednesday 9 March.

The Prime Minister (Mr. Tony Blair): This morning, I had meetings with ministerial colleagues. In addition to my duties in the House, I will have further such meetings later today.

Mr. Reid: Is the Prime Minister aware that the average house price on the Isle of Mull has soared to £125,000, thus forcing many local people out of the housing market and into caravans and chalets? That is typical of many rural parts of the country. The Prime Minister could help by adopting the fully costed Liberal Democrat policy of abolishing stamp duty on houses that cost less than £150,000. Will the Prime Minister help people in rural areas such as Mull by adopting that policy?

The Prime Minister: First, of course it is true that house prices have increased in the hon. Gentleman's constituency and in constituencies throughout the country. We have an immensely strong economy under the Government, with low inflation, low mortgage rates and low unemployment. However, it is important that we continue with the investment that we are making in public services.

We have looked carefully at the Liberal Democrats' spending plans, especially their plan to get £30 billion off top-rate taxpayers by raising the top rate of tax from 40 per cent. to 50 per cent. and introducing a local income tax. However, having looked at them, we decided to reject them.

Mr. Kevin McNamara (Hull, North) (Lab): At the weekend, my right hon. Friend welcomed statements by the leaders of Sinn Fein that they would help to bring Mr. McCartney's murderers to justice. Does he share the horror and contempt that the rest of the community in these islands feel at statements by the IRA yesterday

that it was prepared to assassinate the murderers of Mr. McCartney but not prepared to bring them to justice? When my right hon. Friend next meets the leaders of Provisional Sinn Fein or has any contact with them through No. 10, will he clearly bring it to their attention that there is nowhere in these islands where we can have parallel police forces, kangaroo courts or assassinations of people whom we do not particularly like?

The Prime Minister: I agree totally with my hon. Friend. From someone who has always been prepared to speak up for the nationalist community in Northern Ireland, his words are especially telling. I make it absolutely clear that the IRA's statement yesterday defies description. It was extraordinary and cannot be justified in any shape or form. There is no way that we can make any progress in Northern Ireland that includes Sinn Fein unless there is a complete end to violence of whatever kind.

Mr. Michael Howard (Folkestone and Hythe) (Con): Today, the House will debate the Prevention of Terrorism Bill. It is important that we all understand its scope. At the weekend, the Prime Minister said that its provisions could be used against protesters against the G8 meeting in Scotland. Did he mean that?

The Prime Minister: I have read that I am supposed to have said that, but I confess that I have absolutely no recollection of saying it. There are people who want to protest against the G8 meeting—incidentally, protests happen on a very wide range of issues, and I obviously see many of them on my travels around the place—but the control orders are specifically designed to defeat terrorism. For people who want to come and protest in this country, there is a long-standing democratic right and they are perfectly entitled to do so.

Mr. Howard: I have the newspaper report here. The Prime Minister was asked—*[Interruption.]*

Mr. Speaker: Order.

Mr. Howard: The Prime Minister was asked—*[Interruption.]*

Mr. Speaker: Order. I want silence when the right hon. and learned Gentleman is addressing the House.

Mr. Howard: The Prime Minister was asked whether the Home Secretary would use the new anti-terror laws against G8 protesters, and he replied,

"I couldn't rule it out."

So what on earth was he on about?

The Prime Minister: I will have to check whatever transcript there is. Let me make it absolutely clear that, of course, these terror laws are not to be used against protesters. They are to be used against people suspected of terrorism. Let us get back to the central question at the heart of the terrorism legislation. The reason that we are introducing it has nothing to do with people making protests; it is because the police and the security services are advising us that they need these control orders and, what is more, need them to be applied in circumstances in which there is reasonable suspicion that people are engaged in planning or plotting terrorist acts. We have made a concession today on judicial scrutiny. As I said in this House, that is not the issue of principle. The issue of principle is having these control orders. I ask the right hon. and learned Gentleman whether he will ensure that the Conservative party supports these proposals. They are right and they are necessary. This is the advice that we are being given by the security services and the police, and I believe that it would be irresponsible to flout it.

Mr. Howard: Let us see where we are on the Bill. First, the Government said that there would be no concessions at all. Then they conceded that control orders on house arrests should be made by a judge. This week, they said that they would not extend that to the other control orders. Today, they have backtracked on that, too. Given the scale of the Prime Minister's defeat in the House of Lords yesterday, will he now reconsider his position on the sunset clause, so that Parliament can have a proper opportunity to consider the best response to the terrorist threat?

The Prime Minister: No, I will not do that. It is correct. I think that I said in the House, and repeated at my monthly press conference, that judicial scrutiny was not the key point of principle. We have made a concession on that, and I hope that that will satisfy people. In the end, as I explained to the House, the question was whether we were able to ensure that the control orders could be used effectively by the police and security services. We have found a way of doing that. If necessary, the Home Secretary can apply the orders himself, in exceptional cases, otherwise, it has to go to the judge. I am afraid that we are not prepared to accept either the amendment on the sunset clause or the other amendment voted for by the House of Lords, and which the Conservatives in the House of Lords backed, to change the burden of proof. That would not be wise; it would be contrary to the strong advice given to us by our security services and our police, and I am simply not prepared to do it.

It is perfectly obvious that this country faces a terrorist threat the like of which we have not faced before. The advice that is being given to me by our security services and police is clear: we need these control orders, and we need them on the basis of reasonable suspicion of engagement in planning or plotting terrorist activity. If I were to accept the suggestions that the right hon. and learned Gentleman is making, I would be doing so in contradiction of the express advice that I have received, and I will not do it.

Mr. Howard: We all accept that there is a terrorist threat. The question is: what is the best way of dealing with it? We have just heard from the Prime Minister that what was a point of principle for him last week is no longer a point of principle for him this week. The question that I asked him was about the sunset clause, and he did not answer it. So what I want to know is: is he seriously saying that he would prefer to have no Bill at all than to have a Bill that would last for eight months so that Parliament could have a proper opportunity to consider the best response to the terrorist threat?

The Prime Minister: First, let me correct the right hon. and learned Gentleman on one point. I thought that I

had said the opposite—that the judicial scrutiny issue was not the point of principle. The point of principle is on the control orders and the burden of proof. In my view, what is important is to have the legislation that we believe will work. I do not agree with the sunset clause, for this simple reason: it is important that we send a clear signal now that this legislation is on the statute book and will remain on the statute book. I will simply say to him that his position, as I understand it, certainly from the position of his shadow Attorney-General, is that the Conservatives want the sunset clause so that they can return to the issue later and oppose control orders in principle. In my view, that would be completely wrong and would send out absolutely the wrong signal from the House.

When the right hon. and learned Gentleman was Home Secretary, he dealt with issues such as exclusion orders under the Prevention of Terrorism (Temporary Provisions) Act 1989. We face today a terrorist threat that I would have thought is obvious to every Member of the House. The advice that we have is that we need these control orders in legislation. We can review the legislation annually, but it should not be subject to a sunset clause, as the Home Secretary has made clear. In particular, we cannot accept the burden of proof being different from that of reasonable suspicion. In the House of Lords yesterday, the Conservative Front Bench voted for a change to that burden of proof provision, too. For those reasons, we cannot accept his amendments. He will have to come to a decision, and so will the Conservative party, as to whether to accept the legislation. We have made concessions that we think are reasonable; we will not make those that are against the direct advice that we are receiving.

Mr. Howard: If the Prime Minister thinks that it is only the Conservative Front Bench in the House of Lords that is opposed to the Bill, he is living on another planet. I did take action against terrorism when I was Home Secretary, and when we brought the prevention of terrorism legislation to this House, he opposed it. He opposed it even when the terrorist bombs of the IRA were raining down on Heathrow airport. We will therefore take no lessons from him about the need to be tough on terrorism.

Is not this the position? We offered to extend the current powers of detention. The Prime Minister rejected that. We offered a sunset clause so that the legislation could be examined properly in eight months' time, and he has rejected that. Is he really saying that no Bill at all is better than a Bill for eight months? Where on earth is the logic in that?

The Prime Minister: Where on earth is the logic in the right hon. and learned Gentleman's position, which is that we should put back in place part 4 of the previous legislation which was struck down by the House of Lords? Let me return once again to the central point: the House of Lords said that the previous legislation should not stand. It is important that we listen to that, and we have done so. That legislation expires on 14 March. We have brought forward legislation in accordance with the advice of the police and security services that it is necessary for the defeat of terrorism. We have done our level best to meet reasonable concerns. We are not going to meet the concerns that he has now put forward, because it would be irresponsible and wrong. Yes, we must take a position and stick to it, and we are doing so. When the legislation comes back, however, he will have to decide whether he will march the Conservative party into the No Lobby to vote against legislation that our security services and police advise is necessary for the protection of the citizens of this country. I believe, even if he does not, that national security comes first.

Mr. Howard: The Government said a month ago that the existing Act

"remains . . . valid, enforceable and effective"

and that in

"exercising the powers . . . the Secretary of State is . . . acting lawfully".

That is what the Government said about the existing powers one month ago. We have said that we will co-operate with the Government in renewing those powers. We have said that we will co-operate with the Government if there is a sunset clause in the Bill. I have come to the conclusion that this Prime Minister wants this Bill to fail. He wants to pretend that he is the only one who is tough on terrorism. Is not it a dreadful measure from a desperate Prime Minister, and should he not be thoroughly ashamed of himself?

The Prime Minister: We will have this debate here, and we will have this debate in the country, and we will see where the shame lies; but in my judgment the shame will lie with the Conservatives, who, faced with legislation to prevent terrorism—faced with legislation on which we were advised by our police and security services—are going to vote against it. If they want to vote against it, let them: we will be content ultimately to have the verdict of the country on it.

Ms Meg Munn (Sheffield, Heeley) (Lab/Co-op): I recently accompanied a team of special constables in my constituency on their Friday night duties. They did an excellent job in antisocial behaviour situations, and also in supporting the general police. There is, however, a possibility of confusion between special constables, community support officers, neighbourhood wardens and street rangers. Does my right hon. Friend agree that we need to adopt the approach advocated in south Yorkshire, and develop local policing teams that bring together all who are working to achieve better neighbourhoods in our communities?

The Prime Minister: Today we are announcing that we will establish community and neighbourhood policing teams across the country. We have a record number of police in the country today, and we also have community support officers. I believe that the vast majority of people now accept that those who opposed community support officers—as the Conservative party did—were wrong, and that what we need are dedicated teams combining the fully warranted officer with the community support officer and the neighbourhood warden. That will bring back visible community policing in this country, and I am sure that it will be supported by the overwhelming majority of people in this country.

Mr. Charles Kennedy (Ross, Skye and Inverness, West) (LD): As the Prime Minister is acknowledging his

climbdown over judicial scrutiny but saying that it was never an issue of principle, may I remind him that in our discussions three weeks ago both he and the Home Secretary made it very clear to us that the issue of principle for them was that the Executive, not the judge, should make the decision? It sounded very much like a decision of principle for the Government at that point.

May I ask the Prime Minister again why he now cannot acknowledge the two outstanding issues of principle that could perhaps resolve the matter? The first is that it is the standard of proof that must be in the balance of probabilities, not just reasonable suspicion. The second is that, surely, an individual always has the right to know exactly what are the charges against him when his liberties are being withdrawn.

The Prime Minister: I am afraid that, for the reasons I gave earlier, I do not accept the change to the burden of proof: I simply do not accept it. Again, the advice we have is absolutely clear—that it would be detrimental to our capacity to have powers that fall between the ability to survey people and the ability to prove a case beyond reasonable doubt. In our view, the burden of proof is necessary as it is.

Let me repeat to the right hon. Gentleman and the House that we are debating these issues, as is often the case, in circumstances in which people are very properly concerned about civil liberties. Should any terrorist act occur, there will not be a debate about civil liberties; there will be a debate about the advice that the Government received, and about whether they followed it. I have the advice, and I intend to follow it.

Mr. Kennedy: Surely the Prime Minister should not ignore the fact that the former Lord Chancellor, the former Master of the Rolls, the former Cabinet Secretary and the former Commissioner of the Metropolitan Police do not agree with his arguments. I do not think that they can be dismissed as irresponsible voices in the land. These are people with broad-based experience. Surely it is time that the Prime Minister rediscovered his reverse gear—and is it not time that he began to put the fundamental liberties of the British people before his own political pride?

The Prime Minister: The right hon. Gentleman asks whether I condemn the people whom he listed as irresponsible. Of course I do not; they genuinely take a different point of view. On the other hand, someone like Sir John Stevens agrees with the legislation. I am afraid that on any of these issues there will be conflicting views; the question is, what is the right thing to do?

The right hon. Gentleman talked about the civil liberties of the subject. I think that the civil liberties of the subject are extremely important, but I think that there is one basic civil liberty, which is the right to life. I think that freedom from terrorism is the most important consideration, which must be uppermost in our minds. I am very sorry that the right hon. Gentleman cannot support us, but for those reasons we will have to present this legislation, and the House will then have to make up its mind.

Mr. Tam Dalyell (Linlithgow) (Lab): Are full texts of Law Officers' advice on matters of peace and war made available to the Cabinet as a whole, or just to the Prime Minister?

The Prime Minister: It depends on whether the Attorney-General actually attends Cabinet. In the instance that is being raised in the newspapers this morning, the Attorney-General came to Cabinet and therefore gave an oral report on his advice.

Q2. [220723] **Miss Anne McIntosh** (Vale of York) (Con): Does the Prime Minister recall saying in the 1997 general election campaign that we had 24 hours to save the health service? Hospital infections are spiralling out of control, and we now know that 500 people are dying each week from preventable blood clots. Do they also have the right to life?

The Prime Minister: First, let me say to the hon. Lady that I believe that any reasonable person looking at the state of the health service today would say that considerable progress has been made; every single independent report shows that. Of course there will be cases showing that there are still things to do in our health service today, but I can tell her that when people in this country see the investment going into the health service, the new hospitals being built, the extra nurses and doctors, waiting lists and waiting times coming down, and cancer and cardiac deaths declining, and then compare that with the Conservatives' proposals to take money out of the health service and to subsidise private health care—*[Interruption.]* Oh, yes. They propose to subsidise private health care, so that only people who can afford to pay for half their operation get that help. When people see those two choices before them, they will know that it is just as well that they voted to save the health service.

Claire Ward (Watford) (Lab): May I ask my right hon. Friend whether he can assure the people of Watford and its police service that the number of police community support officers will be increased? Although those whom we currently have in Watford town centre are very welcome, the people and residents are not seeing as much benefit as they would like, and they want the use of CSOs to be extended and the funding of current ones to continue. Can he give that assurance?

The Prime Minister: I can assure my hon. Friend that 20,000 extra community support officers will be delivered if this Government are returned to office. That, of course, is in contrast to the Conservatives, who want to freeze the Home Office budget and would end up cutting the number of police officers—as, of course, the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) did. That investment in our police services, and in education and health—under this Government, at least—would continue.

Rev. Ian Paisley (North Antrim) (DUP): Will the right hon. Gentleman take it from me that his

condemnation of, and further exhortation to, the leaders of IRA-Sinn Fein is useless in Northern Ireland's present drastic and tragic circumstances? When is he going to take action? We have a statement from the IRA that is a statement of intent to murder. Those who made that statement and who mentioned in it people who can be identified are not even going to be called in for questioning, according to the Chief Constable. Surely intent to murder is a crime under the law and should be dealt with no matter who does it—be it Sinn Feiners or anyone else.

The Prime Minister: Who is brought in and questioned and who is charged is obviously a matter for the Chief Constable; it is not a matter for me, and I hope that the hon. Gentleman accepts that. In respect of the IRA statement, I have made my condemnation absolutely clear and I would simply say that, over the past eight years, we have made considerable progress in Northern Ireland, although we now have an impasse as a result of the IRA's refusal to give up violent activity of whatever sort. But as a result of the process itself, that is the feeling now in Northern Ireland and also in the Republic of Ireland. I think that the benefits of the process are now clear. There is a stark choice facing republicanism: either embrace the democratic and peaceful route or be excluded from the political process. I hope that they realise that and I believe that the whole of the island of Ireland now does. It is now for the republicans to take the right decision.

Mr. Mike Hall (Weaver Vale) (Lab): When I was at primary school, a boy in the year above me suddenly disappeared; his name was John Kilbride. It emerged a couple of years later that he had been snatched off Ashton market, tortured and murdered by Ian Brady and Myra Hindley. Will my right hon. Friend give me an assurance that he has no intention of giving such people the vote?

The Prime Minister: The current position in law is that convicted prisoners are not able to vote, and that will remain the position under this Government.

Q3. [220724] **Ann Winterton** (Congleton) (Con): Cheshire dairy farmers are becoming increasingly anxious about the rising number of bovine tuberculosis cases and their resulting added costs, especially the slaughter of prime dairy cattle. Will the Prime Minister take urgent action to implement a strategic badger cull, which has proved successful in Ireland and is supported by 350 distinguished veterinary surgeons and scientists, with the objective of ensuring that the UK has both a healthy cattle and a healthy badger population?

The Prime Minister: I understand the concerns that the hon. Lady raises. There are trials going on in Ireland, and we are studying them carefully. There will be a strategy on bovine TB and how best to deal with it. We are looking very carefully into the problem, but the question of whether culling is the right option has to be determined in the light of all the evidence and all the representations that we receive, including those of the hon. Lady, but also those that reached opposite conclusions.

Mrs. Anne Campbell (Cambridge) (Lab): Has my right hon. Friend had time to consider the implications of the proposals of some hon. Members that university students should live at home for the first two years of their degree course and go to university only in their final year?

The Prime Minister: I have had the opportunity to consider those proposals, which emanate from Liberal Democrat Members, and I have to say that I entirely reject them. What we now have is a proposition that allows us to have our universities properly funded and allows students to go through university without paying tuition fees at the time, backed up by a fair system of repayment. That avoids both the need to force students to live at home and the need to impose real rates of interest on student loans, which is the Conservative party policy.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): In response to the Father of the House, the Prime Minister said that the question whether Cabinet colleagues were entitled to the full opinion of the Law Officer depended on certain circumstances. Will he now tell the House and the country why a written opinion is good enough for him, but only an oral opinion is right for the rest of the Cabinet?

The Prime Minister: Let me elaborate on what I said earlier. The Attorney-General came to the Cabinet, gave his opinion in detail and was able to answer any queries that people raised about the matter. I really do not understand what is being said by the hon. Gentleman and others. If it is being said that the legal opinion of the Attorney-General was different from the Attorney-General's statement to the House, that is patently absurd. I would also point out to the hon. Gentleman and others that, as a result of evidence that has emerged subsequent to the Iraq war, it is perfectly obvious that there were indeed multiple breaches of UN resolutions—and it was on the basis of breaches of UN resolutions that we went to war.

Jeff Ennis (Barnsley, East and Mexborough) (Lab): Does my right hon. Friend recall my Adjournment debate, entitled "Airgun Safety", of 23 June 1999? I called for tighter controls on airguns and raised the possibility of introducing a licensing system for them. In the light of the tragic death from an airgun wound of two-year-old Andrew Morton in Glasgow last week, does my right hon. Friend agree that that is a policy that we must shortly revisit?

The Prime Minister: First, let me once again express my profound condolences—I am sure that I speak for the whole House—to the family of the young person who was so tragically and wickedly killed. As the First Minister in Scotland said, now is not the moment to rush into new legislation. We must carefully consider any lessons from it, and we will do so. Obviously, if we do legislate, we must ensure that we do so in a sensible way. I know that my hon. Friend would want us to study the lessons carefully. We will do that and then publish our conclusions.

Q4. [220725] **Dr. Vincent Cable** (Twickenham) (LD): Senior executives at my local hospitals tell me that, although they regret ward closures, poor hygiene and

clinical negligence, they face no penalties for those failures, but that they face the sack if they fail to reduce their financial deficits. Will the Prime Minister clarify the primary and overriding duty of the chief executive of an NHS hospital?

The Prime Minister: It is, of course, to assist in the provision of first-class health care and, of course, to make sure that hospitals live within their budgets. However, I am delighted to say that the investment made by this Government has led to a massive increase in health service spending in the hon. Gentleman's constituency, and in constituencies up and down the country. According to the statistics that I have for health care in Twickenham, there has been a real-terms increase in investment of more than 6 per cent. As a result, Richmond and Twickenham NHS Primary Care Trust receives £176 million in funding. Moreover, there are 2,700 more nurses and 700 more doctors, and waiting times and waiting lists have fallen. It seems to me that the health care system in his constituency is doing rather well—which is why people in the area will no doubt want to continue with a Labour Government.

Q5. [220726] **Jane Griffiths** (Reading, East) (Lab): Does my right hon. Friend the Prime Minister welcome, as I do, the publication of the long awaited Bill on Crossrail? Will he congratulate colleagues in the Department for Transport on agreeing to consult on safeguarding the route to Reading? Does he look forward, as I do, to Crossrail becoming reality as soon as possible, so that London and its environs have the world-class, 21st century transport system that they deserve?

The Prime Minister: Yes, I do.

Points of Order

12.31 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): On a point of order, Mr. Speaker. There is obviously great interest in all parts of the House in the likely Government new clauses to the Prevention of Terrorism Bill. When are we likely to be able to see the groups of new clauses that you have selected for debate? Are you able to give us any further information about when those important items will be available?

Mr. Speaker: The Government new clauses are being printed as we speak. I hope that that helps the hon. Gentleman. My selection will take place as soon as I leave the Chair.

Mr. Clive Soley (Ealing, Acton and Shepherd's Bush) (Lab): On a point of order, Mr. Speaker. I understand the importance of the exchanges on the Floor of the House between the Opposition parties and the Government at Prime Minister's questions, but the first 20 minutes were occupied by the party leaders. Taking into account the smaller parties, that left only 10 minutes for Back-Bench Members. Will you give some thought to how we can ensure that Back Benchers are heard?

Mr. Speaker: I am the custodian of the rules of the House. There is no breach of rules in what the hon. Gentleman describes. If hon. Members wish to change the rules in that respect, they are more than welcome to try to do so.

Angus Robertson (Moray) (SNP): On a point of order, Mr. Speaker. You may be aware that, according to credible sources in the north of Scotland, the Highland Regiment is to be deployed in Iraq this November. That will mean that personnel will be away from their homes and families over Christmas. Should not reports such as that be confirmed to the House before we have to read about them in newspapers?

Mr. Speaker: I have the highest regard for the Highland Regiment, and for all Scottish regiments, but I cannot be drawn into such matters.

Michael Fabricant (Lichfield) (Con): On a point of order, Mr. Speaker. Like you, I support the important campaign Make Poverty History, which is fully endorsed by both sides of the House. However, you will have noticed that a number of hon. Members are wearing arm bands today. If you cannot do so now, will you issue a statement later about the appropriate dress code for the Chamber?

Mr. Speaker: Hon. Members often wear badges supporting various organisations. No breach of the rules has taken place, so I cannot intervene. However, some hon. Members approached me beforehand about the wearing of arm bands. It is my preference that they should not wear them, but it is up to the individual.

Control of Identification Documents (Offences)

12.34 pm

Chris McCafferty (Calder Valley) (Lab): I beg to move,

That leave be given to bring in a Bill to make it an offence for employers and certain other persons to destroy or control the identification documents of another person in specified circumstances; to amend the Diplomatic Privileges Act 1964 and the Consular Relations Act 1968 so as to make diplomatic and consular staff and their households liable in relation to that offence; and for connected purposes.

The purpose of the Bill is to tackle a loophole in the law that has allowed many people, including criminals, to abuse others through human trafficking, domestic slavery, sexual exploitation and forced marriage. I am sure that hon. Members will be as surprised as I was to learn that it is not an offence under UK law to appropriate and keep someone else's passport. That should be illegal and someone found guilty of that crime should go to prison.

The unauthorised holding of someone's passport or other identity documents is an important tool for the unscrupulous to control vulnerable people. It is well documented as a technique used in people trafficking, particularly when the individuals concerned are then exploited through poor employment or forced involvement in the sex industry. It is sometimes used by families to force unwanted marriages on young women.

The Bill applies particularly to documents such as passports, immigration papers and driving licences, and to any official document that is necessary for someone to establish their identity. The Bill also amends rules relating to the rights of foreign diplomats in this country, so that they, too, will be covered by the offence. There have been a number of cases in which it was alleged that domestic staff working for foreign diplomats have been controlled and treated as virtual slaves through control of their identity documents. It is important to ensure that that cannot be excused under the cloak of diplomatic immunity.

The number of people affected by this contemporary slavery has increased dramatically during the past decade. As a UK delegate to the Council of Europe, I have been involved in drafting amendments to the draft convention on the trafficking of human beings, and I welcome that convention. Trafficking results in abuse of the human rights of trafficked persons, including the right to life, liberty, dignity, freedom of movement, and freedom from slavery and slavery-like practices. Measures covering trafficking must have at their core the protection and respect of those rights. It is difficult accurately to identify individuals as trafficked persons, but it is important to do so promptly because of the risk to their lives and safety if we fail to do so. I welcome the draft convention, which ensures that the intentional, unauthorised retention, removal or destruction of another person's identity or travel documents for the purpose of enabling trafficking is criminalised.

Last year was the United Nations year of the struggle against slavery and its abolition. It provided a valuable opportunity to remember those who have been victims of the slave trade and those who campaigned for its abolition. It also highlighted the fact that slavery has not

[Chris McCafferty]

yet been abolished. Millions of women, children and men are enslaved around the world, and no region is free from that abuse.

Slavery today takes many forms—for example, bonded labourers, forced labour, trafficking in human beings, and forced marriage. A marriage can be said to be forced when at least one party does not give consent to it or when pressure is brought to bear. In the UK, that can occur in several ways. A young person may be lured abroad on a pretext; they may be imported or even bought by a UK citizen. According to the Home Office, those most at risk are young women between the ages of 13 and 30. A clear form of violence against women, forced marriage can also be a form of domestic slavery. It places women in a situation of total vulnerability, at the mercy of psychological, sexual or domestic violence, and the withholding of a passport is a common practice in such cases.

Bonded labourers are often migrant workers who are not adequately protected against forced labour and exploitation here in the UK. We need look no further than the tragic incidents in Morecambe bay to see the power and ruthlessness of the gangmaster. A recent report by Kalayaan, a non-governmental organisation that campaigns for and supports migrant domestic workers, highlights how migrant workers' rights are inadequately protected under existing UK legislation. Kalayaan found that, on average, 49 per cent. of domestic workers registered with it—a total of 511 migrant workers between January 2001 and June 2003—had had their passports taken by their employers. The removal of a passport makes migrant workers vulnerable to deportation and allows employers to exert additional pressure on workers to accept bad pay and conditions. It also makes it impossible for them to access many services and entitlements. Despite that, there is no effective legislation in the UK that protects workers from having their passports withheld or that penalises employers for doing so.

Article 21 of the 1990 UN convention on the protection of the rights of all migrant workers and members of their families stipulates that all migrant workers should have protection against the confiscation or destruction of their identity documents. Many migrant domestic workers, mostly women, are working in situations that constitute forced labour. For example, documents may be removed to coerce migrants into staying in a job or to accept exploitative conditions of work. It would seem, from the evidence provided by Kalayaan, that the right balance has not been struck, because many migrant domestic workers in the UK are reduced to being forced labourers, which is also a contemporary form of slavery.

Professor Bridget Anderson, from Oxford university, in her comprehensive research on domestic slavery, found that many professional employers certainly do not see themselves as abusive or exploitative and would be the first to condemn trafficking in domestic workers, which they see as something that is done by others, not people like them, but some of the reasons those respectable people give for employing migrants, rather than citizens, to work in their homes are disturbing:

"They're foreign, illegal and very, very small. They're absolutely terrified."

"They're so desperate for work, they're not looking to get fired, they're looking to keep their job."

"She's dependent for money, so it's a circle that works well, so that I can keep her."

"The whole idea of getting a migrant worker is that you're not getting into paid maternity leave and that stuff."

In this sector, as in many others, there is not a simple division, between those subject to forced labour and slavery, and happy, free, waged labourers. There is a continuum of exploitation and abuse, and it is in the grey area that most cases lie.

As I said earlier, 2004 was the UN year of the struggle against slavery. It would be a fitting way to commemorate that struggle if the Government took steps to reduce the number of people who fall victim to trafficking and forced labour in the UK by supporting this Bill and ensuring that a law is put in place to make the withholding of identity documents illegal in the UK.

Question put and agreed to.

Bill ordered to be brought in by Chris McCafferty, Mrs. Betty Williams, Ms Diane Abbott, Geraldine Smith, Julie Morgan, Dr. Jenny Tonge, Mr. Mike Hancock, Ann Clwyd, Mrs. Alice Mahon, Mrs. Ann Cryer, Paul Flynn and Sandra Gidley.

Control of Identification Documents (Offences)

Chris McCafferty accordingly presented a Bill to make it an offence for employers and certain other persons to destroy or control the identification documents of another person in specified circumstances; to amend the Diplomatic Privileges Act 1964 and the Consular Relations Act 1968 so as to make diplomatic and consular staff and their households liable in relation to that offence; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 18 March, and to be printed [Bill 82].

ESTIMATES DAY

[2ND ALLOTTED DAY—1ST PART]

SUPPLEMENTARY ESTIMATES, 2004–05

Future of the BBC

[Relevant documents: First Report from the Culture, Media and Sport Committee, Session 2004–05, HC 82-I and -II, on A Public BBC; The Government's response thereto, Cm 6474; The Department for Culture, Media and Sport Green Paper, Review of the BBC's Royal Charter; and The Department for Culture, Media and Sport Annual Report 2004, Cm 6220.]

Motion made, and Question proposed,

Department for Culture, Media and Sport

That, for the year ending with 31st March 2005, for expenditure by the Department for Culture, Media and Sport—

(1) further resources, not exceeding £63,523,000, be authorised for use as set out in HC 325,

(2) a further sum, not exceeding £65,461,000, be granted to Her Majesty out of the Consolidated Fund to meet the costs as so set out, and

(3) limits as so set out be set on appropriations in aid.—*[Mr. Jim Murphy.]*

12.45 pm

Sir Gerald Kaufman (Manchester, Gorton) (Lab): I am grateful for the opportunity to open this debate on the BBC and the report by the Select Committee on Culture, Media and Sport that was published on 16 December. I pay tribute to my colleagues on the Committee of all parties for the work that they have done, which has led to our producing a unanimous and consensual report. I also pay tribute to the Clerks and their staff for the work that they have done not only on the report but for the Committee throughout the year.

We have a plethora of documents to consider when debating the BBC. We have the Select Committee report and the Secretary of State's reply to it. I am grateful that she published the reply at the same time as the Green Paper, which we are also considering. We can consider the documentation and the inquiries that are relevant to the charter review that have been conducted by the Office of Communications. We also have the documents from Lord Burns and the various inquiries conducted by Tim Gardam, Philip Graf and Professor Barwise. Indeed, it is impossible to count the number of trees that have died during the process of the charter review. I shall address the issues in a moment, but one argument for not having a charter review could be the ruinous impact that producing such documentation has on the landscape.

I thank the Secretary of State not only for publishing her reply to the Committee report at the same time as her Green Paper last week, but because that Green Paper acknowledges the work of the Committee and, in whole or in part, accepts several of our recommendations, although not all of them, as I shall have cause to point out. I know that the United Kingdom Film Council is especially grateful that she accepted our recommendation on a film investment strategy.

The background to both our report and charter renewal is the dramatic change in the audiovisual environment since the National Heritage Committee, which I chaired at the time, produced its report that led to the present 10-year charter and the continuation of the licence fee as the method of funding the BBC. It is remarkable that in 1998 not one single house in this country had digital television—all television signals were analogue—yet today more than half of all households have it. It is partly thanks to initiatives taken by Sky and the hugely imaginative launch of Freeview that the number of houses with digital television will increase almost exponentially. About 5 million houses have Freeview boxes at present, and it is thought that by the end of the year there may be 10 million. That will, among other things, lead us forward to the practicability of digital switch-off.

The fact that we now have digital TV channels and, as the Secretary of State said in her statement last week, there are more than 400 television channels with more to come, has had a dramatic effect on the audience for the old analogue channels, which are also available on digital television. In 1993, BBC1 and what is now ITV1 had three quarters of the entire television audience in this country. The latest figures show that that three quarters has fallen to less than half, and figures published in the last few days show that ITV is continuing to lose its audience. In his memoirs, Greg Dyke interestingly points out that the only reason that BBC1 remains the channel with the largest number of viewers is not because it is doing well, but because ITV1 is doing even worse.

We have also moved forward from a situation in which, ever since the foundation of the British Broadcasting Company in 1922, we have been used, as radio and television channels have increased, to every viewer having access to every channel. That is no longer the case and it will never be the case again.

David Cairns (Greenock and Inverclyde) (Lab): A significant number of people in the country, including those in Inverkip in my constituency, cannot receive an analogue signal and have never been able to do so, and are thus forced to buy cable, if it is available, or satellite dishes. Given that the analogue switchover in Scotland will happen after the charter is renewed, will my right hon. Friend support my call for a simple principle to be included in the new charter—that if people cannot receive a television signal they should not have to pay the licence fee?

Sir Gerald Kaufman: I do not think that I would go that far, much as I sympathise with my hon. Friend and his constituents. One of the things to which we refer in our report is the need to launch and expand the Freesat enterprise, so that, without subscribing to Sky, for those who do not want to do so, it will nevertheless be possible for most people to obtain digital TV, in the same way as many people—up to 10 million, it is thought—will be able to do through Freeview. I see that my hon. Friend the Member for Rhondda (Chris Bryant) is in his place and I know of the difficulties in his constituency, but my point was reinforcing what I said earlier: the era when everybody had access to everything is gone permanently. It will never return.

What is more, as the Select Committee found in its inquiries both in this country and abroad, and as the Green Paper points out, the situation to which we have been used ever since 1922—of people sitting in front of

[Sir Gerald Kaufman]

a radio or TV set and accepting, having to make do, with what is offered by those stations—is over, too. Through Sky Plus, HomeChoice and developments in the United States, people will be able to construct their own viewing in their own time, with their own choice, in a way that was never dreamed of even when the last charter review was taking place.

Chris Bryant (Rhondda) (Lab): My right hon. Friend was saying that we lived in a time when every BBC service was available to everyone. That was theoretically true, although as my hon. Friend the Member for Greenock and Inverclyde (David Cairns) pointed out it is not entirely true in his constituency. In fact, when BBC2 first broadcast, large parts of the country were unable to receive it. Precisely the same parts of the country still cannot receive Freeview, so there is considerable anger in constituencies such as mine. People say that as they pay the same licence fee they should get exactly the same deal. Can my right hon. Friend see any way to insert in the charter a greater impetus for the BBC to ensure that it provides the same deal to every constituency in the land?

Sir Gerald Kaufman: When BBC2 was launched nobody could get it, because it broke down on the opening night. The production of "Kiss Me, Kate", the main programme on the opening night and to which I was greatly looking forward to watching, had to be postponed until the next night. The point that my hon. Friend makes, like the point made by my hon. Friend the Member for Greenock and Inverclyde (David Cairns) a moment ago, is very valid indeed. If we are to have a new BBC charter, and if it is to be based on universal access, I hope that my right hon. Friend the Secretary of State will pay careful heed to those of my hon. Friends who live in areas that do not have the access available to people such as my constituents in Gorton who live in big cities. The interventions of my hon. Friends make the interesting point that viewers or would-be viewers consider access to programmes and channels as their right. That is appropriate.

We are moving towards a situation in which, despite the rather obtuse recommendations in Professor Barwise's report on digital TV, more and more channels are niche channels. Even BBC1—with less than a quarter of the viewers still the biggest channel in the country—is becoming a niche channel, too. Special interest channels are important; for example, Artsworld and Performance, which I understand has difficulties—I hope they can be solved. As the Green Paper points out, there is little of interest on either BBC1 or BBC2 before 7 pm; the arts are almost gone from BBC1 and "Panorama" has been banished to late on Sunday evenings.

It is important to note that people go on about the BBC as though it had been carried down from Sinai by Moses on tablets of stone and there is something holy about it that applies to no other broadcasting organisation. In the end though, as Alfred Hitchcock said to Ingrid Bergman when she was complaining about the interpretation of her role, "It's only a movie, Ingrid". In the same way, in the end, the BBC is only a broadcasting organisation—very important though broadcasting organisations are, and particularly important as the BBC is.

Although it emerges from the material that my right hon. Friend the Secretary of State has published that the idea of public service broadcasting originated in the United States, nevertheless the embodiment of public service broadcasting is the BBC. We would not use that phrase as we do if the BBC did not exist. When one listens to excellent broadcasting organisations in other parts of the world—for example, CBC in Canada—one can hear or see the influence of the BBC and Lord Reith on what was, when it was developed in the United States, first in radio and then in television, simply a mechanism for selling goods and attracting listeners and viewers through programmes that would get people to listen to or watch the commercials.

Lembit Öpik (Montgomeryshire) (LD): I find the right hon. Gentleman's comments very interesting. As he points out, the BBC is not some sort of holy organisation or religious sect, but does he agree that its circumstances and the licence funding arrangement, as he rightly describes them, enables it to be a world-class exemplar for public service broadcasting? Does he also agree that it seems encouraging that the Government have taken on board the important link between the current method of funding the BBC and the direct beneficial consequences on its ability to focus on top-class programming, rather than on ratings or advertising?

Sir Gerald Kaufman: I agree with what the hon. Gentleman says, although I will come to one or two issues that relate to the funding in a moment. There is absolutely no doubt whatever that, if the BBC contributed nothing else to our national life and to international life, its contribution, even under the dumbed-down era of the previous director-general, is incomparable: five symphony orchestras, which we simply would not have in this country without the BBC—including, if I may be territorial, the BBC Philharmonic in Manchester—and the proms. All right, the BBC inherited the proms from Henry Wood, but it continues them.

I will just make one self-indulgent point—it may well be the only self-indulgent point that I make in my contribution. [Hon. Members: "No, no. More"] Well, if I am urged, I might expand. Although I am a great admirer of the BBC's contribution to this country's culture—indeed, I have not referred to what I personally believe to be the best of the BBC's television channels, BBC 4—nevertheless, I am using, or perhaps misusing, this moment in my speech to beg Roger Wright, the controller of Radio 3, to get rid of the constant chattering and gibbering that we hear on Radio 3 every morning. There is a presenter, as I understand they have to be called, called Sandy Burnett, who sounds like the gibbering of a demented parakeet, and I very much hope that Roger Wright, in accepting the tribute that I pay to what Radio 3 can be at its best, will get rid of that awful chattering, the requests for e-mails and the other nonsense on what ought to be the most estimable radio channel in the world.

Mr. Patrick McLoughlin (West Derbyshire) (Con): The right hon. Gentleman's experience in this sector is

renowned, but does he agree that the amount of time that the BBC uses to promote its digital channels increases the anger of all those people who cannot receive them—they are paying for something that they cannot receive, but they have no option about whether they pay for it—and that, if the roll-out of the digital channels is slower than expected, their anger will grow?

Sir Gerald Kaufman: The hon. Gentleman is right, and my right hon. Friend the Secretary of State for Culture, Media and Sport refers several times in her Green Paper to the anger that is created by cross-promotion in BBC programmes. One need not be a critic of the BBC to be concerned about the way in which the BBC is deteriorating in several respects, particularly when viewers and listeners rely to such an extent on the BBC for information, art, entertainment and news.

Mr. David Watts (St. Helens, North) (Lab): Will my right hon. Friend give way?

Sir Gerald Kaufman: I will give way, but may I remind my hon. Friend that this is only a three-hour debate and other hon. Members will wish to speak? So, if I can be forgiven, this will be the last time that I give way in my speech.

Mr. Watts: I am grateful to my right hon. Friend for giving way. Does he agree that many hon. Members—for example, those who represent the north-west—are very concerned about dumbing down and the reduction in regional programming and news? Has the BBC not got an obligation to show a greater commitment to regional programming and regional news?

Sir Gerald Kaufman: I agree with my hon. Friend, and of course, there is a very good chance that that can be rectified when the BBC moves to what it calls its hub in Manchester. I cannot think of any city—or, indeed, any locality in the entire country—to which it is more appropriate for the BBC move to try to deal with the concerns that my hon. Friend expresses.

We who serve on the Select Committee on Culture, Media and Sport accept, as we did 10 years ago, that whatever concerns one has about the licence, it is the only viable way to fund a public BBC, but I would tell my right hon. Friend the Secretary of State that we, like her, having accepted that the licence must continue, ask that certain matters that relate to it be rectified because the BBC is in the unique position of being the only collector of its own funding—the only hypothecated tax in the country, and the only one collected by its recipient with rules laid down by the recipient. I am sure that every hon. Member will know of examples from her or his constituency of the anomalous regulations that relate to the licensing, or otherwise, of sheltered housing. When I had a certain problem in my constituency, I wrote to my right hon. Friend the Secretary of State. She referred me to the chairman of the BBC, who referred me back to my right hon. Friend. What we did not get in the end was a solution to the issue, and I am grateful to her for wanting to find one.

I hope also that my right hon. Friend will move forward from what she says in her Green Paper about the penalty for not having a licence and accept in full our recommendation that failing to pay for a licence should be decriminalised and become a civil offence. All the statistics show that the predominant number of those who fail to pay for their licence are single mothers on low incomes, and turning them into criminals is not acceptable. Incidentally, to continue the ghastly campaign by the BBC, warning us in the most threatening Big Brother way that we will all become criminals if we do not pay for our licence is unacceptable. In my own case, I was sent a threatening letter, asking me why I had not paid my licence fee, when I pay it by direct debit—thus showing that the way in which such matters are dealt with is not absolutely brilliant.

Meanwhile, I hope that my right hon. Friend will consider adopting the recommendation that issuing fixed penalty notices may well be the best way to deal with those who fail to pay for their licence. When we were discussing my right hon. Friend's statement last week, I became conscious of the fact that there is a lot of support for the view that, although some of us have accepted with varying degrees of enthusiasm or reluctance that the licence is the most appropriate way to fund the BBC, we believe that it is the most appropriate way to fund only the BBC and that the recommendations made in several quarters to top-slice it to fund other public service broadcasting is just not acceptable. Our constituents will be just about ready to pay the licence fee to fund one major broadcasting organisation, but I do not believe that the use of the licence fee as a kitty to finance other ventures will be acceptable to the overwhelming majority of licence fee payers.

I am very sorry that my right hon. Friend did not find it possible to accept our recommendation that the BBC should be placed on a statutory basis, rather than via a charter. I understand completely her concerns about any possibility of either Government or Parliament intervening in the workings of the BBC, but let us consider Channel 4, which has been a statutory organisation throughout its existence—through the wisdom of Lord Whitelaw, who was responsible for its foundation—as has S4C as well. Channel 4 has been, if one sets aside the Hutton episode, far more controversial during its existence than the BBC has ever been. It has a far more aggressive news programme than anything that the BBC screens or broadcasts, yet nobody has ever been concerned for a moment that Channel 4 would be subject to interference from the Government or from Parliament. I hope that before we get to the White Paper my right hon. Friend may be willing to reconsider the recommendation.

One of the issues to which I have already referred—my right hon. Friend rightly devotes considerable space to it in the Green Paper—is digital switchover. We are reaching a time when digital switchover, for most people, will not be a problem. People are moving towards reception of digital TV themselves, either by Sky, cable or Freeview. It is extremely important that nobody should be excluded from digital reception when the switchover takes place. The recommendation that we make in paragraph 3 of our report is that the Government should give

"serious consideration to the need for measures ... to make digital switchover affordable and practical to people on low incomes and those with special needs."

[Sir Gerald Kaufman]

I do not believe that that has been given sufficient attention by my right hon. Friend in the Green Paper. I hope that as she moves towards the White Paper she will accept that it is an extremely important matter.

Like a number of my hon. Friends who are in the Chamber, I represent a constituency with a good deal of deprivation, with many people living on benefits. That is through no fault of their own. It is extremely important that such people, often with young children, should not be excluded from TV reception when analogue is turned off.

What my right hon. Friend sets out in the Green Paper with regard to governance, with more than a nod to the Committee's report, makes a great deal of sense, but with one exception. The exception is my concern at the idea of the chairman of the BBC being the chairman of what my right hon. Friend calls the BBC trust. The huge mess into which the BBC got itself under Mr. Davis and Mr. Dyke was due, to a considerable degree, to Mr. Davis defending, almost obsessively, the system of BBC governance. There was the notorious Sunday evening meeting, for example,

Many of us who are delighted with the appointments of Michael Grade and Mark Thompson are worried that the Green Paper and the charter and agreement might be, as it were, fashioned in their image. We cannot always rely on such absolutely first-class people holding the two top positions in the BBC. Indeed, the people who they succeeded were very far from being absolutely top class, and that is me being kind and generous. Whatever my right hon. Friend fashions, I put to her that it should be in place to deal with the worst contingencies rather than leaving them to the albeit admirable people who now run the BBC. I am pleased that in the Green Paper my right hon. Friend accepts what we are saying in our report about the need for professionals who understand the media and business to be on the BBC trust. We have only to look at the antics of Dame Pauline Neville-Jones, who claimed to cause a fuss about the Hutton issue while at the same time going on the "Today" programme regularly to take sides on the Hutton issue, to realise how important it is that we get the right people.

I hope that while my right hon. Friend pays attention to our recommendation that what she calls the trust should sit in public, she will decide that it ought to sit in public, as the Federal Communications Commission in the United States does, for example. In this country, in many public bodies, there is too much of a net curtains attitude—the idea that things are too important to be conducted in front of the children. The children in this case are the people who pay the licence fee and fund the BBC. I hope that my right hon. Friend will think about that tendency. I hope also that she will have another think about making the details of BBC finances available to the National Audit Office.

In a curious way, all of us—with misgivings and with some disagreements—have reached a consensus about the future of the BBC. That is right because it is an exceptionally important broadcasting organisation. I hope that high as our opinion is of Michael Grade and Mr. Thompson, they will not be complacent in believing that all the problems are over. By the time that the White Paper is published, I hope that my right hon. Friend will have assuaged some of the misgivings that remain so that we can all go forward to support the BBC into the wholly digital age.

1.16 pm

Mr. John Greenway (Ryedale) (Con): I am grateful to be called so early in the debate. It is a great pleasure to follow the right hon. Member for Manchester, Gorton (Sir Gerald Kaufman), who introduced it.

We are fortunate to have the BBC. It is arguably the most professional and respected broadcaster in the world. It has an unrivalled reputation for quality, with high quality programming not only on television but on radio, with its news and current affairs coverage and its coverage of the arts and music, to which the right hon. Gentleman referred. The promenade concerts constitute probably the greatest classical music festival in the world. Its coverage of sport is largely unrivalled. The best that anyone else can hope ever to claim is that its broadcasting is as good as that of the BBC. I am sure that the Secretary of State will agree that if we are fortunate in gaining the Olympics in 2012, the coverage of our broadcasters of that great event will, I am sure, show viewers throughout the world what we can do.

We should be in no doubt that the BBC is one of our great national institutions. I believe that we have an interest and a responsibility in this place to secure it. The debate on which we are now embarked, which will last well into the next Parliament, enables us to discharge that obligation in a thorough way. We need to secure the BBC's future in what is already a vastly different broadcasting environment from the one in which it has flourished up to now. The right hon. Member for Manchester, Gorton referred to that. The rapid growth of digital television has surprised many people who were sceptical about how quickly it would be developed.

I have been lucky in my time in this place to have been able to be involved in a number of broadcasting debates and broadcasting Bills. I served on the Home Affairs Select Committee that, in 1988–89, published its own detailed report on the future of our broadcasting, which led to the White Paper, "Choice and Diversity". I served on the Committee that considered the then Communications Bill with my hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale)—we represented the Opposition view on that Committee. I have been the secretary of the all-party media group for some time.

I think that it is fair to say that the Select Committee report, on which the debate is based, has provided a good basis, in response to which the Government have published their Green Paper. I shall make a few initial remarks about the Green Paper. The title of the document, "Review of the BBC's Royal Charter: A strong BBC, independent of government", is a welcome and worthwhile goal. As we begin to fathom through the proposals and try to come to a judgment on them, I think that we will want to assess how realistic is the ambition "A strong BBC, independent of government".

It will be difficult for the issues rightly flagged up in the Green Paper to be determined without Government intervention and without decisions being made ultimately by the Government. That is particularly true of funding. The funding review announced by the Secretary of State is welcome, but it will be conducted by

the Government. As far as I can tell, if we keep the licence fee for a further 10 years or so, in the end it will be the Government who ask Parliament to agree to its cost. Similarly, whether we or the Labour party are in government, decisions must be made about governance, the handling of complaints, competition and digital switchover that will have a significant bearing on the future of the BBC. I welcome the objective of creating a strong BBC independent of Government, but it will be difficult to achieve completely.

The licence fee is the issue that most troubles Members on both sides of the House. On cost, the bounds of acceptability have been under pressure for some time. A licence fee currently costs £121, but it was because people found it difficult to pay that the Government introduced free television licences for the over-75s. I am not sure whether it was a fortunate responsibility, but I was shadow spokesman on culture, media and sport when the Government, against the advice of the Select Committee, decided on an above-inflation increase in the licence fee. My hon. Friend the Member for East Surrey (Mr. Ainsworth), the then shadow Secretary of State, and I argued against that increase—not because we wanted to vote against it, but because we wanted to have a debate about the issue. We said that the settlement was too generous, and many of our warnings have turned out to be true. In particular, we believed that the BBC would invest heavily in new digital channels that many viewers would be unable to access, as has been said in an intervention on the right hon. Member for Manchester, Gorton. It is difficult to see how that problem will be resolved, but until the digital switchover people will be peeved at having to pay a fee while they do not have the opportunity to watch those channels.

Mr. Don Foster (Bath) (LD): The hon. Gentleman rightly said that the issue has already been raised in our debate. For some people, Freeview is the way forward, but for others, even though they have to pay some money up front, Freesat is an option. However, that option is not available to everyone, because planning regulations may prevent them from putting up satellites. That has to be factored into the equation.

Mr. Greenway: I am familiar with that problem in my constituency. It is not realistic to expect everyone in the country to put up a satellite dish.

Mr. Peter Atkinson (Hexham) (Con): To reinforce that point, according to Ofcom, the Tyne Tees area is likely to be the last area to undergo the digital switchover, and that will probably happen in 2012. As a result, more than 10,000 of my constituents in Hexham and the Tyne valley cannot receive digital terrestrial television until then, which is hugely frustrating for a large number of people. Was my hon. Friend a little disappointed by the Government's one-paragraph response to the Select Committee report? It is vital that the BBC and other terrestrial broadcasters find a way around the problem and that there is a free-to-air satellite service apart from Sky's Freesat.

Mr. Greenway: My hon. Friend makes his point extremely well. As part of my own constituency is in the Tyne Tees area, I am familiar with that problem, which is an example of the friction between the current licence fee and people's belief that they should be getting value for what they are paying. It does not matter whether hon. Members have individual views about whether £121 is good value for money. I think that it is—I mentioned the promenade concerts, and it could be argued that £121 is an extremely good deal for more than 50 concerts on Radio 3 and television when we consider what we would have to pay for a subscription service.

If we are to continue with the licence fee for at least 10 years, its sustainability will depend on the public's perception of value for money. I warmly welcome the Select Committee's consistent argument for setting the licence fee increase at the level of inflation, because the fee now exceeds the bounds of acceptability. Also, we are giving the BBC more money to expand broadcasting services, which the commercial sector is perfectly capable of doing. If we are to keep the licence fee it should be set at a realistic and fair level. Equally, we should continue to put pressure on collection costs. I share the view of a number of hon. Members about the heavy-handed nature of some of the BBC's collection practices, particularly towards people who do not have a television, as their declarations are not always believed.

In the charter renewal and the general redefinition of the BBC's mission, we should ensure that there is a service that can be universally accessed and enjoyed. It should be valued, valuable, unique and of high quality, and should retain and sustain programmes and coverage of events that are important to our national life but which other broadcasters choose not to cover. In the past, we have had arguments with directors-general and chairmen of the board of governors about the ratings war, but we must accept that quality programmes should be popular and that people should want to watch them. That is a difficult balance to strike. We had an argument with Christopher Bland, when he was chairman of the board of governors, about the downgrading of "Yesterday in Parliament". One of my colleagues said, "But you have the licence fee, so you should not be concerned about the fact that people switch off and do something else at 8.45 am. That is what the licence fee is for."

We want the BBC to do things that enrich our cultural diversity and allow innovation without it being constantly concerned about viewing figures or the size of the listening audience. While I am concerned that the licence fee may not last the 10-year period that the Government have in mind—we may have to look at alternatives before the end of that period—it is difficult to envisage an alternative, as the Government's consultation has demonstrated. People should feel that they are buying into the BBC through the licence fee and they should receive something that they value.

Michael Fabricant (Lichfield) (Con): This is a rather belated intervention, but as my hon. Friend mentioned "Yesterday in Parliament", he may like to know that I have received an e-mail from the BBC that says that an *Evening Standard* diary column that claimed that the programme was to be scrapped was "completely

[Michael Fabricant]

untrue" and that it would continue in perpetuity. The last two words are my own, but nevertheless my hon. Friend will understand my gist.

Mr. Greenway: I am grateful for my hon. Friend's piece of news. Someone suggested to me once that the reason why Members of Parliament like to hear "Yesterday in Parliament" is that we all like the sound of our own voices, which reminds me that having spoken for 14 minutes—I know I have taken a few interventions—I should try to bring my remarks to a conclusion in two or three minutes.

We all need to study the Green Paper carefully. I cannot tell the Secretary of State that I have read it from cover to cover, and I suspect that very few colleagues have yet had the chance to do that. There are issues of governance on which we will have views. I agree again with the right hon. Member for Manchester, Gorton on the need for a role for the National Audit Office, for which my hon. Friend the Member for Maldon and East Chelmsford and I pressed in the Standing Committee on the Communications Bill. I am not yet clear to what extent the trust will differ from the board of governors, but I am prepared to be convinced.

I shall say a few words about independent production. During the proceedings on the Ofcom Bill, I was astonished at the strength of feeling against the BBC from some independent producers, to the point where some of them flatly refused to work with the BBC. We got the impression that the 25 per cent. target was a glass ceiling that some folk in the BBC would like to see lowered. My hon. Friend and I came to the conclusion that there probably ought not to be a limit at all, and that the BBC should be encouraged to commission significantly more than 25 per cent. of its output from independent producers. Some of the people now working in independent production companies are responsible for innovation and the development of new talent and new ideas, whereas when we had just the BBC and ITV, and there were no other opportunities, everything was done in-house.

My final comment to the Secretary of State is that in the north we believe we have one of the great centres of excellence in television production in Yorkshire, in the area of the right hon. Member for Manchester, Gorton. It is too early to say whether the "outside the M25" definition that was in the Communications Bill is working entirely satisfactorily, but I hope that it is. I want to encourage as much production as possible to take place away from London for the simple reason that the BBC and commercial television generally, by sponsoring arts, educational programmes and a range of other activities, bring a great deal to our cultural life. Those of us who represent constituencies away from London hugely value it. We should not just preserve it, but seek to enhance it.

1.33 pm

Kevin Brennan (Cardiff, West) (Lab): I draw the attention of the House to my declaration in the Register of Members' Interests.

I welcome the Green Paper, particularly the proposed continuation of the licence fee, which is the bedrock of funding for the BBC into the future, even with the radical changes taking place in the broadcasting sector. However, in the course of my remarks I shall express a couple of reservations, at the outset by echoing the remarks of my right hon. Friend the Member for Manchester, Gorton (Sir Gerald Kaufman) about top-slicing and adding my concern about whether that will prove to be a sensible way to preserve public service broadcasting outside the walls of the BBC. I shall also say a little about the governance of the BBC, with particular reference to Wales.

Those who are excessively and, perhaps, obsessively critical of the BBC sometimes seem to follow the maxim that it is all very well in practice, but it will never work in theory. The BBC is one of those institutions which, if we invented it from scratch now, would probably never get on to the statute book or receive a royal charter because of the unusual nature of its set-up and governance. Nevertheless, as an institution it has lasted, created standards of excellence and been a flagship for Britain abroad, and it is a hugely recognised British brand and a vital component of the creative industries in the UK—a sector that is becoming increasingly important. In a way it is true, as its critics point out, that in the solar system of broadcasting, the BBC is like a giant gas planet containing many inefficiencies, but still exerting a powerful gravitational pull on standards and making the broadcasting and media universe a much better one than it would be if there were a black hole where the BBC once was.

I come now to BBC Wales, not least because its headquarters is in my constituency—Cardiff, West—and also because of its huge importance in Wales culturally, economically and to the community in Wales. Sometimes the creative industries are not taken seriously by economists. It is only a few years since people involved in economics, which I used to teach, were staggered, puzzled and bemused by the revelation that ABBA was Sweden's most important export industry. Traditional industrial economists could not get their heads round that. It is still true that economists do not recognise the creative industries as an extremely powerful way of growing the economy and as an expanding sector which aims to get value, wealth, income and jobs by creating intellectual property. The sector will become an increasingly important part of the economy, based as it is around high-tech industries.

More than 1,300 people are employed directly by BBC Wales. Many of them live in and around Cardiff, and many of those in my constituency. In addition, it has been estimated that there is a high multiplier effect in the Welsh economy, with a further 1,000 jobs indirectly attributed to the presence of BBC Wales. Its reputation for excellence is continually enhanced, as it was last night with the launch of the new series of "Dr Who", which took place in Cardiff, complete with Daleks on view. I understand that there will be a further showing in London next week for Members of Parliament who would like to see the next episode of the new series. *[Interruption.]* There are several showings going on, as the hon. Member for Lichfield (Michael Fabricant) points out.

Despite the important economic impact of the BBC in Wales and the recent announcements, the BBC's economic impact has traditionally been far too centralised. For an institution that is supposed to represent the whole of Great Britain and Northern

Ireland, its economic impact is still overwhelmingly felt in London and the London region. Until recently, 80 per cent. of the BBC's overall budget was spent in London and two thirds of its employees were employed there. That is why I welcome the "outside the M25" strategy. I welcome the fact that Manchester is to become an increasingly important part of trying to get the BBC outside the M25. I appeal for Cardiff, the rest of Wales and the other nations and regions of the UK to be at the forefront of the BBC's thinking about its economic and cultural impact in the UK.

On the cultural impact of the BBC, with particular reference to Wales, it is no exaggeration to say that the image of Wales and of the devolution project has been massively influenced by the presence and role of BBC Wales in Welsh life. BBC Wales broadcasts excellent sports coverage, although I do not agree with the hon. Member for Ryedale (Mr. Greenway) that the BBC is always the best at broadcasting sport, because Sky's coverage of football and Channel 4's coverage of cricket are innovative and have raised standards elsewhere. We need competition and cannot have a single monolithic broadcaster of sport. Nevertheless, sports broadcasts have a huge impact in Wales, as do broadcasts of other aspects of Welsh cultural life, such as the recent opening of the Wales millennium centre.

BBC Wales has played a crucial role in reaching out to the community through various innovative projects, which other parts of the BBC could seek to follow, such as the digital story-telling project, the "Where I live" websites and the community studios, which the BBC has opened around Wales in recognising that over-centralisation can even occur within a nation or region of the UK.

I am concerned about the future governance of the BBC, which might insufficiently take into account the new devolved Britain and the interests of the nations and regions following the Green Paper. Some resources have been devolved, but it is important that the devolution of power accompanies the devolution of resources, because the devolution of resources without the devolution of decision making might lead to an increasingly centralised BBC in terms of management and governance that sends down diktats from London to Cardiff, Manchester, Edinburgh and other parts of the UK.

When the new slimmer BBC board was set up, it was misguided to remove explicit representation of the nations and regions. Although the new Green Paper contains words of comfort about the structure of the trust, on which the nations of the UK are likely to be represented, it is not good enough to appoint someone and say, "Because they are from Wales, they represent Wales on the new trust." The trust should contain specific representation, and it is vital that a position representing the nations and regions is reinstituted when the new board is created.

When future decisions that directly impact on, for example, BBC Wales are taken on BBC finances and resources, there is a danger that there will be no direct input on behalf of the nations and regions. If the nations and regions do not have a voice on the board, their views will not be made clear and the newly restructured BBC might become dislocated from the devolved reality of modern Britain. I hope that that point will be taken into account in considering issues such as the finances and personnel functions of BBC Wales, because there is a danger that BBC Wales management will no longer be free to manage resources in the newly devolved world.

Overall, the Green Paper is welcome, and a period of stability is required. I count myself as a friend of the BBC and hope that it will be a flagship in 10 years' time, when the matter next comes up for review.

1.44 pm

Mr. John Whittingdale (Maldon and East Chelmsford) (Con): I welcome this debate, which arrives at an opportune moment to consider the future of the BBC.

I congratulate the right hon. Member for Manchester, Gorton (Sir Gerald Kaufman) on both his speech, some of which I agreed with, and the work of his Culture, Media and Sport Committee, which has undoubtedly contributed valuable information and knowledge.

We can all agree on various things. The broadcasting environment is changing rapidly. We have gone from four or five channels to more than 50 per cent. of the population having access to tens, if not hundreds, of channels, and that trend will undoubtedly continue.

In some areas, the future is predictable. Digital take-up will continue to grow, which will have a profound impact. In the past 10 years, the BBC's television audience share has fallen from 33 per cent. to 25 per cent. The effect on ITV has been even more significant, with its share falling from 40 per cent. to 23 per cent., which is causing real problems, despite the results that it announced this morning. That trend is likely to continue as more and more households switch to digital, either because they choose to do so or because the Government require them to at some future date.

In other areas the future is less predictable. The Culture, Media and Sport Committee rightly identified the challenges that might arise from broadband television, from people deciding to watch television on their computer screens and receiving television pictures on mobile telephones. On top of that, in some quarters people believe that the future lies in high-definition television, which might switch the focus back to satellite television rather than digital terrestrial television. Whatever the future holds, it is clearly important to examine the role that the BBC should play and ask whether we need the BBC in a world full of television channels.

I have always believed that the only justification for having a state-owned and state-financed broadcaster is if it does something distinctive and different that would not otherwise be available from the market – in other words, public service broadcasting.

Michael Fabricant: I am following my hon. Friend's argument with considerable interest. Does he agree that if the BBC or, indeed, any state broadcaster, were wholly and exclusively to confine its output to that which is different from the output of popular broadcasters or commercial broadcasters, its output would, by definition, be unpopular? In that case, how might it sustain its licence fee?

Mr. Whittingdale: I am not sure whether the licence fee is sustainable, an issue which I shall discuss later, but

[Mr. Whittingdale]

I take my hon. Friend's point and do not believe that the BBC should set out to make unpopular programmes. The BBC must concentrate on high-quality, educational, informative programming, but it should not seek to appeal only to niches or to chase ratings. There is a difference between setting out to make high-quality programmes that then attract large audiences, and setting out to attract large audiences in the first place. To that extent, I welcomed last week's statement by the Secretary of State and share her concern, which is widely felt, that the quality of BBC programming has declined over the years and that there has been a tendency towards copy-cat programming.

One can point to some extraordinarily high-quality programmes, which are probably as good as any in the world, such as "The Blue Planet", "The Lost Prince" and "Auschwitz". However, for every one of those, there are probably 10 make-over programmes, game shows and DIY shows, which raise real concerns about dumbing down.

I welcome the Government's intention to bring in specific licences for individual BBC services, because each needs a clear and distinct role. That does not mean that, if one BBC service is failing to meet an identified need, it should necessarily look around to find another need. That leads us to question, in some cases, whether the service is needed at all and could be dispensed with.

The BBC has a particular duty to meet higher standards than those which apply to other broadcasters, partly because it benefits from a very large amount of public money. In that context, I want to consider one or two areas where the BBC has not always lived up to the standards that one would have hoped for. The first is that of harm and offence. Because the BBC is funded by a licence fee that is compulsory for all householders under the age of 75, it needs to take into account the sensitivities of the population. I draw particular attention to the recent transmission of "Jerry Springer—The Opera". That work may have artistic merit—certainly, it won awards—and there was a case for its being shown on television, but showing it on the BBC was bound to generate a huge number of complaints. The BBC should have anticipated that and thought seriously about whether it was appropriate to show it, especially given that the 50,000 complaints that it received came from people who will resent having had to pay the BBC for having shown it. That is now subject to a complaint to Ofcom and I will take great interest in Ofcom's ruling.

Chris Bryant: I could not disagree with the hon. Gentleman more on this issue, not least because when some of the newspapers that excoriated the BBC for showing the Jerry Springer programme first reviewed the theatre production, they said that it was bound to be a sure-fire hit and that they only wished that everybody in the country could get to see it. The important point about the licence fee is that it means that there is something for everybody. Some people may be militant atheists who do not want part of their licence fee to be spent on religious broadcasting. I do not believe that they are right—there should be something for everybody. "Jerry Springer—The Opera" may not be something that everybody wants to watch, but surely it is okay for the BBC to show it as long as it ensures that those who might be offended are aware of that.

Mr. Whittingdale: I do not agree with the something for everybody argument, to which I shall return. Some people's tastes may be confined strictly to game shows and make-over programmes, but that does not mean that the BBC should cater for them when they are adequately—indeed, over-adequately—supplied on commercial television channels. On the Jerry Springer programme, my concern is that the BBC has not shown sufficient sensitivity to what is not just religious extremism, as the director-general was quoted as saying, but a very significant body of opinion.

Another issue that has given rise to, if anything, even more concern, is the BBC's decision in the past few days to pay Mr. Brendan Fearon £4,500 for his contribution to a documentary on the Tony Martin case. The BBC says that there was an exceptional public interest in that payment and that the documentary would not have presented a full picture without Mr. Fearon's contribution. The latter point may well be true, but that does not necessarily mean that there was an exceptional public interest. There is a widespread view that the BBC got it wrong, and I should like it to say so.

Dr. Julian Lewis (New Forest, East) (Con): It is to the credit of the BBC that, in the course of an extensive interview with the person who produced that programme, also interviewed was the former BBC senior employee, now retired, who had drawn up the very guidelines that the programme's producer was praying in aid to justify it. The person who had drawn up the guidelines was sufficiently outraged to say that he had never meant them to be used in that way.

Mr. Whittingdale: I agree that it is to the BBC's credit that it is willing to carry interviews with people who are critical of it. Indeed, those of us who take an interest in these matters find that the BBC devotes huge amounts of coverage to debates about the BBC.

The significant and welcome change that has happened in relation to harm and offence is the Government's decision that the BBC should be subject to external regulation by Ofcom, but in other areas it is not subject to such regulation. One of those is impartiality and balance. The BBC has long operated on the principle that, if both sides complain, it must be doing something right. That has been its approach to complaints by either of the main political parties, but there are other areas where it is generally felt that the BBC is less impartial than it should be. For example, people who are less supportive of a federal Europe have long complained that the BBC has a biased agenda to push a pro-European Union viewpoint.

Chris Bryant: The hon. Gentleman must have deliberately included that comment to rile me. Will he take it from me that many people on the pro-European side of the argument believe that the BBC has had an anti-European agenda for quite some time and has been particularly poor at explaining the European Union—which, indeed, the recent report into the BBC found to be true?

Mr. Whittingdale: I would merely say to the hon. Gentleman that when the BBC, having dismissed such

complaints for many years, finally set up an independent group to examine the question, it concluded that the BBC

"suffers from certain forms of cultural and unintentional bias"

and that, despite the good intentions of producers,

"nobody thinks the outcome is impartial".

This is also relevant to the Catholic church, the Israeli Government, and supporters of hunting, all of whom have felt in the past that they have not had a fair deal from the BBC.

Dr. Julian Lewis: Could that institutional and cultural bias have something to do with the fact that the BBC advertises for recruitment purposes far more in the media columns of *The Guardian* than in all the other newspapers put together?

Mr. Whittingdale: That could certainly have a great deal to do with it. I believe that the BBC is finally trying to put that right, but of course generations of BBC employees have already been recruited through the pages of *The Guardian*.

It is not satisfactory for the BBC to continue to regulate itself in this regard. Ofcom is already responsible for adjudicating on complaints about impartiality in the commercial television sector, and the BBC should be so regulated.

Another area that requires external regulation by Ofcom is that of the enforcement of the BBC's fair trading commitment. Commercial broadcasters, suppliers and other organisations have complained for many years about unfair competition from the BBC and abuse of its market powers. Yet time and again those complaints have been considered for a period by the governors, only to be ultimately dismissed. Outside studies such as the recent Graf report on BBC online services and the Lambert report on 24-hour news have shown that changes were necessary, but the BBC has had to be dragged along kicking and screaming.

There is real concern that the BBC continues to abuse its position. I will give two examples. The first concerns the competition to provide subtitling services to Channel 4, which the BBC won with a bid that was widely believed to be way below cost. As a result, the commercial organisation that had thought that it stood a good chance of winning lost out. The BBC says that it has looked into it—indeed, the chairman told me that, having carried out a thorough investigation, he is absolutely satisfied that the process was entirely fair. However, the figures have not been published and there remains considerable suspicion among the commercial providers.

The second example concerns the requirement by the BBC that songwriters and composers should sign up with publishers who are selected by the broadcasting organisation, which then receives a cut of subsequent royalty payments. That strikes me as wrong and anti-competitive. The BBC is not the only offender—indeed, others are worse—but the BBC has a duty to set an example and should not continue that practice.

The BBC should come under external regulation for both matters. The Secretary of State said that she would consider allowing Ofcom to adjudicate on matters that relate to the fair trading commitment. That is a step forward, but I hope that she will go further than considering it and actually do it.

Mr. Don Foster: The hon. Gentleman made an important point about songwriters and musicians. Is he aware that the issue is being addressed not only by Ofcom, but that there is rightly an Office of Fair Trading investigation into the matter?

Mr. Whittingdale: I was aware that the OFT had received complaints and I hope that it will deal with the matter.

I share the view of the right hon. Member for Manchester, Gorton and my hon. Friend the Member for Ryedale (Mr. Greenway) that the National Audit Office should have proper access to the BBC. It is extraordinary that the BBC benefits from £2.8 billion of public money and yet is still not subject to the same scrutiny as all other Government bodies. The Public Accounts Committee has repeatedly raised that matter, yet the Government, for reasons that I do not understand, appear unwilling to allow access. It would enormously improve transparency and accountability if the NAO were given full access.

Everybody agrees that there is a need for change in governance. The Secretary of State said that the status quo was unsustainable. The new chairman of the BBC made moves to give the governors much more independence and to set up an arm's-length arrangement whereby they have their own staff. Although that is an improvement on the current position, it does not go far enough. That was Lord Burns's conclusion. Indeed, he proposed a unitary board of executive and non-executive directors and a new, independent and separate public service broadcasting commission, which would oversee the use of public money. Ofcom strongly supported that model, which was also supported by Greg Dyke, who said that the Secretary of State should ignore the bleating about the proposals that she was bound to get from people, including the current governors, and simply implement Burns's suggestions.

Despite all that advice, the Secretary of State has chosen to adopt a compromise solution of a BBC trust. Yet the trust remains part of the BBC. It will be chaired by the BBC's chairman and the Government will appoint its members. It is difficult in practice to perceive any genuine difference between the new BBC trust and the arm's-length arrangement that the chairman of the BBC proposed. The Government have instituted a change but it does not go nearly far enough.

The Green Paper takes steps in the right direction, but does not go far enough on various aspects. My hon. Friend the Member for Ryedale mentioned independent production. The BBC has been subject to a quota for independent production since 1990. For three years running, it has failed to meet it. Indeed, the proportion decreased year after year. The BBC moved to fulfil the independent production quota only when it was threatened with the possibility of Ofcom imposing fines on it.

I welcome the director-general's new proposal of a window of creative competition but it does not go far enough. There should be a 50 per cent. maximum for in-

[Mr. Whittingdale]

house production, as PACT recommends. The Secretary of State has hinted that she will consider that but I hope that she can say that she will go further.

The BBC should also go further in disposing of its commercial operations. It has agreed to dispense with some of its operations under the worldwide umbrella but it will retain magazine production. The reason why the BBC needs to be in the magazine publishing business is beyond me.

The Select Committee was right that to say that the licence fee is regressive and unfair. It is essentially a poll tax. Yet, unlike the poll tax that Labour Members condemn, it does not even provide for assistance for those who can least afford to pay. Every year, some 100,000 people are fined for failing to pay the licence fee. In 2003, 20 people went to prison because they could not afford to pay the fines. It is incredibly expensive to collect—it costs some £150 million and the Select Committee has rightly drawn attention to the campaign with menaces that the BBC adopts to intimidate people into paying. Despite that, it suffers from widespread evasion, with approximately £200 million lost through evasion every year.

We are at the point even now when 7 per cent. of people do not listen to or watch the BBC. That number will grow and it will become unreasonable to prosecute people or send them to jail because they fail to pay a licence fee that increases every year to finance programmes that they choose not to watch or channels that they cannot receive.

The Government's adviser, Lord Burns, said that, over time, sustaining the licence fee will become increasingly difficult. Yet, in the Green Paper, the Secretary of State said that it would continue for at least another 10 years and that consideration of alternatives will not even begin for five years. It is a complete surrender. No wonder *The Times* described the document as a "yellow paper" rather than a Green Paper. We must tackle the issue now.

The Government have also ducked Lord Burns's recommendation that there should be contestable funding for part of the licence fee, which provides some solution to the problem that Ofcom identified of how we continue to have public service programming on the commercial channels, when the value to them of the analogue spectrum diminishes every year.

The Government, in the Green Paper, have essentially ducked every serious challenge. Despite all the consultations, debates, advisory panels and reports given to them, the conclusion in the Green Paper is that the charter will be renewed for another 10 years, the licence fee will go on for another 10 years and the BBC will continue to govern itself. The Government have stuck their head in the sand and shied away from any significant change. The Green Paper is a lost opportunity, which we will wish to address.

2.6 pm

Mr. Derek Wyatt (Sittingbourne and Sheppey) (Lab): I begin with an apology: I have a ministerial meeting at 3.30 pm and I shall therefore be absent for the winding-up speeches.

I thank my right hon. Friend the Member for Manchester, Gorton (Sir Gerald Kaufman). On Monday, we held a dinner in his honour because he has chaired the Select Committee for 13 years and he will not chair it again. The high esteem in which he is held was shown by the attendance of so many hon. Members who served from 1992 to 1997 and from 1997 to 2001. We have enjoyed the fun and especially the intellectual rigour under his chairmanship.

Let me consider the duration of the charter. We have Departments for education, health and foreign affairs. Does anyone in their right mind believe that we will not have such Departments in 10 years? Of course we will. Does anyone in their right mind believe that the BBC will not be here in some form in 10 years? Of course it will. Why, therefore, do we need a charter for 10 years? Why is that such a magical period? The charter's duration has always been inconsistent—for example, it has been for nine months and for three years. Why, when we are confronting the greatest change in technology, should we consider granting the charter for 10 years? We must be careful. I do not accept that it is being renewed for five years with a review. The BBC will always be with us, so what is so precious about 10 years, five years, one year and so on? That debate has not been held in the public domain.

The debate is especially important now because, if we had held it three years ago, no one would have mentioned an iPod or broadband. Those two innovations alone have caused phenomenal change in the way in which we do business and conduct ourselves around the world. Who is to say that there will be no son of iPod or son of broadband in the next two or three years? The pace of change will increase phenomenally and any public sector broadcaster needs to change at the same pace. That is impossible and, therefore, although I do not believe that the argument about the duration of the charter is fatuous, I wish that it would go away. There will always be a BBC and I support the Select Committee's recommendation for a statutory basis. That is the easiest and cleanest way to resolve the matter.

There is another reason for putting the arrangements on a statutory basis. When we want to put a question about the BBC on the Order Paper, we have to go through an interesting process. I had to ask the Clerks whether could I table the question, because it does not come under the jurisdiction of the Secretary of State. I did that, but I was then told that it did actually come under the jurisdiction of the Secretary of State but not of the House. So I wrote to the Secretary of State—not the present one—and he said, "Actually, it is not my jurisdiction. It is the jurisdiction of the governors." So I wrote to the chairman of the governors, and he said that the matter did not come under his jurisdiction, but under that of Parliament. These things go round and round. If the arrangements were put on a statutory basis, there would be an obligation to answer such questions.

All the fudging that we have talked about this afternoon has been talked about for quite a while, including issues relating to the National Audit Office and other things that we want. Our discussions are taking place round the edge of the issues because we cannot get to the meat. We cannot get what we want, but we should be able to because we are elected Members

acting on behalf of the public. We should be able to cross-examine the BBC in real depth, especially on its accounts. I hope that the Secretary of State will give some more thought to the statutory versus charter argument, and to the length of the charter.

On independent productions, not only has the BBC failed to reach its targets; but I do not think that it wants to reach them. This presents a big cultural problem. Let us raise the bar to 50 per cent., because that would make the BBC achieve 50 per cent., and let us make that a minimum. How should we do that? Let us consider what the BBC is proposing and try to understand the model involved. Let us imagine that I am the head of BBC documentaries, for example, and therefore also the commissioning head of BBC documentaries. I would get inside offers as well as outside offers, but I could not be impartial. Will the Government consider the ITV network centre model that was created 10 years ago? It operated under a different regime, in which there were many more independent television operators. Under that model, bids had to be made to centre and against the independents. The head of drama or documentaries at ITV network centre would then say, "This is the best proposal; we will go with this." That was quickly accepted as the best model. One of the reasons that the 25 per cent. target cannot be achieved is that the system is not transparent inside the BBC. If the BBC cannot solve this problem, we will have to do it for them. It needs a model like the ITV network centre model that will give people inside and outside the BBC the chance to bid. Such a system would be fair. The present system is not, which is why we have problems.

I am uncertain about the move to Manchester, because Manchester is already a substantial artistic and cultural centre in the north-west. If Government regions have to look outside the M25 and take poverty indicators into account, I cannot see why the BBC should not have to do the same. What is wrong with Sunderland, for example? I cannot see what would be wrong with establishing another media centre somewhere else in Britain. Leeds, Birmingham and Manchester are already well established.

Furthermore, the £500 million cost of the move to Manchester is simply unacceptable. It equates to the cost of five major hospitals or 40 community hospitals, and such expenditure is intolerable. Under the proposed trust, a director-general could say, "We are moving to Manchester", only for the trust to say, "Oh, hold on. We haven't approved that." That would upset all the staff involved and all sorts of discussions would ensue about which departments were moving and which were not. That is not the way to run a company. I shall give the new trust some time, but my instinct tells me that the governance of the BBC should involve a FTSE 100 system. If that works for the companies involved, it should be good enough for the BBC. I would use that method to run the BBC, rather than having a trust.

I am a huge fan of top-slicing. If it was correct, in the 1920s and 1930s, to see the BBC as a cultural icon for the nation—in a different way from how it is seen today—and if it was correct for it to have five orchestras, why is it not possible for the BBC to have a film centre? Film is one of the great cultural institutions in this country, so why does not the BBC make films? I do not see the logic there. If the BBC is a great cultural icon with five orchestras, it should also make films. Less than £10 million of the BBC's £2.7 billion income went into making films, yet it has bought £78 million-worth of American films to be shown in Britain. All that money could have gone to our nascent, youthful film makers here. Why should they all have to go to Hollywood? Top-slicing is critical in that regard. We could include a film option. Why, too, is there no community channel in the BBC? Why are there no education, arts or sports channels? Why is there no UK film channel?

The BBC now has BBC3 and BBC4. Before that, it had BBC Prime and BBC Choice. They lost between £500 million and £600 million, and hardly anyone watched them. Still no one watches BBC3, and only a few people watch BBC4. They cost £120 million each, which is a huge sum. The BBC might not want to provide them, but people out there would like an arts channel, a film channel and a sports channel. How can we get a public sector broadcasting model that is more nimble and nifty if we do not have top-slicing? I encourage the Secretary of State to think again about that.

On the question of Ofcom and who should regulate the BBC, it would be ironic if the public service publisher model were delivered by Ofcom—however it might be funded—resulting in Ofcom regulating a brand-new public service publisher but not regulating the BBC. That would be madness. The regulator must ultimately be Ofcom. That is logical. It would not be sensible to set up an alternative Ofcom just for the BBC. Will the Secretary of State think again about the role of Ofcom in this regard?

On how we are viewed overseas, we talk about the BBC being one of the great bastions of broadcasting, and it is. The BBC World Service is sensational. It is one of our great cultural battalions overseas, along with the Open university and the British Council. However, BBC World television is not sensational but embarrassing. BBC News 24 is not good—it, too, is embarrassing. If the BBC cannot do that properly, why do not we put out a tender and ask UK companies to run those two channels? I bet that ITV News, Sky and the BBC could come together to run a really effective BBC News 24 on half the money that is currently spent. I bet, too, that that would produce a cultural icon that would represent the best of the BBC and provide all the necessary programmes from the independents. I no longer accept that the BBC is the best in that field, and that is a problem that has not been examined properly in the Green Paper.

2.17 pm

Mr. Don Foster (Bath) (LD): I am delighted to follow the hon. Member for Sittingbourne and Sheppey (Mr. Wyatt), who made an interesting and provocative speech. I disagree with him on a number of points. For example, I believe that his contention that the charter should not last for 10 years is misplaced. For the very reasons that he gave of the huge changes taking place in the broadcasting ecology, it is crucial that the BBC be given a 10-year period to see it through those changes—not least, the move to digital switchover—with a degree of certainty.

I am also concerned about the language that the hon. Gentleman used in regard to top-slicing. He seemed to support the concept of taking money away from the

[Mr. Don Foster]

licence fee revenue and using it for other purposes. To be fair, the proposals that he went on to make seemed largely to involve the BBC using that money itself for rather different purposes. I was a little confused by that.

In some areas, however, I am in total agreement with the hon. Gentleman, not least on his last point about BBC World. He is absolutely right to say that the BBC World Service is a jewel in the BBC's crown that many other countries have tried to emulate without success. BBC World, however, is not in the same category, and we desperately need to do something significantly to improve it.

I also agree with the hon. Gentleman's comments about the role of the right hon. Member for Manchester, Gorton (Sir Gerald Kaufman) in his chairmanship of the Select Committee. We welcome much of the work that he has done, especially on the report that we are debating today. I congratulate him, the other members of the Committee and the officers of the Committee on the work that they have put in. The Liberal Democrats fully support the vast majority of the recommendations in the Committee's report.

Given the Committee's recommendation for the continuation of the licence fee without top-slicing, however, I should like to remind the right hon. Gentleman that it was only about three months ago that he and I were debating this issue in the old Greater London council building across the road. I was arguing in favour of the licence fee, and he, while dodging rain coming in through the roof of the building, was on the other side of the argument. I am delighted that he appears to have changed his mind on that issue. The report is excellent, and I support many of its recommendations. The one recommendation with which I disagree relates to the length of the charter—the report recommends five years, whereas we would support the proposal in the Green Paper that it should be for 10 years.

Although the right hon. Member for Manchester, Gorton is critical of some aspects of the BBC, and rightly so in some cases, overall, he is an ardent supporter of the BBC. That is my position, too. We should all recognise the huge benefits of the BBC to this country, both in terms of our citizens and of what it projects about this country abroad. We should praise it for its diversity, educational programming and high-quality drama and comedy; for its work on sports, to which I shall return in a few minutes; for its children's programming free of advertisements; for having one of the world's most trusted websites; for providing a wonderful diversity and range of music offerings, not least on the radio; and, perhaps above all, for its news and current affairs programmes, which are authoritative, accurate and, notwithstanding what others have said, largely impartial. As I have mentioned, there is also the gem of the World Service.

Even those who never watch BBC television get enormous benefits from the BBC. Many of them listen to some excellent programmes on BBC radio, whether national programmes or excellent local radio station programmes. Let us not forget that 24 per cent. of the licence fee is spent on radio, which is reflected in some of the excellent material produced.

Even if people do not listen to the radio or watch the television, they still benefit from the BBC's tremendous work in technological development. All hon. Members will recall that the BBC made the first moves to get computers into our schools. We should also remember its development work in relation to the world wide web, and its current work, with more still to be done, on promoting the move towards digital.

Above all, there is the fact that a large percentage of people who work in other broadcasting organisations have been trained by the BBC. It is, in effect, the university of broadcasting. During the many rounds of interviews that many of us did on the day of the Green Paper's launch, I followed Michael Grade into ITV, where he was about to do an interview immediately before me. The person from ITV who met and greeted him was quick to point out that although he now worked for ITV, he was proud that he had done all his training with the BBC.

Therefore, even if people do not watch or listen to BBC programming, they benefit from it. For 82 years, the BBC has set standards throughout the world for public service broadcasting. It is the pre-eminent public service broadcaster. Two days ago, a South African newspaper, *Business Day*, said that

"most of the world, South Africa included, has regarded the BBC as a model of public service broadcasting."

That is not to say that the BBC always gets it right. I entirely agree with the comments of the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) about the Brendan Fearon case. The BBC's decision to pay money to that person was disgraceful. It is worth reflecting that there have been two trials involving the Tony Martin case, and all the information about Brendan Fearon's involvement came out in those trials. There was no need to pay him money to get him to repeat what we already knew. It was not in the public interest to do so, and neither would it have helped one iota in our deliberations about individuals' right to protect their homes.

Sir Gerald Kaufman: Is not it a fact that had a newspaper done what the BBC did in that case, it would be a violation of the Press Complaints Commission code, and the PCC would have imposed sanctions on the newspaper concerned? Given that the new leadership of the BBC is determined to turn over a new leaf, would not it be a good idea if it stopped defending its action, apologised and said that it will never happen again?

Mr. Foster: I entirely agree with the right hon. Gentleman that the BBC should apologise. I am sure that he knows, however, that the PCC recognises in its procedures the right for there to be payments to people in certain circumstances, including when it is in the public interest. I simply do not believe that that interview was in the public interest, and I am sure that he agrees. It would have fallen foul of my interpretation of the PCC rules, which are somewhat mirrored by the BBC's own rules.

Despite the fact that the BBC gets it wrong from time to time, anything that we were to do to damage it seriously would be at our peril. We need a strong, independent and well and securely funded BBC. It has not always been obvious that everybody wants that—

reference has rightly been made to the disgraceful episodes during the Hutton inquiry involving the behaviour not least of Mr. Alastair Campbell in his attacks on the BBC.

The other point that has been made strongly in this debate is that the BBC is at is best when there is competition in public service broadcasting. In relation to sport, reference has rightly been made to the enormous benefit seen within the BBC as a result of the excellent cricket coverage by Channel 4 and the excellent football coverage by Sky. It is therefore important that in any debate about the future of the BBC, we also keep an eye on the importance of ensuring support for the other public service broadcasters: currently, ITV, Channel 4 and Channel 5. For that reason, I welcome very much the work that Ofcom has been doing on this issue.

As many others have said, it is also important to recognise that the broadcasting ecology is changing dramatically. Television can already be accessed through broadband and moves are increasing to enable its reception through mobile phones. At some date in the future—I wish that we had a clear commitment from the Government as to that date—analogue switch-off will occur as we all move to digital. We have seen a huge increase in the number of channels available to us, with all the difficulties that that presents. Reference has already been made to the declining numbers of people watching ITV1, and that has an impact on the availability of advertising revenue for some of those channels.

A number of reports have come and gone. The Elstein report, commissioned by the Conservative party, seemed to have been rejected almost as soon as it was published. We have had the excellent report from the Select Committee. We have heard of the various interventions by Lord Birt in his attempt to lobby 10 Downing street and put pressure on the Secretary of State. I am delighted that that pressure was unsuccessful and that she was not persuaded of the argument for top-slicing the licence fee. I was surprised that Lord Birt made such a recommendation given that he had presented a totally opposing view on that issue only a few years earlier when he was heavily involved in his work with the BBC. These things happen, I suppose. As I have mentioned, there has been Ofcom's work on public service broadcasting.

Even without all those reports and the Green Paper, it is important to remember that the BBC does not stay the same. It has been changing without the need for any of that. As has been pointed out, one change is the ending of involvement in the ratings war. I agree with the hon. Member for Maldon and East Chelmsford that we do not want the BBC to become a ghetto for what the hon. Member for Ryedale (Mr. Greenway) described as unpopular programming. It is important for the BBC to produce programmes that are popular. What the hon. Gentleman rightly criticised were moves towards what we call dumbing down, and a surfeit of reality and makeover television shows. There are already far too many of those on our screens.

There have been moves to change the number of staff, not because of the charter review or any other reports. I only hope that the BBC will work hard to ensure that the members of staff affected have a chance to become involved in the new opportunities that the BBC's decision will allegedly create. Similarly, changes have been made to BBC Worldwide that have nothing to do with the review or other reports.

I accept that many changes are being made, but I do not entirely accept criticism of the BBC's involvement in the publication of magazines, especially music-related and educational magazines and others that are directly connected with programmes. I think it is crucial for the BBC to go on being involved with magazines of that kind.

Chris Bryant: And gardening magazines.

Mr. Foster: They may also fall into that category.

I agree with what has been said about the BBC's earlier use of independent producers. We certainly need to change what is going on, and we shall all need to look carefully at the BBC's proposals for a window of creative opportunity. At least that is an example of its moving in the direction that many of us favour, but as has been pointed out by the Producers Alliance for Cinema and Television—usually known as PACT—many questions remain to be answered about how that window of opportunity will continue to exist.

Issues that desperately need examination do not seem to have been covered by any of the reports that I have mentioned. The hon. Member for Cardiff, West (Kevin Brennan) spoke of the vital importance of the BBC in Wales. It is surprising that there has been no debate anywhere about the relationship between the BBC and S4C. As Members know, the BBC is currently required to provide 10 hours of Welsh language programming for S4C to show. I find it strange that the nature of that relationship has never been challenged. Surely if it is to receive the BBC's material, S4C ought to have far more editorial control over its content.

Chris Bryant: It does.

Mr. Foster: I assure the hon. Gentleman that that is not the view of people at S4C. We should also try to agree on the current value of those 10 hours of programming, and then agree to enable S4C to negotiate with the BBC on how the money can best be spent, rather than being tied to a fixed number of hours.

As I said on the day the Green Paper was announced, I broadly agree with a great deal of it. Unlike the hon. Member for Maldon and East Chelmsford, I believe that many of its proposals deserve support. I especially welcome the Government's agreement to continue the licence fee and not to allow top-slicing. As the Select Committee said, the licence fee is not perfect; it might be better described as the least worst of the options currently available. If we reflect on the alternatives, we see why that is so.

In fact, there are only two key alternatives. One is direct funding by the Government of the day. In Australia, a 25 per cent. reduction in the funding of public service broadcasting has been accompanied by increased Government interference. If we want an independent BBC that is well and securely funded, that is not the route we should take. The other option is subscription, advertising or pay-to-view, but all those would lead to the BBC's rejoining the ratings war to secure the maximum number of viewers to boost advertising and the number of pay-per-view clients.

[Mr. Foster]

If we do not choose any of those options, as I hope we will not, we shall be left with the licence fee as—with all its faults—the least worst option. As I have said, I am delighted that the Government have agreed to retain it and also to retain the charter for 10 years. That is a crucial decision.

I welcome the Green Paper's proposals to define the BBC's service remit more tightly—although it is fair to say that the BBC has already been moving in that direction, with the help of Michael Grade and Mark Thompson, both of whom deserve the praise heaped on them by the right hon. Member for Manchester, Gorton. The Government have added to the original five proposals a sixth relating to the BBC's responsibility for helping to drive forward the switchover to digital. As I said to the Secretary of State—I did not receive an answer on that occasion—I hope that we do not expect the BBC to take all the responsibility, because that is a job for the Government. I also hope that we do not expect it to write a blank cheque. The Secretary of State should give us some idea of how much money the BBC can reasonably expect to receive. She said earlier that that would be specified in documents still to be produced, and I hope that it will.

My one significant disagreement with the Government and the Green Paper concerns the governance of the BBC. I think the whole House accepts that we cannot continue the current arrangements, with the BBC both flag-waver for itself and its own regulator. Under its new chairman, the BBC has already embarked on a bid to separate the governors from the rest of the corporation, but they are still part of the BBC, and the proposals in the Green Paper would perpetuate that. I do not see how the trustees can be truly independent of the BBC. At the very least we need an independent governance working alongside Ofcom to regulate the BBC, but I would go further: I would prefer a totally independent regulator with responsibility for all public service broadcasters, ensuring that they all met their individual remits.

Mr. Wyatt: Given the development of broadband television—not just HomeChoice, but IPTV—there is no doubt that the trend will continue. In the public sector, how would that be regulated under the scheme favoured by the hon. Gentleman?

Mr. Foster: As the hon. Gentleman knows only too well, Ofcom is working on the definition of public service broadcasting. We already have approved public service broadcasters alongside the BBC: ITV and Channels 4 and 5. I do not doubt that in due course other companies will bid for listings to gain the benefits, although they may have to meet the requirements as well.

If there is to be a deal allowing a broadcasting organisation to define itself as a public service broadcaster, in return it must fulfil a remit. That remit will differ from organisation to organisation—just as ITV's remit differs from the BBC's, and Channel 4's differs from Channel 5's—but I believe that a single regulator could deal with all broadcasters that are defined as, and get the benefits of being, public service broadcasters.

Despite that significant area of disagreement with the Green Paper, we broadly support many of its recommendations. We believe that overall, it will protect the BBC and ensure that it continues to be strong, independent and well and securely funded. This country has had such a BBC in the past, and we have seen enormous benefits as a result. It should continue in the very different future that we will see in the next 10 to 15 years.

2.40 pm

Mr. John Grogan (Selby) (Lab): It is a great pleasure to follow the hon. Member for Bath (Mr. Foster), who spoke with typical energy and enthusiasm, although I disagreed with him on a couple of points. For example, so long as the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) occupies his current position, I doubt whether the Elstein report is necessarily dead. We should not underestimate the hon. Gentleman's intellectual vigour and power.

I want to start by briefly quoting *The Observer*:

> "many of the BBC's present popular programmes would have been condemned by the BBC itself five years ago as intolerably shoddy ... What has happened to the ... BBC ideal that the invention of television would make it possible to reunite our splintered modern society by giving a common cultural background?"

That was written in 1960, which is before I was born, although admittedly not long before. As many Members have pointed out, many things have changed in broadcasting since that time. For example, let us consider the point that the hon. Member for Maldon and East Chelmsford made earlier concerning popular good programming. I think it was Sir Hugh Carlton Greene who said that the BBC's mission is to make the good popular and the popular good, and far more people now watch the BBC's quality output, such as the programme on Auschwitz and "Blue Planet". Those programmes have audiences of between 4 million and 5 million, but in the old days of the 1970s, which some people regard as a golden age, perhaps as few as 1 million people watched programmes such as "Civilisation". So in many ways, the BBC has renewed its mission in recent years.

It is a pity that my right hon. Friend the Member for Manchester, Gorton (Sir Gerald Kaufman), who has been a distinguished Chairman of the Culture, Media and Sport Committee, has left the Chamber. I have made two or three attempts to become a member of that Committee in the past eight years, and because I failed, I was not invited to the tremendous dinner that took place the other night. My right hon. Friend was perhaps a little harsh in his assessment of Greg Dyke, the former director-general of the BBC. Everyone has their ups and downs and their pros and cons. My right hon. Friend described BBC4 as his favourite, but that was very much part of the Dyke agenda. Moreover, it is unlikely that Freeview would have been driven through quite so energetically without Greg Dyke's entrepreneurial skill.

Various Members have mentioned sports coverage, and I agree that there is a great deal of competition in that regard these days. Sky Sports does a tremendous job and Channel 4 has made a marvellous contribution, but Greg Dyke revived BBC Sport. There is tremendous pleasure—is there not?—in watching the greatest

national and international sporting events without the interruption of adverts. So there is something to be said for Greg Dyke.

In an intervention on my neighbour the hon. Member for Ryedale (Mr. Greenway), the BBC's digital future was mentioned, as was the question of whether it is advertising its own services too much. The BBC cannot win on this one. The Government have given it the job, at least in part, of getting us to the digital future and of encouraging people to buy Freeview boxes and, hopefully, services such as Freesat. It is true that some BBC digital services have been very successful. For example, the two children's channels are a big driver of such services. Many parents are getting Freeview boxes precisely because they provide children's channels that do not run adverts, and which are of a reasonably high quality in most cases. So in a sense, the BBC has a duty to let licence-fee payers know that such services exist.

Mr. Nigel Evans (Ribble Valley) (Con): Will the hon. Gentleman also congratulate the BBC on the fact that it is moving its children's department to Manchester, and on recognising that everything good does not have to emanate from London? There are regions outside London, and I am sure that the children's department will flourish in Manchester.

Mr. Grogan: The hon. Gentleman makes a very good point. Indeed, if my memory serves me right, BBC Sport and BBC 5 Live will also move to Manchester. The governors will have an interim role to play, in that they will have to sign off the move to Manchester. They said that it was dependent on the outcome of the licence fee settlement, so I suppose that we will have to wait some months yet. The sooner the move happens, the better, and not just for the north-west, as there will also be a ripple effect across the whole of the north of England.

One of the good things about the BBC's moving north is that it might stimulate the independent production market in the north-west and in the north as a whole. Currently, all the top 10 independent production companies are in London. However, we need to introduce some balance into that debate. It is true that independent producers have great virtues in terms of creativity and speed of reaction, but there is also a virtue in the BBC's continuing to be not just a broadcaster of programmes, but a major producer. Over the years, it has had a great training role in the industry and its production departments have been very creative.

I hope that the governors will scrutinise carefully in the next few months the different proposals emanating from BBC management. The hon. Member for Maldon and East Chelmsford mentioned various privatisation proposals, and BBC Resources in London—the technicians—is up for privatisation, as is BBC Worldwide, which is the BBC's play-out function. So in London, at least, the BBC will be left with lots of in-house lawyers but very few in-house technicians. I am not sure that that constitutes the correct balance, particularly given that in the rest of the country, BBC Resources is being kept in-house.

John McDonnell (Hayes and Harlington) (Lab): Does my hon. Friend think that the drive toward maintaining quality of production can be maintained in the light of the proposed overall budget cut of 15 per cent. and the laying off of 3,500 staff?

Mr. Grogan: That is a good question, and the governors have a big role to play in the next few months in ensuring that quality is maintained in areas where cuts and savings are made. For example, a saving of 10 per cent. in respect of some local radio stations could make a big difference to quality.

Mention has already been made of parliamentary coverage, and I am pleased to hear that "Yesterday in Parliament" is safe, but I hope that coverage of political conferences is also safe. Such coverage, which the BBC has previously contemplated cutting back on, is an important function of the BBC. It is important that it maintains a quality presence in those areas, and the governors have a key role to play in insisting on that.

I welcome the many white tinges to the Green Paper. On the licence fee and governance in particular, the BBC needs to start planning almost immediately for the future. I do not believe everything that I read in the papers, but the Secretary of State does appear to have had a considerable political victory, about which I am pleased. Those two chaps Burns and Birt are indeed noble Lords, but they seem to spend far too much time hanging around No. 10, which is good neither for them nor the nation—golf is a good and much-recommended alternative. Their agenda involves slicing up the licence fee and introducing a public service broadcasting commission, but I have doubts about both. If one top-slices the licence fee and gives it to commercial broadcasters, it will be difficult to convince oneself that the programmes that such broadcasters then make would not have been made anyway. That is a fundamental difficulty with that suggestion.

I disagree with the detail of Lords Burns and Birt's proposed public service broadcasting commission in a number of ways. They are suggesting that the chair of the BBC executive board be appointed by the Government. That would be a retrograde step for the BBC's independence. When it comes to the stewardship of the BBC, I believe that the new trust model has much to be commended in exclusively representing licence fee payers. The public service broadcasting commission would have the power, as I understand it, to top-slice the licence fee, which would be for ever hanging over the BBC, leading to confusion and continual lobbying.

I am glad that the Secretary of State decided that Ofcom should not assume a greater role. It is establishing itself as a regulator, among other things, of commercial broadcasting, and the skills involved in that are very different from those required to regulate public service broadcasting.

I had the pleasure of attending a BBC function last night. I have at least two roles in this Parliament: one is chairing the all-party BBC group, the other acting as vice-chair of the all-party Mongolia group. The BBC has just produced a programme on Genghis Khan—classic public service broadcasting that will go out at prime time in April. We had a preview of the programme last night. The BBC is known throughout the world, and in Mongolia particularly, for the World Service and for the output of BBC journalists. I hope that the BBC will produce such quality programmes and put them out at

[Mr. Grogan]

prime time for many years to come. BBC 1 is still the most popular television channel in our nation. It is a channel that people dip in and out of and gain experiences that they would not otherwise have. I commend the Green Paper and hope that it will soon be a White Paper.

2.51 pm

Mr. Andrew Robathan (Blaby) (Con): It is a pleasure to follow the hon. Member for Selby (Mr. Grogan). We last participated in a debate together on Second Reading of the Communications Bill some two and a half years ago, when we clashed slightly. I have always enjoyed his speeches and we shall miss them after the next general election.

I come to this debate as a layman, and I want to express a layman's view. I have to confess—it is a confession, having sat through debates on the Broadcasting Act 1996 and the Communications Act 2003—that I want to convey the impressions of many people in this country, which are certainly borne out by my constituents.

I was brought up on the BBC after the war, when schoolmasters used to tell me about the opening bars of Beethoven's fifth symphony, which presaged the news and used to go out around the world. It was heard by the resistance in France. The BBC was a great national institution of which I and my parents were proud. I thus approach this debate on the BBC more in sorrow than in anger.

I was brought up on Reith and Reithian principles. I was brought up hearing the news read by Alvar Liddell—*[Interruption.]* A bit before my time, perhaps, but I think he was still alive then. I was also brought up on the World Service, which provided a fantastic image of Britain around the world. We always watched the BBC news because is was self-evident that it would be better than any other news provision.

There have been dramatic changes. I realise that the future of the BBC is a very complicated matter. I do not want to go into too much detail about the Green Paper, but to point out how the BBC has changed for the worse. If the BBC can be reformed, so be it, but it does not look much like it at the moment. We have heard about the dumbing down of the BBC, and spending licence payers' money on make-overs of people's houses and gardens is, frankly, pretty shocking—and many of my constituents agree. There is "Fame Academy", whatever that may be! It is certainly not what the BBC was set up to produce.

No longer does the BBC provide what everyone wishes to watch. I watch the World Service, or BBC Worldwide television as I believe it is now sometimes called, from time to time when I am abroad with the International Development Committee. I have to say that it is not producing the image of Britain that I would wish to see portrayed outside this country. I find it extraordinarily politically correct and not at all what I would like to see.

Andy Burnham (Leigh) (Lab): I am trying to follow the thread of the hon. Gentleman's remarks. Does he agree with the recent outburst of his Front-Bench colleague that the BBC is full of dangerous left-wing radicals?

Mr. Robathan: I am not quite sure to which colleague the hon. Gentleman refers.

Andy Burnham: That one—the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale).

Mr. Robathan: As it happens, I recall it being said when I was at Oxford university that if anyone wanted to get a job in the BBC, it was necessary to be really left-wing, because Conservatives do not want to change things, which is not very interesting, whereas the left want to change things. A friend of mine, who is still with the BBC, bears that out. I am not sure whether it is populated with dangerous left-wing radicals, but I suspect that many there are left-wing.

I want to point out, by referring to the Gulf war of 2003, where the BBC has particularly let us down. I supported the Government's position on going to war and, funnily enough, unlike some Labour Members, I still do. Speaking as a former soldier, I understood a little of what was happening on the ground, but I found that BBC reporting seemed more designed to back up the anti-war sentiments and prejudices of some reporters. After hearing that the British Army was "bogged down" and had moved only 100 miles in a couple of days, I eventually switched off the BBC and started watching Sky. I reiterate the point that I am someone who was brought up to believe that the BBC was the best news channel. It was clear that the BBC reporting of the war was biased and, frankly, it still is. I say this not in defence of the Government, but I often notice that, in respect of what is happening in Iraq, the negative aspects covered by BBC journalists are much greater than the positive aspects.

The hon. Member for Leigh (Andy Burnham) asked me about political bias in the BBC. James Naughtie, in a dialogue with a Minister last week on the "Today" programme, spoke about "when we win" the election. I have to say that that is both extraordinary and telling. I do not know James Naughtie, but I do know which way his politics lean. The Government complain about the BBC—we know that it has been critical of the Government from Hutton and so forth—and it is interesting to note that the BBC tends to criticise the Government from the left, not the right.

Many MPs wake up to the "Today" programme. Having reflected on it yesterday, I was driven to participate in today's debate by listening to the "Today" programme this morning. Two things emerged from it. First, the BBC no longer reports the news on a programme such as "Today"; it prefers to make it. This morning, it featured an undercover investigation of an event in a prison in Scotland. I question whether it was right for the BBC to send an undercover reporter there. Is the BBC there to report and inform or to make the news? That seems a perfectly fair question. That problem crops up all the time. The story made the headlines in the news, but it was actually only a story about what the BBC had done.

What will the BBC do next? Will it entice people to break the law? That is not so far-fetched when we discover, as my hon. Friend the Member for Maldon

and East Chelmsford pointed out, that the BBC paid £4,500 to a nasty little criminal who should probably still be in jail. Was that in the public interest? Certainly not, according to the person who wrote the guidelines for the BBC, as was mentioned earlier. What all that boils down to is the vanity and arrogance of the programme makers, who believe that they should set the agenda, they should make the news and they should report it.

The second point that goaded me into making this speech—and, by the way, getting it off my chest—was listening to John Humphrys interviewing Martin McGuiness. John Humphrys is well known as the scourge of politicians. We can all agree with that, and to be fair to him, he was fairly tough with Martin McGuiness this morning—as well he might be, as Martin McGuiness's organisation is almost certainly behind the biggest bank robbery that has ever taken place in this country and is heavily implicated in the murder of Robert McCartney.

John Humphrys had good reason to be fairly tough, and he was. Normally, he would not let a politician get a word in edgeways, but he gave Martin McGuinness well over 30 seconds to make an opening statement. Humphrys is normally tough with politicians and, to be fair, Martin McGuinness at least has some accountability in electoral terms. However, as they say in Belfast, even the dogs in the street know that he is a member of the Provisional IRA's army council, but Humphrys did not ask him about that. The questions that he wanted to ask were quite tough, but more reasoned.

When discussing the murder of Robert McCartney, did Humphrys ask Martin McGuinness about the murders that took place in Londonderry when he was head of the IRA there? That they happened is well documented. My right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley) gave a description in the House last year of an interview that he had with Martin McGuinness in Londonderry in the early 1970s. He said that McGuinness admitted—or boasted, if one wants to put it that way—that he had ordered the deaths of more than 10 Catholics whom he considered to be informers.

I found the interview irritating because Humphrys did not do what he is there to do. He should have asked the difficult questions, but did not. That is what I mean when I say that the BBC's agenda is set by people like him. Their arrogance when challenged is worrying in the extreme. As I said, though, at least Martin McGuinness is elected, as are we. Like us, he can be held accountable, but broadcasters—pace Hutton—are not accountable, except to the BBC charter and Parliament. Therefore, this debate is our opportunity.

John McDonnell: I can understand the traditional allegations that the BBC is pro-Labour, left wing, and all the rest of it, but is the hon. Gentleman really suggesting that John Humphrys and others are supporters of Sinn Fein or the IRA? Does he think that the BBC is some sort of cell of the IRA army council? That would be a bizarre allegation.

Mr. Robathan: I do not think that I even began to suggest that. My point is that although John Humphrys would give people like the hon. Gentleman a hard ride—he would certainly do that to a Minister or a shadow Minister—he did not do the same for Martin McGuinness.

John McDonnell: Will the hon. Gentleman give way again on that point?

Mr. Robathan: Oh, go on then.

John McDonnell: What does the hon. Gentleman conclude from that? Is John Humphrys in some way biased towards Sinn Fein?

Mr. Robathan: I conclude that John Humphrys might be worried about giving the IRA too hard a time. He certainly did not give Martin McGuinness the reasonably hard time that he should have given him.

I believe that the BBC no longer provides the public service broadcasting that it should. Far too much, it follows the whims and ideas of arrogant, self-important and unaccountable broadcasters. Some are very good, and many programmes are also very good, but I want the BBC to uphold Reith's principles much more.

Like my hon. Friend the Member for Maldon and East Chelmsford, I believe that there is a role for public service broadcasting, but we need to consider how it is delivered.

Mr. Evans: My hon. Friend is concentrating on the problems with the BBC, and wants it to do more in respect of public broadcasting. However, Friday is red nose day. Does he accept that the BBC has played a vital role for many years in raising millions of pounds for charity? That money goes to lots of good causes, especially ones that help young people.

Mr. Robathan: I am always delighted and thrilled, of course, when people give money to charity, by whatever means.

I turn now to the licence fee, which I consider to be a wholly outdated tax. I resent it, as do a great many others. It is extraordinary and illogical that the Government should force all citizens with a television to pay a licence fee even if they never watch the BBC, for which that licence fee money pays. As my hon. Friend the Member for Maldon and East Chelmsford said, it is now possible to watch television on a mobile telephone. The licence fee has been left behind by technology, as much as anything else, but it has also outlived its usefulness. I believe that it contributes to the BBC's bloated sense of self-satisfaction. We need to move on and lose some of that bloated organisation.

Finally, I was asked whether I thought that the BBC was made up of dangerous left-wing radicals. When it comes to bias, it is pretty extraordinary that, some years ago, the Government got away with appointing Gavyn Davis as chairman. He has now gone, of course, but it is alleged that he wept at Labour headquarters when Neil Kinnock lost the 1992 general election. His wife is still an adviser to the Chancellor.

The BBC also got away with appointing Greg Dyke, a Labour donor, as director-general. He has many attributes, but he too has moved on. In addition, the Government—and it is no good suggesting that it was

[Mr. Robathan]

not their decision—also got away with appointing a former card-holding member of the Labour party as its political editor. That suggests that there is not as much balance as one might like.

People may say that the Conservative party in government was just as bad, but it was not.

Chris Bryant: What about Sir Christopher Bland?

John McDonnell: Or Marmaduke Hussey?

Mr. Robathan: It is true that Sir Christopher Bland was once a member of the Conservative party, although I do not know whether that is still the case. However, John Birt was appointed BBC director-general when those gentlemen were on watch. That shows the sort of balance that is required, but both have now moved on.

I said that I would speak in lay terms about what a lot of people feel about the BBC, which should not be simply dismissed. Earlier, I went to my office for a pre-arranged meeting, and found on my desk a pile of correspondence. The top letter was from a 70-year-old constituent, a carer in Lutterworth, and I am pretty sure that she is not a member of the Tory party. There are not many in my area, and I know most of them. Her husband is blind and her daughter is deaf, and she cares for both of them. I was amazed at her prescience in writing to me yesterday, and I should like to read some of her letter to the House. She wrote:

"With their lies, they are destroying this country of ours. They stoop at nothing. The BBC is completely controlled by Labour. It's like everything comes straight out of No. 10 which we hear on the news. We have to pay a licence fee and the BBC should be fair. We seldom watch BBC for news."

Of course, that is just one person's view. However, I assure the House that many people in the country feel the same way.

3.7 pm

Chris Bryant (Rhondda) (Lab): It is a pleasure to follow the hon. Member for Blaby (Mr. Robathan), who has spent the past 16 minutes getting things off his chest. I hope that the therapy has been successful—mine is yet to come. He mentioned dangerous left-wing radicals—

Mr. Robathan: Yes!

Chris Bryant: I used to work at the BBC, but it is not often that I am referred to in those terms.

It is dangerous when politicians spend too much time obsessing about the party political affiliations of journalists. It is important that journalists who use the written word—scribblers, so to speak—and those who work in television and radio should be free to have political views of their own. The political correspondent for ITN, for instance, is a former member of the Conservative party. I applaud his professionalism in the conduct of his work. He is a very good broadcaster, and it is best to leave matters of political allegiance to one side.

The hon. Member for Blaby also referred to Sir Christopher Bland, for whom I used to write speeches. Having been a member of the Conservative party, he was first appointed to the post of chair of the BBC governors by the previous Conservative Government. However, it is important to recall that the Labour Government, on coming to power in 1997, reappointed him for a second term.

Mr. Robathan: I concede that the hon. Gentleman is knowledgeable and thoughtful on these matters. However, I believe that the BBC lacks balance, especially given the appointments that I mentioned earlier.

Chris Bryant: The appointment of Gavyn Davis as chairman of the BBC was not a wise move, for some of the reasons outlined by the hon. Gentleman. I thought that he would always have to try to take the side of the BBC, even if that was wrong. There is always a difficulty in appointing someone with a political affiliation to the chairmanship of the BBC, but that does not mean that a chairman must never have had any political views—which seemed to be the way in which the hon. Gentleman was moving—nor do I believe that the BBC should appoint people to senior positions as journalists on the basis of their having or not having political affiliations, or because other people in the organisation have political affiliations that need to be mathematically evened up. It is important that journalists be appointed on merit and nothing else.

I shall return to the main substance of the debate. We are considering the next 10 years of the BBC. The Government have been entirely right in advocating support for the licence fee. Unlike my right hon. Friend the Member for Manchester, Gorton (Sir Gerald Kaufman), I support the licence fee. Elements of it are regressive, because everyone must pay it, so it falls as a greater percentage of income on the poorest people, but it is a good principle because it enables everyone in the country, whether rich or poor, to watch the best programming. That could not be achieved without a universal licence fee, as can be seen in other countries that do not have the same system of funding and rely more on subscription services for providing the best programming.

I believe that although the licence fee may have a regressive tinge, it is important in ensuring— *[Interruption.]* The hon. Member for Blaby has incited the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) to further hyperventilation. His therapy has clearly not finished.

Mr. Whittingdale: I merely question how the hon. Gentleman can possibly say that a flat rate tax of £121, payable by everyone, with no means-tested assistance, has only a tinge of regression.

Chris Bryant: I have already accepted that it is a regressive tax, but the benefits accrue primarily to the poorest people in the country. That is one of the great strengths of the licence fee.

It is important not to succumb to the market failure argument for the licence fee and the BBC. I do not want a BBC that provides only programmes that would not be provided elsewhere, such as Shakespeare, Schiller and Shostakovich. I know from speaking to my

constituents that they value many of the programmes on public service broadcasting that I suspect the hon. Member for Blaby least enjoys—

Michael Fabricant: And does not watch.

Chris Bryant: Yes, so he has no idea whether they are good.

It is important that the licence fee ensures that something is available for everyone. Historically, the BBC devoted too much of its time, energy, budget and creativity on a particular brand of middle England listening and viewing. It is entirely right that in recent years it has been more courageous. One of the best programmes produced by the BBC in recent years, although it is not much watched or commented on, is "Two Pints of Lager and a Packet of Crisps". Everyone in the Chamber seems to be staring at me as though they had never heard of it. It is a fine programme.

We have heard reference to the fact that the BBC makes provision for the cultural elite of the land through BBC4, but that it reaches wider audiences through BBC3. If the licence fee is to be sustainable into the future, it is important that the BBC makes provision for young people and people from different ethnic backgrounds, and not simply to the political class that likes to hear itself on Radio 4 at the end of the day or the next morning.

The licence fee is a good principle, because other methods of funding public service broadcasting around the world simply do not work and are inadequate. Conservative Members have argued that it is important that the licence fee should not be used as a means of rigging competition in the market. They should acknowledge that countries such as Germany, where there is a mixed system with a licence fee and advertising funding, have precisely those problems, but writ large. It is important that the licence fee alone should fund the BBC.

The system of funding public service broadcasting in Holland was changed recently. The licence fee was abolished, and it is now funded with a percentage of tax take every year.

Mr. Siôn Simon (Birmingham, Erdington) (Lab): If the licence fee is important in maintaining what is good about the BBC, which it may be, is it not important by the same logic to get rid of at least part of the licence fee to put right what is wrong with the BBC? If the means of funding protects what is good, does it not also protect what is bad and prevent reform?

Chris Bryant: My hon. Friend makes an important point, and I shall come to some of the dangers of a monolithic BBC. My hon. Friend the Member for Cardiff, West (Kevin Brennan) referred to the BBC sometimes being too focused in London. Similarly, in Wales it is sometimes too focused south of the M4. It is difficult to hear voices from the valleys or north Wales on BBC services.

There are problems with the licence fee, but we must ensure that there is scrutiny, not by politicians trying to tell broadcasters what to put on television, but by exposing them to the scrutiny of those who pay the licence fee and whom we represent. I do not believe that there is much support in the land for advertising to support the BBC's finances. That would make it more difficult for other commercial operators, and as the Government's consultation shows, people value the fact that the BBC is without adverts. They sometimes become irritated by the BBC's adverts for itself, which we hear too regularly now during an evening's broadcasting.

The BBC must be big enough to make a difference in the market. When I worked for the BBC, a taxi driver in Brussels asked me who I worked for. When I said the BBC, he said, "I love the BBC and the programmes it produces, especially 'Inspector Morse', 'Brideshead Revisited' and 'The Jewel in the Crown'." I did not like to tell him that none of those was produced by the BBC.

It is important that the BBC is a large enough organisation and has a large enough pot of money to produce serious quality programmes and to provide competition for quality in the market. That helps other UK broadcasters to rise to a higher standard, because they know that they must compete for audiences on the basis of quality and not just in the bargain basement. However, the BBC should not be a monolith, and one of the problems in recent years has been to ensure that it fulfils its statutory requirement to purchase programming from the independent sector, which can provide the vibrancy, excitement and variety that the internal BBC model simply cannot provide.

Year after year, the BBC failed to reach the 25 per cent. level, which the hon. Member for Ryedale (Mr. Greenway) referred to as a ceiling. It is intended to be not a ceiling but the minimum. If we are to have a strong audiovisual sector throughout the UK, it is important that the BBC moves further out of London and the M25 circle and commissions programmes not just from companies with a brass plate on a door in Banbury and so on, but from companies that are genuinely based further afield around the country. It should increase the amount of commissioning from the independent sector.

It would be remiss of me not to say something about access. My constituents do not have access to Freeview, which cannot be rolled out there until the digital switchover. That is why some 70 per cent. of households have already moved to digital through Sky. However, many cannot afford to take out expensive subscription services. Some might say that we now have the Sky Freesat option, but it is a little like the Holy Ghost—I know that it exists, and I have read about it in lots of publications, but I have never actually seen it.

Kevin Brennan: Like a Tory in the Rhondda.

Chris Bryant: Indeed.

The Sky Freesat option is phenomenally difficult to purchase. Before Christmas, Sky tried to increase the take-up of its services with an enormous publicity campaign, but it did not publicise the Freesat option at all. I hope that the Government will consider pushing the BBC a little further not only to support the Sky Freesat option, but to consider an alternative free satellite option that might allow equal access to all who pay the licence fee.

It is a convention that when we talk about broadcasting we spend nearly all the time talking about television, but radio is a still-growing area of broadcasting in this country and the BBC's radio services are just as important as its television ones. I

[Chris Bryant]

have in mind not only the services that we all listen to, such as Radio 4, Radio 3 and, increasingly perhaps, Radio 2—

Mr. Simon: Radio 5 Live.

Chris Bryant: My hon. Friend is just reminding us of the programmes that he appears on. We should underline that BBC radio should provide a genuine alternative to commercial services, and not always just ape them.

Andy Burnham: My hon. Friend supports the BBC and so do I, but will he accept that in the past 10 to 15 years the BBC has significantly undervalued and underinvested in its local radio services?

Chris Bryant: I am grateful to my hon. Friend because that is precisely the point that I was going to make. The BBC needs to understand that local radio services should mean genuinely local radio services. For example, it is astounding that the BBC in Wales has no ISDN link for people to be able to do interviews anywhere in the valleys or in mid-Wales. That is the sort of issue that the BBC needs to resolve for the future if it is to maintain its regional strength.

The hon. Member for Blaby mentioned the World Service briefly, and it is an important part of Britain's contribution to the world. One need not talk to many politicians in countries that have experienced dictatorships or restrictions on state broadcasters to realise what an important part the BBC has played, through the World Service, in maintaining Britain's reputation and enhancing human rights. However, I wish the BBC had more freedom to provide a better international television service. Perhaps my right hon. Friend the Secretary of State could address that point when she winds up. I would like to see a BBC television world service, because that could offer the world something very significant.

3.23 pm

Michael Fabricant (Lichfield) (Con): It is a pleasure to follow the hon. Member for Rhondda (Chris Bryant), who is knowledgeable about BBC matters, although I do not always agree with him. I share with him the privilege of working under the chairmanship of the right hon. Member for Manchester, Gorton (Sir Gerald Kaufman). I joined the National Heritage Select Committee—now the Culture, Media and Sport Committee—in 1992 and I have been a member since, apart from a brief aberration when I joined the Home Affairs Committee.

The BBC is a subject to which we often return, and it is interesting that in this debate we have come to praise the BBC, not to bury it. Although some hon. Members have expressed their disquiet about individual aspects of the BBC, we all recognise that, as someone said earlier, the BBC is the pre-eminent public sector broadcaster, not only in the UK but in the world—

Mr. Don Foster: That was me.

Michael Fabricant: Another hon. Member demonstrated that he spends much time outside the Chamber travelling by mentioning that the South African Broadcasting Corporation had only recently praised the BBC model—

Mr. Foster: That was me, too.

Michael Fabricant: Well, I am delighted that the hon. Gentleman has come to visit the Chamber today.

Not everything is rosy in the garden. There have been changes in the environment, as the right hon. Member for Manchester, Gorton said. In 1998, all broadcasting was analogue, but now more than half of all television transmissions are received digitally. The Government have a programme for analogue switch-off, but as the right hon. Gentleman also pointed out, we must ensure that we do not develop a digital divide that prevents people from viewing television when all analogue transmitters are switched off—in the same way that we do not want a digital divide in access to the worldwide web. The Committee addressed that issue in its report, "A public BBC".

The licence fee has been debated since the start of the National Heritage Select Committee. We all—at least, all of us bar one—accept that the licence fee is a regressive tax. My hon. Friend the Member for Maldon and East Chelmsford (Mr. Whittingdale) described it as a poll tax. However, we must accept that it is the least worst way to fund the BBC. No one has so far pointed out the effect on ITV and Channels 4 and 5 if the BBC were funded by advertising. The advertising cake is a defined size and if the BBC were to take just a £1 billion slice, let alone the amount it receives at the moment, it would cripple all forms of terrestrial commercial broadcasting, which at the moment offers a counterbalance to the BBC. We may not like that, but it is economic fact.

I emphasise how pleased I am that the Secretary of State has rejected the ridiculous idea of top-slicing. It would have created real political pressure on the BBC and the Government's wish for

"A strong BBC, independent of government"

would not have been maintained.

The Government have severely passed the buck on the trustees. Whether the trustees will work as independent arbiters is not the point. The point is that justice has to be seen to be done. When complaints are made against the BBC by individual viewers and listeners, or by commercial organisations who feel that the BBC is competing unfairly, a final adjudication by the governors of the BBC is never seen to be fair whether the BBC is judged guilty or not. My fear—indeed, my prediction—is that whether the trustees are independent or not, their adjudication will not be seen as fair. The trustees will be seen as an integral part of the BBC, no matter how hard we try to ensure a distance. The only way to ensure that the BBC is seen to be judged fairly is to allow an independent organisation to adjudicate. That might be a Beebcom or Ofcom, although many members of the Committee believed that the latter has enough to deal with without adding the BBC.

We must also consider the BBC's provision of programming. My hon. Friend the Member for Ribble Valley (Mr. Evans) has asked me to emphasise yet again the good work that the BBC does to encourage charitable contributions, such as red nose day. Of

course, the coverage that the BBC gave to the tsunami was one of the reasons why so much money was raised for that. It is worth remembering that the BBC was able to cover that event well—not just at the time, but in the immediate aftermath—because of the large number of its broadcasters and correspondents based overseas. Let us remind ourselves that the BBC has more foreign correspondents than CNN, all three American television networks—ABC, CBS and NBC—Fox and the Australian Broadcasting Corporation combined. The BBC provides a tremendous resource through not only the World Service, which several hon. Members have commended, but its correspondents, who are seen on television stations in America and throughout the world via news syndication. They promote the values of not only the BBC, but Britain.

The Green Paper, which followed on closely from the Select Committee report, had a lot of good in it. However, it does not address the main problems that face the BBC or the population's perception of it. I hope that the Secretary of State will be able to respond to those points and, especially, tell us how the board of trustees will be seen to be independent and separate from the corporation's management.

3.31 pm

The Secretary of State for Culture, Media and Sport (Tessa Jowell): I pay tribute to hon. Members on both sides of the House who have contributed to the debate. Let us remember that we are debating both a Select Committee report and a Green Paper. Hon. Members will not need reminding that Green Papers are Government proposals for further consultation, and I think that our debate has made a significant contribution to that process.

Before I deal with the substantive matters that have been raised, I join other hon. Members in paying the warmest possible tribute to the distinguished leadership of the Select Committee provided by my right hon. Friend the Member for Manchester, Gorton (Sir Gerald Kaufman). In addition to inspiring our awe and putting us on our mettle, he has earned our affection and greatest possible respect for the seriousness with which he has treated each of the many subjects that his Committee has investigated and the loyalty that he has attracted. The Committee's reports are taken seriously by not only my Department, but the many interested bodies—one might say stakeholders—in the wider industry. He has a remarkable and distinguished record and we are all in his debt.

I would also like to thank Lord Burns, who has been the independent adviser during the process of charter review. He has done an invaluable job, together with the literally thousands of members of the public—the licence fee payers—who have contributed to the consultation.

Let me begin by setting out the context in which the charter review and the Select Committee report are being considered. Debates about the BBC sometimes seem to be predicated on the question of what we should do about it, almost as if it is somehow an unintended consequence of our broadcasting policy. Let me make it absolutely clear that successive Governments have supported, albeit in different ways, a BBC that represents a substantial intervention in the broadcasting market. That has the consequence that policy, and especially and increasingly competition policy, must be adapted to fit in with that fact. That situation exists because the BBC enjoys great support among the British people. A high level of support for the BBC was dramatically shown in the consultation and polling that we undertook.

The BBC underpins the principle of universal access to free-to-air broadcasting, which is important for this country. As the debate has reflected, we are well aware of the challenges to that founding principle that are created by the growth of digital television. The Government and the Opposition strongly support that growth—or revolution—because the British people also back it. However, as we navigate our way towards a wholly digital Britain, we will have to ensure that the principle of free-to-air access is not lost. It will be a challenge to ensure that vulnerable and elderly people and those on low incomes continue to enjoy such access. Hon. Members will know from the research that has been published that an enormous amount of work is being done to ensure that we get the situation right. We need to deal with the important individual elements that will make this big policy work, so the timetable for switchover will be finally confirmed only towards the end of the year.

We should not underestimate the trust that people put in the BBC. The hon. Member for Lichfield (Michael Fabricant) referred to its coverage of the tsunami. We know that there is a clear settlement in this country. People understand that when they buy their newspapers, which are part of our free and unregulated press, they are increasingly buying opinions. When they turn on television or radio news, however, they expect to hear impartial news that presents fact. That explains the importance of the impartiality and accuracy requirements that we place on our public service broadcasters.

My right hon. Friend the Member for Manchester, Gorton made an important point about future-proofing the BBC's structure, although I know that he will not like that term. The currents incumbents in the posts of chairman and director-general are excellent. The structure must be flexible enough to adapt to the changes that the BBC will be called on to make between now and switchover. Like any functional organisation, the BBC is not built around the identity or skills of the present incumbents. I am confident that the structure will ensure that.

The BBC will have a critical role in leading the digital revolution and securing universal cover through digital terrestrial television. Pursuance of free-to-air universal access is an important objective and I take all the points that have been made about the benefits of Freesat. I hope that we shall begin to see competition in the development of the free satellite offer to supplement and create choice.

Andy Burnham: My right hon. Friend is describing the broad policy context in which the BBC operates. The future of the BBC will in part be shaped by the future of ITV and she will know that today ITV announced a 57 per cent. increase in profits. She will also know that during the recent Ofcom review of public service obligations, Members were given a clear commitment

[Andy Burnham]

about regional programming, so does she share my shock at the revelation that ITV plans to axe the Sunday politics programme from its autumn schedule?

Tessa Jowell: I cannot deal with the specific programme decision to which my hon. Friend refers, but I can put on the record, in the strongest possible terms, the House's agreement to ITV's public service broadcasting obligations. ITV has clear obligations in relation to regional broadcasting and the whole House will expect the company to stand by them.

Mr. Evans: As a north-west MP, too, I stress the importance of the ITV regional politics programme to us. Although we cannot expect the Minister to give us an answer about the security of that programme in the future, the "Sunday Supplement" could at least tell its viewers that the company believes in regional broadcasting and that it has a social obligation to ensure that politics in the north-west is given fair air time in the Granada region. The viewers should be told on Sunday that the future of the programme is assured.

Tessa Jowell: The hon. Gentleman is right. I hope that ITV and the regulator, who oversees compliance with the public service broadcasting obligation, will have heard both those interventions.

Time is short, so I shall quickly go through the remainder of my concluding remarks. The role of the BBC in not acting in a gratuitously competitive way in relation to other broadcasters is an important part of retaining plurality in broadcasting. The new regime set out in the Green Paper provides clear strictures, including service licences, fining and the window of creative competition, to constrain what has, in the past, been unacceptably predatory competitive behaviour by the BBC. I underline my support for the comments made by several Members about the important contribution of the independent sector. The BBC licence fee should be seen as venture capital for creativity in this nation. There are great possibilities, as yet underdeveloped, for the independent sector to make a contribution.

Three models for changes to governance were set out in the Green Paper: the BBC's preferred model, which relied on behaviour change; the Burns panel model which envisaged a plc structure that was Higgs-compliant; and the model we opted for, which is a BBC-specific solution—the BBC trust. The House should understand the radical nature of both the change and the challenge that it poses the BBC. The model deals with the unsustainability of the present position, whereby the governors of the BBC are both its cheerleaders and its regulators, but it does something else as well. It sets out the accountability of the BBC trust and its members to the licence fee payer. That is explicit. It was only after careful consideration of the Select Committee's alternative recommendation that we reached that conclusion.

The final point in deciding on the governance model we chose was to secure the strength and independence of the BBC—not to create a model that moved the BBC nearer to the Government but one that brought it closer to the licence fee payer. There has been considerable discussion of the licence fee in the debate. The licence fee will fund the BBC for the next 10 years but with two important break points. The first will be to determine its level. The second relates to alternative models of funding in the knowledge of the impact of switchover and whether licence fee payments should be used to ensure plurality in public service broadcasting.

The structure that we have proposed and the options we have considered provide the BBC with the strength and flexibility to meet the great challenges it will face over the next 10 years. Most of all, the confidence and faith held in the BBC by its licence fee payers recall the founding Reithian values—the BBC's role to educate, inform and entertain. I would summarise that as being a good example of traditional values in a modern setting—

It being three hours after the commencement of proceedings on the motion, MADAM DEPUTY SPEAKER *put the Question necessary to dispose of proceedings, pursuant to Standing Order No.54 (5) (Consideration of estimates) and Order [7 March].*

Resolved,

Department for Culture, Media and Sport

That, for the year ending with 31st March 2005, for expenditure by the Department for Culture, Media and Sport—

(1) further resources, not exceeding £63,523,000, be authorised for use as set out in HC 325,

(2) a further sum, not exceeding £65,461,000, be granted to Her Majesty out of the Consolidated Fund to meet the costs as so set out, and

(3) limits as so set out be set on appropriations in aid.

MADAM DEPUTY SPEAKER *proceeded to put forthwith the Questions relating to Estimates which she was directed to put at that hour, pursuant to Standing Order No. 55 (1) and (3) (Questions on voting of estimates, &c.) and Order [7 March].*

ESTIMATES, 2005–06 (NAVY) VOTE A

Resolved,

That, during the year ending with 31st March 2006, a number not exceeding 44,180 all ranks be maintained for Naval Service and that numbers in the Reserve Naval and Marine Forces be authorised for the purposes of Parts 1, 3, 4 and 5 of the Reserve Forces Act 1996 up to the maximum numbers set out in HC 291 of this Session.

ESTIMATES, 2005–06 (ARMY) VOTE A

Resolved,

That, during the year ending with 31st March 2006, a number not exceeding 128,945 all ranks be maintained for Army Service and that numbers in the Reserve Land Forces be authorised for the purposes of Parts 1, 3, 4 and 5 of the Reserve Forces Act 1996 up to the maximum numbers set out in HC 291 of this Session.

ESTIMATES, 2005–06 (AIR) VOTE A

Resolved,

That, during the year ending with 31st March 2006, a number not exceeding 56,140 all ranks be maintained for Air Force Service and that numbers in the Reserve Air Forces be authorised for the purposes of Parts 1, 3, 4 and 5 of the Reserve Forces Act 1996 up to the maximum numbers set out in HC 291 of this Session.

ESTIMATES, EXCESSES, 2003–04

Resolved,

That, for the year that ended with 31st March 2004—

(1) resources, not exceeding £69,497,995,67, be authorised for use to make good excesses of certain resources for defence and civil services as set out in HC 324;

(2) a sum, not exceeding £67,597,194.64, be granted to Her Majesty out of the Consolidated Fund to make good excesses of certain grants for defence and civil services as so set out; and

(3) limits as so set out be set on appropriations in aid.

SUPPLEMENTARY ESTIMATES, 2004–05

Resolved,

That, for the year ending with 31st March 2005—

(1) further resources, not exceeding £7,003,959,000, be authorised for defence and civil services as set out in HC 325,

(2) a further sum, not exceeding £6,008,327,000, be granted to Her Majesty out of the Consolidated Fund to meet the costs of defence and civil services as so set out; and

(3) limits as so set out be set on appropriations in aid.

Ordered,

That a Bill be brought in upon the foregoing resolutions relating to Supplementary Estimates, 2004–05, and Excesses, 2003–04, and the resolutions of 9th December relating to Supplementary Estimates, 2004–05: And that the Chairman of Ways and Means, Mr. Chancellor of the Exchequer, Mr. Paul Boateng, Dawn Primarolo, Mr. Stephen Timms and John Healey do prepare and bring it in.

CONSOLIDATED FUND (APPROPRIATION) BILL

Mr. Stephen Timms accordingly presented a Bill to authorise the use of resources for the service of the years ending with 31st March 2004 and 31st March 2005 and to apply certain sums out of the Consolidated Fund to the service of the years ending with 31st March 2004 and 31st March 2005; and to appropriate the supply authorised in this Session of Parliament for the service of the years ending with 31st March 2004 and 31st March 2005: And the same was read the first time; and ordered to be read a Second time tomorrow, and to be printed. Explanatory notes to be printed. [Bill 81].

PREVENTION OF TERRORISM BILL (PROGRAMME) (NO. 3)

Motion made, and Question put forthwith, pursuant to Standing Order 83A(6) (Programme motions),

That the following provisions shall apply to the Prevention of Terrorism Bill for the purpose of supplementing the Orders of 23rd February 2005 (Prevention of Terrorism Bill (Programme)) and 28th February 2005 (Prevention of Terrorism Bill (Programme) (No. 2))–

Consideration of Lords Amendments

1. Any Message from the Lords may be considered forthwith without any Question being put.

2. Proceedings on consideration of any Lords Amendments which may be received shall (so far as not previously concluded) be brought to a conclusion three hours after their commencement or at the moment of interruption at this day's sitting, whichever is the later.

Subsequent stages

3. Any further Messages from the Lords may be considered forthwith without any Question being put.

4. The proceedings on any further Message from the Lords shall (so far as not previously concluded) be brought to a conclusion one hour after their commencement.—*[Mr. Jim Murphy.]*

The House divided: Ayes 336, Noes 226.

Division No. 121] **[3.48 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Connarty, Michael
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Follett, Barbara
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gerrard, Neil
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*

Henderson, Ivan *(Harwich)*
Hendrick, Mark
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Mitchell, Austin *(Gt Grimsby)*
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Mr. Tom Watson and James Purnell

NOES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Browning, Mrs Angela
Bruce, Malcolm
Burns, Simon
Burnside, David
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, rh Denzil *(Llanelli)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric

Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
McLoughlin, Patrick
Malins, Humfrey
Marsden, Paul *(Shrewsbury & Atcham)*
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and Gregory Barker

Question accordingly agreed to.

Orders of the Day

Prevention of Terrorism Bill

Lords amendments considered.

Madam Deputy Speaker (Sylvia Heal): I must inform the House that a message has been brought from the Lords as follows. The Lords agree to the Prevention of Terrorism Bill with amendments, to which they desire the agreement of the Commons. Copies of the Lords amendments are available in the Vote Office.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): On a point of order, Madam Deputy Speaker. It appears that the House will not have access to a document that is relevant to Lords amendment No. 42, which is one of the amendments that you have selected for debate this afternoon. That document is the draft rules that the Lord Chancellor would impose on the High Court under the provisions of the amendment. The document exists and has been shown to various people on a consultative basis. I see no reason why it could not be made available to Members generally because of its extreme relevance to the matter under discussion. Could you encourage Ministers to make it available? When a power to make rules is being introduced, if those rules already exist in draft form the House is normally given the details. A Minister from the Lord Chancellor's Department is present, as is the Leader of the House. Perhaps they might assist you by indicating that they could make the document available.

Madam Deputy Speaker: I must inform the right hon. Gentleman that I have no knowledge of the point of order that he has raised with the Chair.

Mr. Oliver Heald (North-East Hertfordshire) (Con): Further to that point of order, Madam Deputy Speaker. I understood that it was the correct principle in the Chamber that if a document is referred to by a Minister and it is a state paper, it should be made available to the House for debate. Clearly, if it is referred to in an amendment, it is obviously being referred to by a Minister, so in those circumstances would you rule that a state paper, such as the draft rules that are to apply in the High Court in respect of a provision before us, should be made available? After all, it is an odd proceeding that we are having on the Bill, and if documents are available why on earth should we not have them? You will remember that it was the Lord Chancellor's Department that let us down so very badly over the Mental Capacity Bill, when documents were made available not to all Members of the House, but only to some Members. Is it not time for an end to this and for the document to be made available now?

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): Further to that point of order, Madam Deputy Speaker. The amendment that stands in my name, which calls for due process, has been selected. The draft rules may touch on the territory covered by my amendment, in which case the House needs to see the draft rules before it can seriously consider my amendment.

Madam Deputy Speaker: As I said earlier, I have no knowledge of the matter and do not know whether the document is a state paper, but Ministers on the Treasury Bench have heard what has been said. The right hon. and learned Gentleman's latter point may well be pursued in the course of the debate.

I inform the House that all Lords amendments, and amendments to those amendments, will be included in the scope of the debate.

Clause 1

POWER TO MAKE CONTROL ORDERS

Lords amendment: No. 1.

4.5 pm

The Secretary of State for the Home Department (Mr. Charles Clarke): I beg to move, That this House disagrees with the Lords in the said amendment.

Madam Deputy Speaker: With this it will be convenient to discuss Government amendments (a) to (c) thereto, Lords amendments Nos. 2 to 5, Lords amendment No. 6 and Government motion to disagree, Lords amendment No. 7, Lords amendment No. 8, Government motion to disagree and amendment (a), Lords amendment No. 9 and Government motion to disagree, Lords amendments Nos. 10 and 11, Lords amendments Nos. 12 and 13 and Government motions to disagree, Lords amendment No. 14, Lords amendment No. 15 and Government motion to disagree, Lords amendment No. 16 and Government amendments (a) to (g) thereto, Lords amendment No. 17, Government motion to disagree and Government amendments (a) to (f) to the words so restored to the Bill, Lords amendments Nos. 18 to 21, Lords amendment No. 22 and Government motion to disagree, Lords amendment No. 23 and Government amendment (a) thereto, Lords amendments Nos. 24 to 26, Lords amendment Nos. 27 and 28 and Government motions to disagree, Lords amendments Nos. 29 and 30, Lords amendment Nos. 31 and 32 and Government motions to disagree, Lords amendment No. 33, Government motion to disagree and Government amendments (a) to (c) in lieu, Lords amendments Nos. 34 to 36, Lords amendment No. 37 and Government motion to disagree, Government amendments (a) to (o) in lieu of Lords amendments Nos. 8, 9, 12, 13, 15, 17, 22, 28 and 37, Lords amendments Nos. 38 to 40 and Government motions to disagree, Lords amendment No. 41, Lords amendment No. 42, Government motion to disagree and Government amendments (a) to (c) in lieu, and Lords amendment No. 43.

Mr. Clarke: There has already been a substantial debate and I intend to address four key issues. First, who should make control orders and are the procedures fair? Secondly, what are the prospects for prosecution in any of the cases in which a control order is being considered? Thirdly, what should be the burden of proof in relation to any of those control orders? Fourthly, should those powers be—in the colloquial—sunseted, so that they expire at some given point in the future? I shall take each of those four key points in turn, which will deal with the bulk of the Lords amendments, and I shall deal with other points in my winding-up remarks.

Simon Hughes (Southwark, North and Bermondsey) (LD): Will the Secretary of State allow me?

Mr. Clarke: No, not at this stage.

On the first point—who should make control orders and are the procedures fair—the Government still believe that there are three reasons why the Secretary of State should make the orders. First, the protection of national security is the responsibility of the Government. Secondly, there is no legal or constitutional principle that the Secretary of State—the Executive—cannot make such orders, and there is nothing in the law or in the European convention on human rights that requires the judiciary to make such orders. Thirdly, making control orders requires not only an examination of factual matters, but an analysis of the overall security situation and assessments of the risks posed by a particular individual and of what measures are necessary and appropriate to meet those risks in order to prevent that individual from continuing to carry out his or her terrorist-related activity.

That requires the careful sifting of a wide range of intelligence material. Inferences must be drawn, evaluations must be made of the weight to be placed on what is often a mass of small pieces of information that have been brought together and painstakingly checked against each other, and an assessment must be made of the impact of those things upon national security. In the past, Governments of all parties have taken the view that the Secretary of State is better placed than the courts to make assessments related to the national interest.

That said, I have listened carefully to all that has been said in this House, particularly from the Government Benches in another place and elsewhere. I wholly understand the concerns of those who want greater judicial involvement in the order-making process, so that the rights of those made subject to such orders are properly considered and protected and that the measures imposed on them are appropriate and proportionate. That is why, in relation to derogating control orders, I said in Committee that the Government would introduce amendments in another place so as to provide for derogating control orders to be made by a judge of the High Court on an application by the Secretary of State. That was in recognition of the fact that derogating orders would be the most serious orders because they were the ones that would impose obligations which amounted to a deprivation of liberty.

The order-making procedure for derogating control orders that I propose is set out in the amendments before this House. In summary, the security services and the police will put together the case for an order and identify the measures they think necessary to prevent the individual in question from continuing to carry out terrorist-related activities. The Home Secretary or other Secretary of State will then look at the case and as part of that process—I want to emphasise this point—ask whether the police, in consultation with the prosecuting authorities, have considered whether there is a realistic prospect of prosecuting the individual for terrorist or other offences.

If the Home Secretary or other Secretary of State thinks that the test for making a derogation order is made, an application will be made, ex parte, to the High Court for the court to make the order. If the court thinks that there is material which, if not disproved, is sufficient to justify the order being made, it will make the order and refer it immediately for a full inter partes hearing as quickly as possible. At each stage, the court will be able to look at all the material relevant to the case and to examine witnesses. At the full hearing, the defence will have the open material in a Secretary of State's case. The person who is to be subject to the order will be represented at the full hearing by the legal representative of his choice in open sessions and by a special advocate in closed sessions. The special advocate will have access to all the closed material.

The court's judgment will be in two halves—open and closed—and the subject of the order will see the court's open judgment.

Mr. Beith: The Home Secretary may not have had the opportunity to look at the evidence given by the Attorney-General to the Constitutional Affairs Committee yesterday, which has been published today. It was clear from that evidence that the special advocate procedure needs to be improved in various ways to enable advocates to have the assistance they need and to give them a means of communicating with the defendant on matters that he might be able to refute if he knew what was being alleged. Does the Home Secretary have anything to say about the Government's thinking on that?

Mr. Clarke: The right hon. Gentleman is correct. Indeed, I said in Committee and confirm again now that Lord Carlile made a number of recommendations in relation to that in his review of the procedure. My right hon. Friend the Attorney-General has also made such recommendations, which I believe that he discussed with the Select Committee to which the right hon. Gentleman refers. I can confirm, as did my noble Friend the Attorney-General, that we believe that there are aspects of the procedure that need to be improved, and that is the process that he set out yesterday in his evidence to the Committee.

Mr. David Trimble (Upper Bann) (UUP): The Home Secretary is dealing with the procedures in court. Can he go into detail about the extent to which he has consulted with judges on those procedures, and is he absolutely sure that they are willing to operate this system? I recollect that when something similar was proposed in Northern Ireland many years ago, the judges there made it clear that they would not operate a system of that nature.

Mr. Clarke: I have had discussions with some judges. My noble Friend the Lord Chancellor has had specific discussions with judges, including in Northern Ireland, on precisely the questions that the right hon. Gentleman raises. My understanding is that judges are ready to carry out the will of Parliament in these matters and to carry this through—although it is true, as I said in Committee and have said elsewhere, that some of the most senior judges in the land have their doubts about whether this is the most appropriate process. That was one of the principal reasons why I was concerned at earlier stages of the debate not to give way on the arguments about judicial decision-making in this area. I was aware that some very senior judges had concerns about these matters. However, I am clear that their view is that they will carry out the will of Parliament, as they rightly should.

4.15 pm

Mr. Kenneth Clarke (Rushcliffe) (Con): The Home Secretary briefly referred to the prospect of prosecution as an alternative to the process that we are considering. In the past, he has agreed that, when possible, prosecution is preferable, as in the case of the shoe bomber. Do I understand him correctly that the key consideration will be whether the police and the prosecuting authorities, having been asked by the Home Secretary to examine the matter, believe that prosecution is preferable or possible? Is not that open to the danger that they will decide that some evidence is a bit thin, some witnesses are a bit unreliable, there is plenty of suspicion and therefore a more certain outcome could be secured if they go for the procedure for which the measure provides? Although I accept that some people cannot be prosecuted, would it not be better to ask a judge to consider whether the case should be proceeded with in the way that we are discussing, or sent back to the prosecuting authorities to bring an ordinary prosecution?

Mr. Charles Clarke: The right hon. and learned Gentleman used the words "preferable" and "possible". Our position is clear. It has been clearly set out and I confirm it today: it is always preferable to prosecute. In the Gloucester shoe bombing case that he mentioned, and in other cases, prosecution is best way in which to proceed. The Home Secretary will seek advice on whether it is possible to prosecute, but I emphasise that it will always be preferable to do so.

The right hon. and learned Gentleman asked whether I believed that it was appropriate for a judge to decide whether a prosecution should take place. The House would move down a dangerous path if we suggested that, above and beyond the responsibilities that the proposals give judges, we should give them the power to decide whether a prosecution was appropriate. I believe that it is rightly for the Executive—the Secretary of State in the circumstances that we are considering—to make a decision, based on advice.

Mr. Mark Oaten (Winchester) (LD): Is it now the Home Secretary's position that he is prepared to consider circumstances in which defendants could hear the charge against them in closed session? Does he acknowledge that even if we have judges in place, on matters of fact defendants should be able at least to make their case against that fact?

Mr. Clarke: I have not concluded my comments on derogated control orders. I believe that the rest of my remarks will cover the hon. Gentleman's question, but I shall come back to him if he feels that they have not.

Vera Baird (Redcar) (Lab): I want to revert to the question of special advocates. Two things need to be done. First, defendants in such cases typically will not even talk to special advocates because they are appointed by the Solicitor-General, who is close to the Attorney-General who sometimes opposes the applications. Is it not possible for a special advocates list of security-cleared barristers to be drawn up so that defendants can pick their own?

Secondly, special advocates need to be able to consult their clients to get instructions after they have seen the intelligence material. Is it not possible for a discussion to take place between the special advocate and the judge, in the hope that some questions can be asked without posing a danger to intelligence, thus giving the defendant a fairer crack of the whip?

Mr. Clarke: My hon. and learned Friend has made two perfectly appropriate proposals: first, that the defendant should have a better choice of special advocate to represent him or her; and secondly, that the defendant should have more information about the hearing as it proceeds. Both are precisely the sort of proposal to which I referred in response to the right hon. Gentleman for the north-east of England—[HON. MEMBERS: "Berwick-upon-Tweed."] I believe that "not quite Scotland" is the place. The proposals are helpful and can be tackled in the dialogue that was mentioned a second ago.

I believe that the procedure that I have outlined is appropriate, given the seriousness of derogating orders, and that it meets the concerns that were expressed in the House for judicial involvement in their making. Hon. Members will note that there could be a gap in time between my applying for a derogating control order and the court's making it. It is possible that, in that short time, the subject of the proposed order could be tipped off or disappear because he had made travel arrangements. I therefore included in the Bill a power for the police to arrest and detain an individual pending the outcome of a court's consideration of an application for an order and, if made, pending it being served.

Mr. William Cash (Stone) (Con): Will the Home Secretary give way?

Mr. Clarke: Not at the moment. The power of detention lasts for a maximum of 48 hours in the first instance. The court can extend that for up to a further 48 hours. I do not anticipate that it will be used often, but we should not allow the purpose of the order to be thwarted by the disappearance of its subject in the interim.

The proposals fulfil the commitment that I made to hon. Members in Committee to introduce changes in derogating control orders. They are reflected in the Lords amendments that are now before us.

Mr. Cash: I believe that the Home Secretary has to have prime position with regard to the question of whether an executive action against terrorist suspects is involved and has to be sustained. Does he accept that the mess that has been created by the Bill has been the result of our accepting the European convention on human rights, which is at the heart—*[Interruption.]*

Madam Deputy Speaker: Order. The scope of this debate is quite wide, but hon. Members must speak to the amendments on the Order Paper.

Mr. Clarke: The whole House will admire the persistence with which the hon. Gentleman makes his purblind case.I strongly believe that, in relation to the Bill and to other issues more generally, the Human Rights Act 1998 represents a major step forward in the structure of law in this country, and that it has benefited people in this country. The difficult questions that have to be resolved—and they are difficult—on the balance

between national security and liberty have been assisted by the Act, by the work of the Joint Committee on Human Rights and by the discussions that we have had in the House. I pay tribute to hon. Members on both sides of the House who have played a role in ensuring that we get better scrutiny of these difficult issues. I have concluded very carefully that the protections afforded to the individual in the legislation that we are proposing, which follows the Human Rights Act, are vastly superior to any protections that existed in any legislation when the Conservatives were in government. I acknowledge that there are issues still to be addressed, but let us not hide the progress that has been made.

Mr. Dominic Grieve (Beaconsfield) (Con): I note that the Government are seeking to reverse Lords amendment No. 40, which provides for fairness in the process, in compliance with article 6 of the European convention on human rights. Why are the Government seeking to do that if they intend these procedures to be compliant?

Mr. Clarke: I shall come to that amendment later in my speech, and I shall deal with the hon. Gentleman's question then.

I come now to non-derogating control orders. Colleagues in the House of Commons and in the other place have suggested that the High Court should make non-derogating control orders, as well as derogating control orders, and have amended the Bill accordingly. Again, I have considered the matter carefully and I understand the strong opinions that have been expressed. I remain of the view that these orders are different in nature from derogating orders, but I accept that some measure of judicial involvement in the process is necessary and desirable.

My amendments, which I laid before the House this morning, therefore provide that the Secretary of State must apply to the High Court for permission to make a non-derogating order, save where urgent action is required. I shall explain a little more about what I mean by "urgent action" in a moment. The normal process for making non-derogating control orders will therefore work in the following way. The Security Service and the police will put a case together, as I have already described. If the Secretary of State thinks that the test is met, an application to the High Court for leave to make the order will be made. If the court agrees that the Secretary of State has a case, it will give the Secretary of State permission to make the order, and the order will be made. The Secretary of State will then refer the order to the court, which will arrange for a full hearing to take place as soon as possible thereafter. If the court refuses leave, the order will not be made.

At the full hearing, the court will consider all the material before it, examine witnesses, and so on. It will be able to hear the case in both open and closed sessions. As with derogating control orders, the subject will have access to the open material, and his or her interests will be represented by the counsel of his or her choice in open session, and by a special advocate in closed session under the special advocate procedure. I acknowledge the points raised by my hon. and learned Friend the Member for Redcar (Vera Baird) about trying to improve that process. Again, the subject of the order will have access to the open judgment.

David Winnick (Walsall, North) (Lab): As someone who broadly supports the Bill, I should like to remind the House that this is the first anniversary of the atrocities that occurred in Madrid. Will my right hon. Friend explain why, when some of us who are in favour of the Bill pressed for this measure to be included last week, he absolutely refused to do so? That is why quite a number of us voted against the Government. Why has he now conceded to the Lords when he should have conceded to us last week? It is quite obvious that what he is now proposing is right and justified, and that it is what so many of us were urging him to do last week.

Mr. Clarke: I am delighted by and grateful for my hon. Friend's ringing endorsement of my proposal. In candour, there are two reasons why I have changed my position since the debate last week.

First, I believed that it was important to have an urgency procedure, which I shall set out. The direct proposal considered by the House last week did not have such an urgency procedure and there was a risk that certain people to whom it might be necessary to apply a control order would no longer be there.

Secondly, I set out last week, and again today, that I do not feel that judicial involvement at the first stage, in the way that is suggested, is necessarily the best way to proceed. I acknowledge, however, the strength of opinion both in this place in last week's vote and in the other place. That is a necessary process of parliamentary discussion as it moves forward. I have therefore taken account of that. I could take the course of stating my position and never changing it under any circumstances, but that would not be the right way of dealing with such matters. We are seeking some consensus on this legislation and that is why I have changed my view.

Mr. Robert Marshall-Andrews (Medway) (Lab): What concerns me is the idea that the proposal is in some way a concession. Is it not right that the power of the court is expressly limited to the power of judicial review? If that is the case, the court has no overriding jurisdiction over matters of fact—it is limited to law and procedure. The Home Secretary knows that very well. Why has that not been brought out?

Mr. Clarke: I will come to the points on judicial review in a moment.

On derogating control orders, my hon. and learned Friend is wrong. The proposals on derogating control orders and judicial involvement relate entirely to the judgment on matters of fact to which he refers. On non-derogating control orders, it is not the case that judicial review does not have power—it certainly does. I will come to that in a moment.

On urgency, there may be urgent cases in which waiting for permission from the court is not an option. In such circumstances, we need to take action immediately. I propose that the Secretary of State should be able to make the order immediately. The Secretary of State would immediately have to certify the urgency of the case on the order, and it would then take

[Mr. Clarke]

effect immediately. When such an urgent procedure is used, the Secretary of State must refer the order immediately to the court for confirmation within seven days. If it is confirmed, the court will then make arrangements for a full hearing.

I have considered carefully whether urgency can be defined in the Bill and I am advised that an exhaustive list could not be produced. The procedure will rarely be used. The circumstances for use will most likely be when the subject seems likely to disappear before permission could be obtained because he or she had been tipped off or had made arrangements to travel. In case it has been forgotten, I remind the House that that was a specific problem in December 2001, just after 9/11, when a few suspects disappeared just before the part 4 powers came into force. That is a description of what has actually happened rather than of something that is entirely hypothetical.

We cannot use the arrest and detention power provided in relation to derogating control orders because we have not derogated and do not intend to derogate now. In any event, that power would not be available in relation to non-derogating orders. I believe that the urgency procedure that I have outlined fills the gap. The subject of the order will be able to challenge before the court whether the case was urgent and the use of the urgent procedure will be included in the quarterly reports that the Secretary of State makes to Parliament on use of the control order powers in the period in question, so the whole House will be able to examine the extent to which the urgency procedures have been used.

Mr. Chris Smith (Islington, South and Finsbury) (Lab): Can I press my right hon. Friend further on the court procedure to examine subsequently the urgent decision that he has made? Under his amendment, the court can consider whether the Secretary of State's decision was "obviously flawed". In making that decision, can the court consider not just the process whereby the Secretary of State reached his decision, but the full facts that he had in front of him?

Mr. Clarke: The short answer is yes. The judicial review principles, which have been well developed over a considerable period, particularly since the passing of the Human Rights Act 1998, are fairly clear. They mean, first, that the court can consider matters of fact and not simply points of law. That is relevant to my right hon. Friend's question. The court will look at all the material relating to and underpinning the Home Secretary's case and ask questions about the decisions made on what should happen next.

4.30 pm

Judicial review is concerned with reviewing whether the decision maker could properly make the decision that he made, but I think it entirely wrong to characterise it as a process concerned only with law and procedure. Even before the Human Rights Act 1998, courts on judicial reviews would, where appropriate, look at the facts to establish whether they could support the decision reached.

Mr. Marshall-Andrews: What the Home Secretary is saying is legal heresy, but if it is correct and the court can look at all that, why is it necessary to restrict it to the provisions of judicial review?

Mr. Clarke: It is not being restricted to the provisions of judicial review. The fact is that we have a different level of process above the derogating line from that below it, and that is how it should be.

Mr. John Denham (Southampton, Itchen) (Lab): Will my right hon. Friend confirm, or otherwise, that under subsection (6) of his amendment the court will consider not just whether the Secretary of State was justified in wanting to make a non-derogating order, but whether the measures proposed were right? Will the court be able to consider whether the actions proposed are proportionate to the case being put, not simply whether there should be an order at all?

Mr. Clarke: Yes. The specifics can and, I am sure, will be examined in terms by the court in such cases. When I reach the appropriate point in my speech, I will deal with my right hon. Friend's point about prosecution issues, which he has said throughout should be properly addressed.

Several hon. Members *rose—*

Mr. Clarke: I will not give way again at this stage. I must make some more progress first.

Let me deal next with the issue of those currently detained under the part 4 powers. My amendment also allows me to make a non-derogating control order—without leave from the court—against the current part 4 detainees, subject to the requirement that I must refer the case to the courts immediately for confirmation of the orders within seven days, as in the general criteria that I set out.

The courts have already considered and determined that there are grounds for suspecting each of the individuals concerned of being involved in terrorism and that they pose a real threat to national security. It is very important to the protection of national security that we take immediate action in respect of them, so that they can be controlled immediately on their release from detention under the part 4 powers. Any orders made against the current part 4 detainees must be referred immediately to the High Court for confirmation. If they are confirmed, the court will make arrangements for a full hearing of the detainees' cases as soon as possible thereafter.

I believe that the changes that I have made in relation to judicial involvement in the process, and the way in which I have responded to my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews), reflect a strong opinion in both Houses of Parliament. I hope that they will enable many to accept that the processes that I am introducing will meet the concerns that have been expressed.

Mr. Trimble: I apologise if I have not read the amendment correctly. I have had limited time in which to read it.

Points have been raised about the application of the judicial review approach. The court's supervision of non-derogating control orders is tied to the determination of

"what constitutes a flawed decision".

The court

"must apply the principles applicable on an application for judicial review."

Under subsection (2) (b),

"the court may give that permission unless it determines that that decision is obviously flawed".

That suggests to me that the court has a discretion quite apart from the issue of whether the decision is obviously flawed. The judicial review principles apply to that, but the use of the word "may" implies that the court has a discretion and that, even if it concludes that the decision is obviously flawed, it may decide not to grant permission. That would give the courts a very wide power to refuse permission. Is my construction of the amendment correct?

Mr. Clarke: I am thinking very carefully about what the right hon. Gentleman said, and I was nodding as he described the situation because his description was right. For the reasons that I set out earlier, the principles of judicial review are wide and will be applied to individual cases, as I said to my right hon. Friend the Member for Southampton, Itchen (Mr. Denham). However, although the general point made by the right hon. Member for Upper Bann (Mr. Trimble) was right, I am not sure that the conclusion of his intervention, in which he considered the wider situation, was right.

Mr. Kenneth Clarke: The hon. and learned Member for Medway (Mr. Marshall-Andrews) is still in practice and I am not, but I was at the receiving end of quite a lot of judicial reviews in my time in office, and it seems to me that a rather startling explanation has been given of the processes involved. Surely there are many cases in which a judge does not overturn the Secretary of State's decision, even though he personally disagrees with the Secretary of State about its merits and would not have taken it on the evidence before him. The judge lets the decision go ahead if he decides that it was within the power of the Secretary of State, that he followed the right processes and that he was entitled to do what he did. A judge will look at the facts only if he concludes that no reasonable Secretary of State, on looking at the facts, could conceivably have come to the opinion originally reached. That is not a full judicial process—it is wholly biased in favour of the Secretary of State's decision going ahead. There is no reason for having different processes for the lesser decisions and for the higher ones.

Mr. Charles Clarke: With great respect to the right hon. and learned Gentleman, I am not sure who would win the contest between him and the Leader of the Opposition concerning whose decisions were most often overturned by the courts.

Mr. Kenneth Clarke: I was overturned twice.

Mr. Charles Clarke: I beg the right hon. and learned Gentleman's pardon: the Leader of the Opposition beats him handsomely in that regard. The fact is that, since the right hon. and learned Gentleman was Home Secretary, the Human Rights Act 1998 has changed the way in which the judicial process operates in such cases. The answer that I gave earlier is an accurate description of the way in which the judicial review works.

Several hon. Members *rose*—

Mr. Clarke: I will not give way.

I turn to the second issue relating to the amendments from the other place, which is consulting the police on the realistic prospect of prosecution before and after a control order is made. In practice, the police and relevant prosecuting authorities consult extensively on every terrorist arrest to see whether there is any possibility of prosecution. The Crown Prosecution Service in England and Wales, for example, considers all the material and decides whether there is a basis for a successful prosecution, and whether such a prosecution is in the public interest.

Submissions to the Home Secretary on individual cases for control orders will always include, as they have done under the part 4 cases, written advice on prosecution. Prosecution is always our first option and, as we discussed earlier, that has been demonstrated in a number of cases, such as that involving the shoe bomber from Gloucester. I have taken account of what has been said in this House and elsewhere—I have taken particular note of the comments of my right hon. Friend the Member for Southampton, Itchen—and we are looking at whether we can introduce new offences that will increase the number of successful prosecutions of suspected terrorists.

I recognise Members' concern that the Bill should require me to explore with the police whether there are realistic prospects of a prosecution in any given case before making, or applying for, a control order, and I am ready to do so. My amendments therefore require the Secretary of State to consult the police—at the level of chief officer of the relevant force—before making or applying for a control order, on whether there is a prospect of the individual concerned being prosecuted for a terrorist offence.

The new provisions also require the police—in consultation with the relevant prosecuting authority, where appropriate—to keep such matters under review once an order has been made. I do not believe that the existence of a control order will preclude successful prosecution at a later date. I remind the House that two of those certified under the part 4 powers currently in place were subsequently charged and successfully prosecuted for terrorist-related offences—an indication that we continue to deal with these matters directly.

Mr. Denham: Will my right hon. Friend confirm whether, under his proposals, the response from the chief constable and, where appropriate, the prosecuting authorities concerning whether the case in question was prosecutable—presumably, it would not be—would be part of the material evidence given to the court and would be available to the judge? In other words, there would clearly be judicial scrutiny of the fact that the prosecution had been considered by the relevant authorities and could not be taken further.

Mr. Clarke: That could certainly be put in front of the court in the way that my right hon. Friend suggests. It

[Mr. Clarke]

would then be necessary for the court to take note of the fact that an assertion had been made by the Secretary of State about the prosecution route.

Mr. David Kidney (Stafford) (Lab): I tabled amendments last week that would have required my right hon. Friend to consult the Director of Public Prosecutions before a control order was made or applied for. Will he confirm that Lords amendment No. 16 does not require that and that it is the Government's amendment (d) that introduces it rather than the Lords amendment itself?

Mr. Clarke: My hon. Friend is entirely correct and I can tell the House that it was his intervention, and that of one or two others, that convinced me that this was the right course for the Government to follow. *[Interruption.]* What I am saying is quite right.

Mr. Grieve: It would be helpful if the Home Secretary clarified the nature of the amendments that he has tabled to Lords amendment No. 16, which provides for a mechanism of consultation that he is now seeking to amend further.

Mr. Clarke: I do not think that I am seeking to amend it further. My proposed amendment states:

"Before making, or applying for the making of, a control order against the individual, the Secretary of State must consult the chief officer of the police force about whether there is evidence available that could realistically be used for the purposes of a prosecution of the individual for an offence relating to terrorism".

It later continues:

"In carrying out his functions by virtue of this section the chief officer must consult the relevant prosecuting authority, but only, in the case of the performance of his duty under subsection (3), to the extent that he considers it appropriate to do so."

I think that that is as clear as it can be and sets out the position clearly.

Mr. David Heath (Somerton and Frome) (LD) *rose—*

Mr. Clarke: I shall give way for the final time on this part of our proceedings.

Mr. Heath: The answer that the Home Secretary gave to the hon. Member for Stafford (Mr. Kidney) was not entirely correct. Lords amendment No. 8, which deals with the making of control orders, introduces a clause to require that the Director of Public Prosecutions be consulted before an order is made. The right hon. Gentleman is proposing to delete that and, rather curiously, to place his provision in a clause titled "Criminal investigations after making of control order". Is not that a rather curious place at which to put it?

Mr. Clarke: Perhaps I have not been clear enough, but the fact is that the amendments make it clear, as my hon. Friend the Member for Stafford (Mr. Kidney) explained in his intervention a few moments ago, that, before a control order is made, it is necessary to get the chief police officer's view in consultation with the prosecuting authorities on the possibility of prosecution.

Several hon. Members *rose—*

Mr. Clarke: I am not giving way further on this matter.

Mr. Grieve: On a point of order, Madam Deputy Speaker. These are complicated sets of amendments and it is simply not good enough for the Home Secretary to come to the House and express his intentions in loose terminology without marrying or reconciling what he wants to do with the amendments tabled in the other place. On that basis, how can the House reach a proper conclusion or appreciation of what the Government are trying to do?

Madam Deputy Speaker: That is not a point of order, but a point for debate. I remind all hon. Members of what "Erskine May" says about good temper and moderation, which is something that we should all bear in mind.

Mr. Clarke: I am grateful for your guidance, Madam Deputy Speaker, and I shall seek to offer both good temper and moderation in my presentation of the case.

The third point that the House of Lords put to us relates to the burden of proof—a serious matter on which there has been substantial debate. I want to start from the reality of what control orders are. They are preventive orders, not punishments. They are designed to prevent future atrocities from being committed, not to punish for what has been done in the past.

Mr. Bill Wiggin (Leominster) (Con): Will the Home Secretary give way on that?

Mr. Clarke: No, I will not.

The orders require an assessment of the overall security situation, of the risk posed by particular individuals and of what measures are necessary and proportionate to meet those risks. The Lords amendments suggest that the balance of probabilities is the right test for determining whether the subject of an order is, or has been, involved in terrorism. The Lords acknowledged that that would be a high test, and the Government do not believe that it would be appropriate for all control orders.

4.45 pm

David Davis (Haltemprice and Howden) (Con): The Home Secretary says that the control orders are not intended to be punishments. Does he accept that they can inflict huge harm through restraining movement, communication, contact, association and many other things that are normally considered to be human rights in this country?

Mr. Clarke: Of course I accept that. I cannot recall whether the right hon. Gentleman attended our debate in Standing Committee on this matter, but the distinction between restriction and deprivation of liberty is very important. Each of these proposals amounts to a

restriction of liberty, but the central message of the Law Lords' judgment on the part 4 powers is that whatever we do must be proportionate. We must deal with any perceived threat proportionately, and that is what the control orders will do. Without them, we have no way to offer the proportionate control counselled by the Law Lords.

Dr. Nick Palmer (Broxtowe) (Lab): If a judge concludes that it is probable that I will join a gang of drunks to cause trouble in central Nottingham, he can impose an antisocial behaviour order to prohibit me from associating with them. However, does my right hon. Friend agree that the absurd result of the Lords amendments is that, even if the judge concluded that I wished to associate with a gang to blow up central Nottingham, he would be powerless to intervene?

Mr. Clarke: I would not make that exact comparison, but my hon. Friend's central point is correct. The burden of proof is critical when it comes to considering what control order is being applied in a given circumstance.

Clare Short (Birmingham, Ladywood) (Lab): Will my right hon. Friend give way?

Mr. Clarke: No, not at this stage.

Making control orders involves assessing the threat posed by a person's past conduct and the risk of further such conduct in the future. That assessment is based on intelligence material, as opposed to evidence that can be adduced in court. A determination must then be made of what controls are needed to meet the threat and mitigate the risk.

I propose that the test should be reasonable suspicion, which I believe is better when analysing intelligence material and drawing inferences from it. The Special Immigration Appeals Commission and the Court of Appeal have both accepted that that is the right course to take in respect of the part 4 powers currently in place under immigration legislation.

For example, Lord Justice Laws argued that the nature of the subject matter is such that it will usually be impossible to prove past facts that make the case that X is a terrorist. I have said the same on many occasions. Accordingly, a requirement of proof would frustrate the policy, and the objectives of the powers. The target of the policy includes those who belong to loose, amorphous and unorganised groups. The choice of reasonable suspicion is apt to strike that target.

Nevertheless, we have accepted that balance of probabilities should be the test for derogating control orders. That is because the subjects of those orders will be deprived of their liberty. That goes back to the proportionality point that I made in response to the right hon. Member for Haltemprice and Howden (David Davis).

For the reasons given, I do not think that the balance of probabilities test should apply to non-derogating orders. My amendments therefore provide that the test to determine whether, for derogating control orders, X is, or has been, a terrorist should be the balance of probabilities. For non-derogating control orders, the test should be reasonable suspicion.

I am advised that a higher test would mean that some control orders could not be sought, and that potentially dangerous individuals could simply slip away. I am not prepared to operate in such circumstances.

Mr. Oaten: Does the Home Secretary concede that even the lesser control orders affect people's liberty, as they tell people where they can travel and work? He has conceded that a judge must decide on those control orders, so does he accept that the same standard of proof is needed for the orders about which he has just been speaking? It is hardly fair to say that the balance of probabilities is a high test, given that that could be 51 per cent. against 49 per cent. Surely the same standards should apply for all control orders?

Mr. Clarke: First, I acknowledge that, as we have said from the outset—the hon. Member for Winchester (Mr. Oaten) and I agree—the balance between security and individual liberty is at the core of this discussion. Therefore, proportionality in the standard of proof and the type of control order also relate to those matters. There is not an absolute here—although some may say that there is—but a question of balance.

The legislation, including the standard of proof, intends to address those points. One of his hon. Friends said on Radio 5 today,

> "The most important right is the right to life and I will be brutally frank with you and tell you that if this legislation is not passed there is a marginally increased likelihood of some sort of terrorist attack killing a number of our citizens. The difficulty is weighing that up against the risk to people's liberty who may be thrown into gaol without any real cause but simply on some sort of suspicion."

That is the sort of issue that we must address and our proposals do precisely that.

Richard Burden (Birmingham, Northfield) (Lab): I am still confused about something. If we assume that the most dangerous suspects are those who could be subject to derogated control orders and that their cases should be subject to the higher standard of proof—that is, on the balance of probabilities—why should less dangerous suspects be subject to a lesser standard of proof, particularly given my right hon. Friend's welcome movement today in saying that under non-derogating orders the court can consider facts and not just the Home Secretary's judgment?

Mr. Clarke: The key point is the one I made a moment ago. It is important to acknowledge that there is a distinction between deprivation of liberty and not depriving someone of liberty. That has been important in terms of the judgment of the European convention on human rights and it is important in practical terms and the extent to which people are controlled in those circumstances. It is true that there are issues of restriction of liberty at a lesser level than deprivation of liberty, but my argument is that those are different cases and should be dealt with in the proportionate way I described.

Lynne Jones (Birmingham, Selly Oak) (Lab): My right hon. Friend may be surprised to learn that I am sympathetic to his argument on this point, but I do not understand why the Government disagree with Lords

[Lynne Jones]

amendment No. 6, which he did not mention. It makes provision for someone who is subject to a control order to have access to supplies of food and personal necessities. Why do the Government disagree with the Lords?

Mr. Clarke: I shall come to that, but the short answer is that those requirements are met and the Lords amendment is unnecessary to secure what my hon. Friend seeks to achieve. I shall speak about that in more detail in a moment.

I have made it clear that the new procedures are fair and ensure early judicial involvement. In non-derogating control orders, the judge may refuse leave to make the order or quash an order that has been made under the urgency procedure if he feels that the test is not met. In derogating control orders, the court makes the order. In both cases there will be automatic referral for a full hearing of the court. In non-derogating orders, the court will apply judicial review principles. In derogating control orders, the court will decide the case on its merits. I do not accept that judicial review principles are not appropriate. As I said, the court has been developing those principles since before the introduction of the Human Rights Act 1998. I believe that the issues that have been raised create fairness in the system.

A number of colleagues have asked whether those issues and approaches are fair to the defence.

Mr. Marshall-Andrews: Will the Home Secretary give way?

Mr. Clarke: No, I will not.

The subject of the order—the defendant—will have access to the advocate of his choice in open sessions and will be represented by a special advocate in closed sessions. The courts have accepted that that is the fairest system possible, given the need to protect sensitive material.

As I said to my hon. and learned Friend the Member for Redcar, the Government are looking to widen the pool of special advocates to give the subject of the order greater choice. SIAC-type procedures will be followed in control order proceedings. The rules to be made by the Lord Chancellor or the Lord President in Scotland in the first instance, and thereafter by the relevant rules committees, will ensure that. We need to establish those rules quickly, and once the first set of rules is made, they will be made thereafter by the appropriate rules committee. The rules will be in place immediately, and there will need to be a vote in both Houses of Parliament if they are to remain in force beyond 40 sitting days.

The cases for control orders will, as now with the part 4 powers, be prepared extremely carefully. The Secretary of State will put forward a balanced case to the court that will include both material that makes his case and exculpatory material that undermines it. The courts will expect, and rightly demand, a high standard of fairness, which is as it should be. Much of the material will be sensitive and not capable of being shown to the subject of the order and his lawyer in open session, but it will be available to the court and to the special advocate, part of whose job is to try to secure the widest possible disclosure of material to the subject of the order.

Mr. Hogg: Will the Home Secretary give way?

Mr. Clarke: In a moment.

We are now looking urgently at better training for special advocates—

Mr. Hogg: Will the Home Secretary give way?

Mr. Clarke: I have said that I will do so in a second. Perhaps the right hon. and learned Gentleman could do me the courtesy of resuming his seat while I continue my speech.

We are now looking urgently at better training for special advocates, at better support systems for them and at whether they can have greater access to the subject of the order. The aim is to ensure that special advocates can do their job to the best of their ability, but still commensurate with the need to protect sensitive material, sources and techniques.

I shall now give way to the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg).

Mr. Hogg: How very gracious of the Home Secretary. Will he understand that the special advocate cannot do his job properly, or even at all, unless he can discuss with the detained person the nature of the evidence being deployed against him and obtain his proper instructions on that evidence?

Mr. Clarke: That reprises a discussion that we had last week. I think that the right hon. and learned Gentleman will confirm—if I am wrong, perhaps he will correct me—that he totally opposes any control order process of any description.

Mr. Hogg: No, I do not. My position is set out in amendment (a) to amendment No. 8. Provided that there is due process, I will go along with control orders. The problem is that there is no due process. Until there is, I oppose control orders.

Mr. Clarke: I am glad that the right hon. and learned Gentleman has made that acknowledgement. It is a change of position, but it is a welcome change of position in the right direction.

I turn now to the final substantive set of amendments from the Lords, which are on sunsetting.

David Davis: I think that the Home Secretary has misrepresented the views of my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg). The Home Secretary should address the question of how a special advocate will deal with an allegation when he is unable to tell the accused enough to enable him to give an alibi, even if that alibi is the absolute and concrete truth. We understand the Home Secretary's motivation, but he should explain to the House of Commons exactly how his proposal will work.

Mr. Clarke: The point that the right hon. Gentleman has not fully grasped is that the control order that we

propose will be a preventive device to prevent an individual from offering a terrorist threat to the country, in various ways. It will not be a judgment on the facts in the traditional court approach, via a prosecuting rule, on whether a crime has been committed in a particular way. The Government agree that it is superior, where possible, to take the latter course of prosecution, for a variety of reasons. I hope that the right hon. Gentleman will accept that I was not seeking to malign his colleague: I thought that I had heard a change from what was said last week. I know that he accepts that in such circumstances, a control order, limited as it may be, could be necessary, and he presses me about the procedures to ensure that the matter is properly carried through.

The open evidence is disclosed to the appellant and the special advocate at a relatively early stage of the process. That enables the special advocate to discuss it with the appellant before he sees the closed evidence. It is only after seeing the closed evidence that he cannot communicate with the appellant, except in limited circumstances. The closed evidence is thus provided to the special advocate at a later stage. I think that that deals with the situation in a way that protects our national security.

5 pm

David Davis: The Home Secretary recognised earlier that although control orders might not be intended to punish, there is a strong penal element to them because they would do harm to an individual. Concern about the matter was raised by Ian MacDonald, the special advocate who resigned. He said that sometimes the closed evidence was so different from the open evidence that the charge became different, to all intents and purposes, so the accused was thus incapable of answering it. The scope for a miscarriage of justice is enormous in such circumstances. That is a disaster in itself, but it would also be disastrous for the effectiveness of anti-terrorist orders because it would create a recruiting sergeant and radicalise our opponents.

Mr. Clarke: It is important to acknowledge that special advocates have different views on the point that the right hon. Gentleman sets out. Secondly, it is important to appreciate that we are listening carefully to what special advocates have said about procedural issues. That is why I responded at the beginning of the debate to the right hon. Member for Berwick-upon-Tweed—I hope that I got his constituency right on this occasion—

Mr. Beith: It is in the north-east.

Mr. Clarke: The right hon. Gentleman's constituency is indeed in the north-east, or even further north than the north-east, if one can say such a thing.

There are questions about the special advocate procedure. My hon. and learned Friend the Member for Redcar, who is also from the north-east, has consistently and strongly asked me such questions during the passage of the Bill. She and the right hon. Members for Berwick-upon-Tweed and for Haltemprice and Howden are right to say that we need a process that is as fair as possible to appellants. I believe that we are doing that.

Mr. Marshall-Andrews: Will the Secretary of State give way?

Mr. Clarke: No, I shall not.

However, I do not accept that wanting such a process means that we do not need a procedure including special advocates, closed sessions, open sessions and the like. We must judge the right balance to strike.

I have spoken for a long time, so I want to conclude by talking about the sunset clause. That has been a big issue in the other place—and in this House as well, to an extent. However, with respect, our proposals have not been fully understood. Although I do not make this point in a partisan way, I note that the proposal made by the right hon. Member for Haltemprice and Howden on a sunset clause was put forward not during the bilateral conversations that we have been having, but in an open press conference as an attempt to set out a direct position.

Let me go through the five—potentially six—stages of review that exist. First, the Home Secretary will be required to report every three months on the existence of control orders. He will have to report to the House publicly on what has happened, how many have been issued and how many were urgent.

Secondly, the Bill will require the reviewer—who will have a similar function to Lord Carlile in his review of SIAC cases—to make a report to Parliament every year on the operation of our proposals. That provision was in the Bill that we introduced in the first place. The report could address all the questions that we are discussing today. As I specifically said earlier, I would ask the reviewer to examine in the next such report the implications of new legislation on prosecution and determine how that matter could be addressed. The report would be entirely independent and frank and would set out any issues raised by judges, courts, Members of Parliament or anyone else.

Mr. Robin Cook (Livingston) (Lab): Will my right hon. Friend give way?

Mr. Clarke: No, I will give way when I have finished what I am saying.

Thirdly, I have tabled a new amendment to provide that the Bill would need to be renewed annually by a vote in each House of Parliament. Such a vote a year from now would be informed by the quarterly control order reports and the report by the special independent reviewer.

Mr. Clive Soley (Ealing, Acton and Shepherd's Bush) (Lab): Will my right hon. Friend give way?

Mr. Clarke: I shall give way in a second.

Parliament could decide that it did not wish to renew the legislation, for example if the review raised issues showing that it was not working properly. Those three steps are there today and now.

[Mr. Clarke]

The fourth stage of the review, which was also in the Bill when it was first published, is that in the event that we have a derogating order in place, which as the House will recall I do not propose at the moment, there would again be an annual vote to renew by both Houses of Parliament. Fifthly, I have acknowledged—I stated it on 26 January—that we need new legislation on offences relating to terrorism and we intend, if re-elected, to put such legislation before the House early in the new Parliament. Again, that will be an occasion to address those questions.

Sixthly and finally, there will be—in case it has escaped anybody's attention—a general election in the next 15 months or so. At that general election, it sounds as though one party will be saying, "Confirm the legislation", while other parties will be saying, "Repeal it", so the people of the country can have a view on that, too. I argue that those six stages add up to a substantial capacity for Parliament, and indeed the people of this country, to review the legislation and to decide to stop it if they so wish.

Mr. Grieve Will the right hon. Gentleman give way?

Mr. Clarke: Not at this moment. I shall give way first to my right hon. Friend the Member for Livingston (Mr. Cook) and then to my hon. Friend the Member for Ealing, Acton and Shepherd's Bush (Mr. Soley).

Mr. Robin Cook: I warmly welcome the measured and reasonable way in which my right hon. Friend is responding to the anxieties that have been expressed in both Houses of Parliament. Does he agree that one of the advantages of having a year before we renew the measure is that we shall have time for reflection? I put it to him that this contentious legislation would greatly benefit from something like the Newton committee treatment. My right hon. Friend proposes to strike out Lords amendment No. 31, which would set up such a committee. I do not quarrel with that action on the procedure, but I ask my right hon. Friend to reflect on the fact that the principle is sound, and that he might find it helpful a year from now when the measure comes up for renewal to have independent recommendations for improvement to the Act in the light of experience from a broader group than just one reviewer.

Mr. Clarke: I am grateful to my right hon. Friend for making that point. I agree with him; it is a question of not just the ability to review but, as he implies, the ability to review in an informed way. I think that the process I have put in place—three-monthly reports and an independent review—is exactly the vehicle by which it will be possible to obtain that informed review. On my right hon. Friend's idea about Privy Counsellors and a committee of that type, I pay respect today, as I have done in the past, to the extremely positive work of Lord Newton and his committee. I also pay tribute to the work of the Intelligence and Security Committee in reviewing such matters, which has been important in this and other areas. I can say to my right hon. Friend that I will certainly look at whether there are better ways to continue the review of this matter and consider what is the right way to proceed. The reason that I was and am against the Lords amendment is that to specify a particular form of review, especially in light of the wide range of information we have at this stage, is overly prescriptive.

Mr. Soley: I welcome what my right hon. Friend has just said. I certainly think that is better than a sunset clause. It is important that we recognise that for the past 20 or 30 years, none of us has been happy with the way we have legislated on terrorism. The measure we are discussing today is not as bad as some aspects of the old prevention of terrorism Acts and it is certainly not as bad as the internment Acts. I would very much welcome my right hon. Friend's going a step further to offer talks to the other parties—I know that he cannot commit future Governments—and they ought to respond positively in terms of the review and come forward with other suggestions as time goes by.

Mr. Clarke: I very, very much agree with my hon. Friend and would like to make three points in response to him. First, his first point is not sufficiently appreciated. It is a fact that we are giving greater priority to human rights and civil liberties in these procedures than in any previous type of such legislation. Secondly, I pay tribute to my hon. Friend who, when he led for the Labour Opposition on these matters before we came into office, dealt with the then Government in a universally positive and constructive way. He recognised his responsibility in opposition to deal with such matters responsibly. That is a positive example from which all parties in the House might usefully draw some lessons. Thirdly, I agree that after a general election it would be beneficial to hold conversations of the type that we were referring to. I do not specify a particular form, but with a Parliament stretching in front of us, to try to go back to the old days when Labour was in opposition and we had all-party agreement on such things might be a good way to proceed, and I am certainly ready to act to try to achieve that.

Andrew Bennett (Denton and Reddish) (Lab): Does my right hon. Friend accept that one of the problems with the House being given an opportunity to vote on an order is that such orders are not amendable and therefore it is not possible for the House to keep part of the Bill—or part of the Act, as it would then be—and to get rid of bits of it in a phased way? It is possible to have a statutory instrument that is amendable. Will he look further at making it possible for us to consider an amendable statutory instrument so that we could shave away parts of the Bill as they became unnecessary?

Mr. Clarke: I will think about that proposal, and I accept the weakness of the order system that my hon. Friend describes. That is why the order system that I was referring to for the derogating order was a better way to proceed—

Mr. Grieve: Will the right hon. Gentleman give way?

Mr. Clarke: I will give way when I have finished what I am saying.

I acknowledge that there are issues that I will think about in relation to what my hon. Friend says. However, I believe that, if we were to get to the state of

affairs with the independent reviewer where the conversations that we have had had taken place and where both Houses of Parliament thought that the current legislation should not continue, that would be precisely the time to discuss what form of legislation should replace the Bill.

Mr. Grieve: I am most grateful to the Home Secretary for giving way. He is aware, and I dare say that he would agree, that the Bill has had to be passed through the House in considerable haste. I do not think that he would disagree with that. It is also very controversial and, as he knows from the debate in the other place and in this House, it has excited a great deal of comment because much of it is draconian and certainly novel in terms of civil liberties in this country. Are those not compelling reasons why there should be a sunset clause? That would make absolutely sure that the House and the Government do their duty properly by allowing the legislation to be considered afresh with the possibility of alternatives being properly aired in the House, rather than, as I fear, the Government simply keeping this going in the medium term, as the Prime Minister says. That is likely to be for many years if they have their way.

Mr. Clarke: The hon. Gentleman argues the case—the compelling case, in his language—for looking at the operation of the legislation in precisely the detailed way that I have described. That is not a compelling argument for including an eight-month sunset clause, which would give no time at all to consider the issue seriously and take it forward.

Several hon. Members *rose—*

Mr. Clarke: I turn finally to the other Lords amendments. The remainder—*[Interruption.]*

Madam Deputy Speaker: Order. It is obvious that the Home Secretary is not prepared to give way at the moment.

Mr. Clarke: Thank you, Madam Deputy Speaker. I am acutely aware that I have already taken an hour and seven minutes of the House's time. Other hon. Members will want to speak, and I cannot be accused of not having given way fairly generously during the debate.

On the remainder of the Lords amendments, I conclude by saying that Lords amendments Nos. 6, 27, 31 and 32 are unnecessary. Lords amendment No. 6 is unnecessary because those who need social security benefits will receive them if they are eligible without provision having to be made in the Bill—to answer the question asked by my hon. Friend the Member for Birmingham, Selly Oak (Lynne Jones)—and a control order must be necessary and proportionate, and one that denied an individual access to food, clothing and sustenance would plainly not be proportionate. The other Lords amendments are unnecessary because, in my view, clause 11 already makes adequate provision for the Bill to be reviewed in the operation of the Act once passed by the processes that I have already described.

Mr. Marshall-Andrews *rose—*

Hon. Members: Give way!

Mr. Clarke: In the spirit of fair play, which is my wont, I give way for the final time in the debate to the crusader for liberty who is my hon. and learned Friend the Member for Medway.

Mr. Marshall-Andrews: I am grateful to the Home Secretary. May I just come back briefly? If the Bill ever becomes law and if a review is given to the House when it is reviewed, will he undertake that that review will contain an independent judicial statement on the limitations of judicial review, so that the House is definitely not misled as to the nature of judicial intervention as to fact?

Mr. Clarke: The one thing about which I feel absolutely certain is that the chance of an absolutely categorical statement of interpretation of any aspect in law is always unlikely, even from my hon. and learned Friend.

Mr. Paul Stinchcombe (Wellingborough) (Lab): The law on judicial review, as stated previously by my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews) and by the right hon. and learned Member for Rushcliffe (Mr. Clarke), would have been accurate in 1948, when the Wednesbury case was decided, but that is no longer accurate following the Daly case in the House of Lords, in which it was stated that the day has come when

> "it will be . . . widely recognised that . . . Wednesbury . . . was an unfortunately retrogressive decision in English administrative law, in so far as it suggested that there are degrees of unreasonableness and that only a very extreme degree can bring an administrative decision within the legitimate scope of judicial" review.

5.15 pm

Mr. Clarke: First, I pay tribute to my hon. Friend's service on the Joint Human Rights Committee; and secondly, I defer to his legal experience. I am not sure whether my hon. and learned Friend the Member for Medway would also defer to his legal experience.

Mr. Siôn Simon (Birmingham, Erdington) (Lab): I remind my right hon. Friend of what somebody once said of Cavour, that he loved moderation immoderately. I ask my right hon. Friend not to get carried away with concessions and sunset clauses but to bear in mind over the next couple of days that there remain many Members of this place and a great majority of people outside it who do not want to see all these things that lawyers in this place and the other place have been talking about, who believe that my right hon. Friend was right in the first place and that the country should be protected by elected Members of Parliament and Ministers of the Crown, and not by unelected and unaccountable judges.

Mr. Clarke: I am extremely grateful for the moderate way in which my hon. Friend immoderately makes his

[Mr. Clarke]

case. He allows me to conclude by saying that I believe that it is the duty of this elected House to set out the basis of the defence of our national security. I assert that strongly. On that basis, I urge this elected House to support the amendments that I have put in place and to reject the Lords amendments.

David Davis: Listening to the debate has been rather instructive. It is unusual for a debate of this nature to include such principled clashes across the Chamber at this stage of a Bill. I think that it is a reflection of the way in which the Bill has been handled. I am led to read to the House a short extract from the editorial of this morning's edition of *The Times*, that well-known Conservative newspaper. It reads:

"The humiliating defeats in the Lords on the Prevention of Terrorism Bill are not only an extraordinary setback two months before an expected general election; they are also a telling indictment of the muddle, incompetence and myopia that have characterised the sloppy handling of this vital issue. The defeats are too resounding to be brushed aside by a Government desperate to enact legislation to replace the current detention powers that expire on Monday; with both Lord Irvine of Laird, the former Lord Chancellor and ... Lord Condon, one of Britain's most experienced former police chiefs, voting against the measures, the moral weight of opposition makes it clear that Labour is facing its sternest test of how to handle the whole issue of terrorism ... The inept handling of this Bill ... has had the worst possible effect. It has politicised an issue that should command a consensus among all responsible MPs to safeguard Britain and its liberties"

I agree.

The issue of terrorism and the related legislation should command a consensus. I hoped a few weeks ago that we would find a way to get the Government out of the jam that they had created for themselves. However, they appear to have been determined to try to use the Bill as a political weapon. The Prime Minister virtually said as much at questions today. Despite that, I will make one more attempt to appeal to the Government's sense of reason.

I shall start by highlighting the most important amendments that the Home Secretary talked about today. I welcome his acceptance of the need for judge-led decisions on all the control order matters. It is belated—it should have been in the first draft of the legislation—and it certainly would have been put into the Bill if there had been proper Commons scrutiny, as I think was apparent from the comment of the hon. Member for Walsall, North (David Winnick).

Having listened to the Home Secretary and to interventions by the hon. and learned Member for Medway (Mr. Marshall-Andrews) and my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke), I can see little justification for interfering in the system of judicial control orders, but that is being done by means of the Government amendment to Lords amendment No. 1. The Government have not made the case—listening to the Home Secretary, I did not hear a case—for substituting reasonable suspicion for the balance of probabilities. I shall return to that point in a moment.

Lords amendment No. 16, which gives primacy to prosecution, is being interfered with by the Government, again for no good reason. Indeed, together with the deletion of Lords amendment No. 18, that interference will have the opposite effect to the one intended by the Home Secretary. Most tellingly, the Government have rejected the Privy Council review process, which alone can show how the legislation will work in practice. When taken with the objection to the sunset clause, that demonstrates a total lack of willingness to heed the anxieties of Members of all parties about the control order system that the Government are introducing, and hardly inspires confidence in assurances that they have given us. The same is true of their refusal to accept Lords amendment No. 38, which requires the Lord Chief Justice to set the rules, and Lords amendment No. 40, which would ensure that the procedure is compatible with the European convention on human rights by ensuring that there is a fair hearing. It is hard to understand why the Government are seeking to delete that amendment, particularly given the answer that the Home Secretary gave my hon. Friend the Member for Beaconsfield (Mr. Grieve), the shadow Attorney-General.

Sir Brian Mawhinney (North-West Cambridgeshire) (Con): I declare an interest as a member of the Newton committee. Will my right hon. Friend bear in mind the fact that findings of that committee were at considerable odds with what was then Government policy, and are much closer to what is now emerging as Government policy. However, before the door of the Home Office was closed, as we delivered our proposals they were comprehensively rubbished by the previous Home Secretary, the right hon. Member for Sheffield, Brightside (Mr. Blunkett). We are here today not because of the Newton committee's review but because of the Law Lords. Will my right hon. Friend bear that in mind when he assesses the importance of the review procedures—as opposed to the sunset clause—to which the Government are seeking the agreement of the House?

David Davis: My right hon. Friend has made a very good point. Perhaps I could develop it by discussing the events that have led to this position. The Home Secretary has said several times today alone that the Government had only 12 weeks in which to put the legislation together. That is not true. They were aware for some time that there were fundamental flaws in the Anti-terrorism, Crime and Security Act 2001. I do not blame or condemn them for those flaws, as that measure was rushed through in the aftermath of 9/11, so it is understandable that mistakes were made. However, it would not be understandable if they repeated those mistakes. We anticipated the weaknesses and flagged them up. In response, the Government set up the Newton committee, on which my right hon. Friend, to review the operation of the Act, highlight its weaknesses and propose alternatives.

The Newton committee reported in 2003, and did exactly what it had been asked to do. Before the Home Office door closed, as my right hon. Friend said, its proposals were rubbished. It made a number of sensible proposals, but the Government, apart from rubbishing them, did nothing. We have heard from officials at the Home Office that papers were prepared, but that there was no political direction. Even when it became apparent in October 2004 that the Government were expected to lose the forthcoming House of Lords

judgment in December 2004, they did nothing. When the judgment was made, for weeks nothing happened, except that the Government introduced the statutory instrument to renew the old law—the part 4 provision.

The Government have tried to represent the Opposition—and there has been more of this today—as being difficult over the Bill. That is blatantly untrue. We have made at least three separate proposals to the Government. First, we offered them the option of extending part 4 of the 2001 Act, which would allow more time to consider a new Bill and new powers to deal with the problem of defending the nation, but for reasons that the Home Secretary gave and that I accepted, they rejected that. On 22 February, therefore, we said that we were willing to back an extension of part 4 with primary legislation to limit the bail conditions that the Special Immigration Appeals Commission can set. In effect, that would guarantee that the control orders outlined by the Home Secretary in the Bill up to and including house arrest would apply to the remaining Belmarsh detainees until properly considered legislation came into effect. That would limit the possible injustice to a small number of people for a short, limited period, but it would also give the Home Secretary the certainty—that was the word he used when speaking to me—that he is seeking when dealing with those foreign nationals. But they rejected that too. Finally, we proposed, in addition to other amendments, to approve this fundamentally flawed Bill for a limited period, a sunset clause. Today and before, they rejected that as well.

One of the purposes of a sunset clause is to enable the Government to evaluate their ability to lock up known terrorists. The 10 to 20 people whom the Home Secretary intends to have placed under a control order, if guilty of terrorism, acts preparatory to terrorism, or acts that the Government think are wrong within the law, should be in prison, not on the street. That is why the Bill must expire and be replaced by legislation that has been properly considered and will allow us to catch terrorists without penalising ordinary people. We believe that such legislation is possible.

Mr. Soley: The right hon. Gentleman speaks of seven months. If he has in mind other approaches, including another Act, for example, for acts preparatory to terrorism, quite a lot of background work will be needed between the two Houses. Surely he must accept that renewing the legislation every year would give the Government the flexibility over the next 12 months to do that? It would be a far better approach than a sunset clause, which would mean rushing the work in a way that would be unacceptable.

David Davis: I shall return to some of the hon. Gentleman's points. It strikes me as extraordinary that a Government who force us to consider a Bill in eight days object to having eight and a half months to consider a new Bill. It is self-evidently illogical—I was going to say something ruder—an illogical proposal. But we are not starting from year zero. The Newton committee has already reported and largely been ignored—indeed, rubbished—so we have some data already. I am sure other aspects have been considered. If it is a matter of a month here or there, there is no argument. If, instead of 30 November, the Government want to make the target date Christmas, I will happily discuss that with the Home Secretary. That is not the argument.

We need a principled approach to how we review and renew the Bill. We accept, as Lord Newton's committee does, that there is a clear need for special legislation to deal with the problems that we face today. There is a need, as he said, for specialist counter-terrorism legislation because of the way terrorists operate, which makes them hard to catch and convict, and because of the risks they pose to society, but, as the Newton committee again said,

"counter-terrorist legislation must also contain proper protections for the privacy and liberty of the individual".

Mr. Denham: Can the right hon. Gentleman help the House by saying whether, this time next year, if we had the legislation that he would like to see, it would still contain control orders or measures that are pretty much the same as control orders? If he sees that as part of the package of the future, why does he want a sunset clause, which would bring those measures to an end?

David Davis: I shall come to some of those points shortly. I take the view that in policy as serious as this, the Government should not do what the Americans call load, fire, aim, which means make up one's mind before one sees the facts. The Government need to assess how many people would be affected by control orders. That number changes, depending on the nature of the current law. If the law is widened or extended, if the procedures for using intercept and sensitive evidence are changed, if that evidence can be brought to court, the number of people who are guilty of terrorism but are incapable of being brought to court will go down. The number may go down to zero, but we cannot do that without the evidence necessary. That is one of the reasons why implicit in the idea of a sunset clause was the concept of another unbiased, highly cleared Privy Councillor committee to report back to both Houses of Parliament and give them the data on which to make that important judgment.

5.30 pm

Mr. Cash: Does my right hon. Friend accept that a sunset clause is the best way to deal with the practical realities that the House faces? Does he also accept that it is incompatible with the principle that he just enunciated for any future legislation on the prevention of terrorism to be made within the framework endorsed by the Bill, namely the Human Rights Act 1988 and the European convention on human rights?

David Davis: I agree with the first half of my hon. Friend's remarks, but—this may be a sad thing—I must deal with the matter in the present reality.

The sunset clause proposal is the reason why we have offered the Government several serious alternatives. We have said that we would support new offences such as acts preparatory to terrorism or an offence similar to those in America's Racketeer Influenced and Corrupt Organisations Act—RICO laws are very effective in America. We need a sunset clause to allow those matters to be considered properly and, where appropriate, to be passed into law as a substitute for the Bill.

Mr. Hogg: My right hon. Friend has just referred to the law of the United States. Will he remind the House

[Mr. Hogg]

that the fifth amendment to the United States constitution prevents anybody from being held in custody without the due process of law?

David Davis: My right hon. and learned Friend is right. If any country faces a higher risk than us, however, it is the United States, which is coping.

The Government should accept the recommendations made in the Newton report, such as allowing the use of intercept evidence, which would allow cases to be brought to a court of law with a judge and jury so that people are properly convicted. In order to protect sensitive intelligence and its sources, we propose that a judge should be responsible for assessing the evidence and ensuring that a balanced case is presented. In some of his asides, the Home Secretary has sympathised with that view, but we have heard little of that in today's debate. That recommendation would ensure fairness for the defence while protecting sensitive sources, and such a trial would be conducted by a different judge, normally sitting with a jury. Again, that is likely to happen only if we get a sunset clause.

Huw Irranca-Davies (Ogmore) (Lab): Because I am not a lawyer, I ask the right hon. Gentleman to excuse me if I am confused. I can see the point of principled objection to control orders, but he seems to be suggesting that, if he were here in a year's time, five control orders would possibly be permissible, 10 would perhaps be permissible, but 20 would not be permissible. Is his objection to control orders based on numbers, as his answers suggest, or on a point of principle?

David Davis: The hon. Gentleman has made a fair point. If he followed yesterday's debate in the upper House, he will have noticed that we did not support the Liberal amendment to ensure that the accused knows all or a large part of the information laid against them. Control orders exist in cases in which one cannot tell the accused everything, but any civilised person—certainly anyone who has read Kafka—would be horrified at somebody going through a process, even if it is meant to be preventive rather than punitive, without knowing the charge against them. It is best to avoid that situation, where it is possible to do so.

If two or three people are involved, however, it is possible to judge the risk involved in replacing that mechanism with close surveillance—that is possible with two or three people, but not with 200. One can also ask whether that can be done in a civilised way in order to defend our society, without imposing mechanisms that are normally used only in dictatorships. The hon. Gentleman is right that that judgment is based on a clash of principles, but he must understand that basing it on scary comments made on "Woman's Hour" is not a good way in which to proceed.

Those things will happen only if we get a sunset clause. First and foremost, the end for the Government must be the imprisonment of those people who are a danger to the country, but in reaching that end, we must be careful not to use means that degrade our constitution and Parliament. This Bill suspends habeas corpus and brings to an end the presumption of innocence in British law. These are massive changes in our citizens' constitutional rights, yet they were rammed through the Commons, the traditional defender of those rights, in one day. The Lords were given three days—I suspect only because the Government cannot dictate the timetable in quite the same draconian way as they can in the Commons.

Habeas corpus and the presumption of innocence matter in themselves, but they also matter because they have a direct influence on the Bill's effectiveness as an anti-terrorist measure. Take the Government's stand on the level of evidence required. Lords amendment No. 9 proposes the relatively low civil standard of the balance of probabilities. The Government want reasonable suspicion. What is the difference? Who will be caught by one but not the other? The Government's proposal will net people whom they suspect, but are probably not terrorists. I will repeat that, because it is very important. Rejecting the balance of probabilities means that the Government are willing to put a control order on somebody who is probably not a terrorist. That is a formula for not one miscarriage of justice but many. Every miscarriage of justice is a wrong in itself, but in anti-terrorist law every miscarriage of justice is a seed from which anger and resentment grow—anger and resentment that feed the enemy we are trying to defeat and act as a recruiting sergeant for the evil men who would destroy not just our lives but the institutions, freedoms and beliefs that make our country what it is.

Sir Patrick Cormack (South Staffordshire) (Con): My right hon. Friend is making a powerful speech, but I want to take him back to his point about time. Does he realise that we have now used up more than half the time allocated for this debate? We have heard from the Home Secretary, and we are hearing an excellent speech from my right hon. Friend, but who else will be able to take part adequately?

David Davis: My hon. Friend is right. I am endeavouring to make this a short speech, so I will not take too many more interventions. The Government set this timetable, and I am afraid that when we look back in 25 or 50 years, or when we get to the end of this global emergency, we will wonder why we gave up these things in eight days.

Mr. Kenneth Clarke: With great respect, my right hon. Friend is exaggerating the length of time that this House has had to consider the Bill. In the previous debate, we did not have the Bill before us—we had a letter that described what the Bill was going to be like in the other House. The Home Secretary said that he would consult about the possibility of giving us a little more time to consider the Bill when it came back here, yet we have only three hours in total to discuss every Lords amendment, and the Government reject the prospect of coming back to legislate again properly after the election.

David Davis: My right hon. and learned Friend is absolutely right—he always catches me out when I am trying to be too reasonable.

Mr. Denham *rose—*

David Davis: I will make some progress, if the right hon. Gentleman will forgive me, because we are running out of time. I am not too fussed about saying that, with respect, because I have already given way to him twice.

This particular problem is partially correctible by accepting the Lords amendment, but the Bill is flawed on many fronts and needs a complete rethink. That is not provided—let me deal with the Home Secretary's point directly—by the Government amendment proposing an annual debate. Those of us who have taken part in such debates know that they offer an opportunity only for ratification, not a complete rethink. This Bill needs more than that—it needs a rewrite, not a rubber stamp. That is why the House of Lords voted 3:1 in favour of a sunset clause, with a record majority of 187 votes. That is why the previous Labour Lord Chancellor voted for it. That is why the previous Labour Cabinet Minister, Lord Barnett, voted for it. That is why Baroness Hayman, the Labour member of the Newton committee, voted for it. That is why a previous Home Secretary, Northern Ireland Secretary, Defence Secretary, and Attorney-General all voted for it. And that is why the sunset clause proposal had a majority of 45, without the Conservative votes, in the House of Lords. The proposal is important, not only because the Bill may prove counter-productive, but because there is a better alternative.

Let me quote the noble Baroness Williams of Crosby, who is not someone I normally quote. She said:

"Finally, in this House, with the possible exception of the Government Front Bench, a clear consensus is already building up about what a new Bill ought to look like. It is not divided on party lines, nor on lines of the particular attitude one may have as regards one's previous interests or concerns. There is clearly a very wide support for a different kind of Bill."—[*Official Report, House of Lords*, 8 March 2005; Vol. 670 c. 650.]

I say to the Government that it is possible to get the matter right but they will not do that if they insist on trying to use this badly flawed Bill as some strange test of political machismo. Of course they should be tough on terrorism, but clumsy on terrorism is not tough on terrorism. Heavy handed on liberty is not tough on terrorism, and careless of justice is not tough on terrorism.

The Bill is a bad measure, although it has been improved somewhat by the Lords. I recommend to hon. Members that we accept all the Lords amendments, let the Government use the improved Bill, but, most of all, allow Parliament to write a better one before the year is out.

Mr. Denham: In view of the time, I shall be as brief as I can.

Let me start with the sunset clause and the remarks of the right hon. Member for Haltemprice and Howden (David Davis). He made several important points of principle about the hundreds of years of liberty that were being set aside and the tests that should apply in the judicial process. However, it is fair to remind him that, when, as a member of the previous Government, he voted every year to renew the Prevention of Terrorism Act, he supported a measure that prevented thousands of British citizens from living in England, Wales and Scotland, with no judicial process or legal standard of proof and none of the safeguards that my right hon. Friend the Home Secretary has suggested. The right hon. Member for Haltemprice and Howden cannot therefore credibly discover a set of principles and concerns about British liberties that he never applied when he was in government. Exclusion orders are similar to the non-derogated control orders.

My right hon. Friend the Home Secretary has proposed the same type of order with some protection. The question is whether we should apply a sunset clause or an annual vote to the measure. As I said on Third Reading, I believe that the Bill is only a stage in the move towards the sort of terrorism legislation that we need. Many proposals from the Newton report and other suggestions, such as acts preparatory, need to be considered carefully. I would like to revisit my right hon. Friend's decision to rule out intercept evidence, although I agree that it has marginal relevance to many of the cases that we are considering.

I also believe that we should pursue the concept of the investigative magistrate, although, as a non-lawyer, I am prepared to admit that marrying a principle that has evolved in European continental law with the British system of common law may not be quite so easy. Such a process cannot be completed by November or even December this year. Indeed, if there is to be a general election, there are probably no more sitting days between now and then than there were between the Belmarsh judgment and now. Part of the problem about which people have complained is trying to pass legislation with a gun pointed to our heads because of the parliamentary timetable. It makes no sense to cock the gun now on the measure.

I was surprised by some of the comments of the right hon. Member for Haltemprice and Howden. I believe that he meant that, in his view, there will not and should not be control orders and that is why he is happy to have a sunset clause, because it would provide that they would be with us briefly and disappear. Frankly, he would do better to be honest and vote against the Bill rather than hiding behind a sunset clause.

Sadly, measures such as control orders are likely to be a feature of our counter-terrorism strategy for some considerable time. We need an approach that does not provide for having them for eight months and then getting rid of them but one whereby they will be part of the framework, which will be better in future. That is why annual renewal and a vote in the House is infinitely preferable to trying to include a sunset clause, which is a dishonest way in which to tackle the issue.

Sir Robert Smith (West Aberdeenshire and Kincardine) (LD): Will the right hon. Gentleman explain how a provision for a renewal order would improve the Bill?

Mr. Denham: A renewal order would not amend the Bill. That point has already been clearly made. I entirely trust my right hon. Friend the Home Secretary, and, indeed, I would trust any of the Opposition parties, were they to win the general election. Everyone agrees that this is not the final word on anti-terrorism legislation. New legislation will be initiated by my party and would be initiated by other parties if there were a change of Government after the election. The issue is to get the rest of the anti-terrorism legislation right, not to introduce control orders for a period of six months, eight months or a year and then drop them. Frankly, if I thought that that was what we were going to do, I would vote against the Bill because that would be nonsense. There would be no protection against terrorism under such short-term measures. Sadly, we are building a framework of legislation that is likely to play an important part in our

[Mr. Denham]

lives for 10 or 15 years or more. To set a timetable of only months before scrapping the legislation would be nonsense.

5.45 pm

Sir Patrick Cormack: The right hon. Gentleman is making a thoughtful speech. He said, however, that the proposal for a sunset clause was dishonest. Is he really accusing those who voted for it in the other place of being disingenuous or dishonest? He heard from my right hon. Friend the Member for Haltemprice and Howden that that measure would have been passed without a single Conservative vote. He knows that his own colleagues voted for it. Is he really saying that they are dishonest?

Mr. Denham: I certainly believe that there were those who voted for the sunset clause in the other place because of their intense dislike of the whole principle of control orders and who wish to see them come to an end. I cannot, of course, speak for any of them, and my judgment can be on only some of them. Those who believe that we need control orders know that my right hon. Friend the Home Secretary is right to introduce his proposal for an annual vote in both Houses of Parliament, to provide a check on this legislation.

Mr. David Watts (St. Helens, North) (Lab): Does my right hon. Friend agree that the difference between the Government, the Lords and the lawyers is that neither the Lords nor the lawyers would be held accountable for any terrorist attack?

Mr. Denham: It is undoubtedly true that that responsibility lies with the Government, although, in fairness, that does not remove from any of us the obligation to scrutinise the legislation carefully.

I am disappointed that the official Opposition have not managed to decide which side of the fence they are on in regard to control orders. I would have thought that, by now, we would have heard a more definitive response from them.

Mr. Alan Williams (Swansea, West) (Lab): Does my right hon. Friend agree that the annual opportunity to reject the renewal order is a very conclusive way of demanding a rethink?

Mr. Denham: Indeed it is, particularly in the light of the high level of reporting, analysis and scrutiny that my right hon. Friend the Home Secretary has offered. It is not as though we would be going into that annual vote without a considerable amount of knowledge about how the legislation was operating in practice. Indeed, by the time we reach the second, if not the first, renewal, the use of the orders will no doubt have been tested in the High Court under the European convention on human rights, so there will have been independent scrutiny of the compliance of the legislation with the convention. I think that that is entirely adequate.

Donald Anderson (Swansea, East) (Lab): Does my right hon. Friend agree that, although the right hon. Member for Haltemprice and Howden (David Davis) happily voted year after year for the prevention of terrorism Acts, a major change has taken place in the security context since then? At the time of the PTA, we did not have suicide bombers or bioterrorists, for example. The nature of the threat that our citizens face is now much greater.

Mr. Denham: That is undeniably true. It is disappointing that those who regularly voted for the extension of the prevention of terrorism Acts with no qualms about issues of judicial process, of civil liberties or of hundreds of years of human rights have suddenly discovered those issues in such an implausible way during this process. However, that does not remove from us the need to get this legislation right.

Mr. Cash: Will the right hon. Gentleman give way?

Mr. Denham: No, I wish to make some progress, because many other Members wish to speak.

In general, there has been a welcome of my right hon. Friend's moves to put the judiciary at the heart, and in every possible circumstance at the beginning, of the process. I will not dwell on that, but it is an important move, and it gave rise to most concern for many of us when we last discussed the issue.

Let me touch briefly on the question of the balance of probability versus suspicion. First, this House should not lightly set aside the advice that we are told that the Home Secretary and the Prime Minister have received from the security services about the nature of the evidence available to them. Each of us must make this judgment individually. If they advise us that the lower threshold is necessary at least to have some level of control over people who might pose a threat to our wider society, lightly setting that aside is dangerous.

Secondly, the process that my right hon. Friend has proposed—this point was confirmed in exchanges with him—does not just verify whether it was right to have a control order but enables the judge to consider whether the particular measures in the control order are justified by the evidence put forward. Those of us who have watched the judiciary at work over the years, for example, in relation to antisocial behaviour orders, are familiar with the fact that the more draconian the order that one seeks, the more questioning and sceptical judges are likely to be about the quality of evidence that they receive. I am confident that if we stick with my right hon. Friend's proposals, judicial scrutiny will be adequate to ensure that there is sufficient evidence to justify the level of restriction proposed.

Mr. Cash: On a point of order, Mr. Deputy Speaker. In the preceding Committee stage, the Home Secretary, in answer to my question,

"Will he state unequivocally now that there will be no interference with the right of habeas corpus",

said,

"I am advised that I can give the assurance that the hon. Gentleman is looking for: the proposals that I have established will not interfere with habeas corpus."—[*Official Report*, 28 February 2005; Vol. 431, c. 692.]

That is not the case, and the right hon. Member for Southampton, Itchen (Mr. Denham) is disputing that.

Mr. Deputy Speaker (Sir Michael Lord): Order. That is, strictly speaking, a matter of debate.

Mr. Denham: I am confirmed in my judgment not to have allowed an intervention by the hon. Member for Stone (Mr. Cash). I will complete my remarks.

On the issue of the balance of proof, my view is that we should not lightly set aside the advice that we get from the Security Service, and I am confident that the process is sufficient to ensure that the level of restriction is justified by the level of evidence that is presented to the court. In those circumstances, we would do better to stay with what my right hon. Friend proposes. The level of scrutiny of this legislation, which has now been guaranteed, together with the fact that it will be annually reviewed, will give us the opportunity to revisit the matter in practice rather than having the somewhat theoretical debate that we are having this afternoon.

Mr. Tony McWalter (Hemel Hempstead) (Lab/Co-op): Can my right hon. Friend give me some guidance? Clearly, constraining people's liberty when there is only a 40 per cent. probability that they are in the category that should be constrained, as that is what reasonable suspicion can lead to, is an innovation. The Opposition spokesman said that such a person is hence probably not a terrorist. Clearly, it is still possible to justify detaining someone when there is only a 40 per cent. probability that they are a terrorist if the crimes that they might commit on release are so enormous as to compensate, as it were, for that lower level of probability. Is that what my right hon. Friend has in mind? If so, that gives us all pause for thought about the threshold and whether it is suitable.

Mr. Denham: I recognise my hon. Friend's argument, but I shall pick him up on one important point: he talked about release. Orders under this level of suspicion do not lead to detention. It would be a matter of some concern if they were to do so. At the lower level of restriction on someone's absolute freedom, I believe that the sort of test that he has outlined is justified as a precautionary measure. The measure is not equivalent to a punishment, detention in someone's home or locking someone up in prison. It is a prudent measure taken on the basis of the information that is available to protect the public. On that basis, we should support my right hon. Friend's proposals.

Because so many other Members wish to speak, I shall leave my remarks at that.

Mr. Heath: It is a pleasure to follow the right hon. Member for Southampton, Itchen (Mr. Denham). I was struck by his comment, near the beginning of his speech, that he expected the Bill to be in force for 10, 15 or 20 years. I suggest that if that is indeed the case, it deserves rather more than three hours' debate.

Despite my respect for individuals in another place, I take no pleasure in the fact that it is the unelected House that presented us with the Bill that we are considering today. This is effectively the third attempt at Second Reading, but it takes place in very restricted circumstances. The defeats incurred by the Government in the House of Lords were considerable. The Lords looked at the Bill and decided that it was beyond reasonable suspicion that it was a bad Bill, beyond the balance of probabilities that it was a bad Bill, indeed beyond reasonable doubt that it was a bad Bill, and that it was a Bill that they must amend.

Claire Ward (Watford) (Lab): Will the hon. Gentleman give way?

Mr. Heath: I will, but I will not do so very often.

Claire Ward: Is the hon. Gentleman aware that his hon. Friend the Member for Newbury (Mr. Rendel) was on national radio earlier today? He said:

"I personally believe and my party believes that it is worthwhile to have a marginal increase in the risk of terrorism".

He went on to say:

"I don't think it is very likely that there will be huge amounts of people killed in terrorism."

Will the hon. Gentleman take this opportunity to distance himself and his party from those outrageous remarks—or does he really believe that the risk is worth accepting?

Mr. Heath: My party has never suggested and would never suggest that there is not a real threat of terrorism, which we must address properly.

Claire Ward: Really?

Mr. Heath: I am surprised that the hon. Lady has raised an issue that has already been raised by her right hon. Friend the Home Secretary. I do not think that it adds to the debate.

Claire Ward: Answer!

Mr. Heath: The principles to which the Home Secretary adhered so firmly only a week ago appear to have shifted, especially in the context of judicial review. I listened to the Prime Minister at Question Time today, and I felt that he experienced some difficulty in distinguishing between principles and what was expedient. I found his explanation of why he rejected the sunset clause—to which I shall return shortly—incredible. He told us that it was impossible, because it was the clear advice of the police and the security services that we should not have such a clause. How absurd is that?

This is a parliamentary matter. This is a question of how we determine the laws of this country. I do not believe it is a matter on which the police and the security services either have an opinion or would vouchsafe an opinion to the Prime Minister.

Mr. Hogg: Perhaps the hon. Gentleman will remind the House that the outcome of the Hutton report made it wholly plain that the Prime Minister does not always give a full, clear or accurate account of the advice that he receives from the intelligence services.

Mr. Heath: That view has certainly been expressed. I think that in general, whenever the Prime Minister

[Mr. Heath]

makes assertions of that kind, he would be wise to publish the material on which he bases those assertions. Sometimes there seems to be a substantial difference between the one and the other.

The Home Secretary is not an unintelligent man, and he has a proper regard for his duties. As has been pointed out, however, he has repeatedly suggested that he is making concessions. He is not making concessions; he is being defeated. He is being defeated by a House that does not agree with his proposals—not by virtue of the votes of Opposition parties, but by virtue of the votes of members of his own party who have held senior office in that party, and members who have held judicial office and office in the senior ranks of the police service. So it would be wise if he were to take notice of what has been said.

There are basic principles on which we must be clear when we look at this legislation. We have said all along—I repeat the point for the benefit of the hon. Member for Watford (Claire Ward)—that we recognise that a threat exists, and we want to find the right mechanisms to address it. *[Interruption.]* That is the principal responsibility of any Government—and, indeed, of any Parliament—and part of the response to it is ensuring that the measures that we put in place are commensurate with the risks involved—*[Interruption.]*

6 pm

Mr. Deputy Speaker: Order. The hon. Member for Watford (Claire Ward) must not keep intervening from a sedentary position.

Mr. Heath: I am most grateful, Mr. Deputy Speaker. It was a little distracting to have constant wittering in my ear.

Sir Patrick Cormack: Does the hon. Gentleman think it pretty disgraceful that the Home Secretary, having given us only three hours in which to discuss this vast range of amendments, has now pushed off?

Mr. Heath: I do find it odd, but not unusual given the record of this Government.

What are the principles that we wish to see espoused in the Bill? First, there is the very important point that a judge, rather than an elected politician, should take decisions on restricting an individual's liberties. I acknowledge that we are making progress in that area, but the Home Secretary is still determined to persevere with what is a very odd position—at least until his next defeat at the other end of the Corridor. He wants to promote this entirely arbitrary distinction between a derogating and a non-derogating order.

When we had this debate at the last time of asking in this place, it was quite clear that many Labour Members were entirely unpersuaded that there was a difference between derogating and non-derogating orders that required a different judicial process. Yet the Home Secretary is persisting in his view not only that such a distinction is necessary, but that the capacity in which a judge can act in the case of non-derogating orders is limited to judicial review, and that he cannot look at all the given circumstances. I simply do not accept that that is a reasonable distinction. We know that non-derogating orders can constitute a very substantial restriction on an individual's liberties, and we believe that a judge should take such decisions. They should of course be taken on the basis of evidence put forward by the Home Secretary, his having consulted the security services. The Home Secretary is indeed the starting point of this process, but it is the judge in court who should determine whether such restrictions should be made.

The second principle is the primacy of prosecution. The Home Secretary has repeatedly asserted that it is right that prosecution be the preferred route in the case of any individual whom we believe to be guilty of, or preparing for, terrorism acts. We agree. In fact, that is precisely what the House of Lords said in their amendment—which the Home Secretary proposes to delete this evening. Deleting it cannot be right. I accept that an alternative wording is inserted at a later—and inappropriate—point in the Bill, requiring the police to continue investigating such cases and to satisfy themselves before an order is made. But that gives the Bill a very strange architecture, and it does not reflect the Lords' clear and unambiguous assertion that the Director of Public Prosecutions must be consulted before an order is made. We believe that there should be no ambiguity concerning control orders. They should be for a fixed period, but of course renewable if that proves necessary. The Home Secretary seems to have accepted that point.

An extraordinary argument has been advanced concerning the standard of proof. The right hon. Member for Haltemprice and Howden (David Davis) described the situation extremely well when he pointed out that these orders are to be placed on people who are probably not terrorists, by definition, according to the standard of proof that is to be applied.

There are two reasons why I believe that it is not unreasonable to have the balance of probabilities as the test. First, the starting point should innately be the "beyond reasonable proof" criminal test and we are coming down from that, not up, on the say-so of the Home Secretary. Secondly, these hearings are to consider material that is not admissible in a court, so there is already a lowering of the standard of proof. I have no quarrel with that. There are circumstances in which that is right, but if we are proceed with it, it must surely be linked in with the balance of probabilities as the very lowest standard of proof that is appropriate.

That is necessary if we are to ensure due process, which is a critical issue. I note the amendment tabled by the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg) and commend it to the House. The issue was explored in the other place and we should continue to explore it. I do not accept that we can buy this pig-in-a-poke whereby there will be rules of court, but we are not allowed to know about them. At the moment, this House is apparently not allowed to share in the draft rules of court that are being prepared. In any case, we are told, this is a matter for the Lord Chancellor, not the Lord Chief Justice. I do not accept that: it should be a matter for the Lord Chief Justice and the rules of court should be clear about the admissibility of evidence derived from torture, for example. We wholly reject the idea that evidence derived from torture should play any part in any British judicial process. I

simply do not understand why the Home Secretary is intent on removing the Bill's amended reference to compliance with human rights legislation.

We believe that if the Government intend to introduce house arrest at any stage in future, it should clearly be a matter for this House—indeed, for both Houses—to determine and that that should be stated unambiguously. We believe that the Government should be actively exploring issues such as the use of intercept evidence in respect of new offences such as committing acts preparatory to terrorism. Sensible suggestions have been made and I believe that the Home Secretary will consider them, which is an essential part of the preparation for what I hope will be a better and more effective anti-terrorism Bill that will be laid before the next Parliament.

That brings me to my final point, which is about the principle of the sunset clause. The reason for having such a clause is very clear. The legislation is imperfect and it is being rushed through Parliament, yet it needs the proper attention of both Houses of Parliament. It has been brought forward in haste, simply because nothing was done for three years to correct the deficiencies of previous legislation. We now face an unacceptable potential hiatus in our protections against terrorism. That is why we need emergency legislation to go through, but equally why such legislation should lapse. The sunset clause is therefore crucial.

It is quite wrong to suggest that annual renewal can provide any substitute for ab initio consideration of the legislation. There is nothing to stop the House re-enacting a similar Bill if, in due course, it is decided that that is the right thing to do. The problem with renewal is that that is the only option that the House will have. One can imagine the circumstances in a week's time. The Home Secretary will say that we have no protection against terrorism and ask why Members are prepared to reject the only protection that we have against it. If we only have the option of renewal, that is what will be put before the House.

Ms Diane Abbott (Hackney, North and Stoke Newington) (Lab): Does the hon. Gentleman agree that renewal is no substitute for a sunset clause? It is not a question of renewing this Bill, but of rewriting it. The run-up to a general election is the worst possible time to be drafting legislation such as this, and the very least that the House can do is vote in favour of the sunset clause.

Mr. Heath: I am most grateful to the hon. Lady for her support. Her view is shared by the overwhelming majority in another place, which would have accepted the proposal without a single Conservative peer going through the Aye Lobby. I would love to believe that every hon. Member would recognise the importance of revisiting this matter after the general election, but I have no great expectation of that.

Peter Bradley (The Wrekin) (Lab): Does the hon. Gentleman agree that there is never a good time for considering or passing legislation such as this? It is not a question of whether it is desirable, but of whether it is necessary.

Mr. Heath: There is never a good time to consider a legislation such as this, but there is sometimes ample time. We could have discussed this Bill three years ago, or a year ago. We could have discussed the recommendations from the Newton committee, or those made by my noble friend Lord Carlile, but we have not done so. The Government left this Bill to the last possible moment and then said, "We have an emergency." That is an unacceptable way to bring forward a Bill such as this.

Many other hon. Members wish to speak, so I shall end by saying that this House's prime concern is the protection of the people of this country. It is entirely inappropriate for any hon. Member to suggest otherwise. As the Home Secretary says, we must balance that concern with protection of the liberties that we have always enjoyed.

I believe that a consensus can be reached. Throughout our discussions, my hon. Friend the Member for Winchester (Mr. Oaten) has started from the point that our party believes that a consensus is possible. The Lords amendments take us very close to that consensus. To reject that through political machismo or obstinacy, or for any other reason, would be absurd and dangerous. It would threaten the physical safety of the people of this country, and the safety of the institutions that we hold dear.

I find it difficult to understand why Ministers might risk losing a Bill as important as this just because they refuse to listen to those who perhaps know a little more than they do about this subject, and who have made very sensible suggestions for making this an effective piece of legislation.

Mr. Win Griffiths (Bridgend) (Lab): I moved an amendment, when the Committee of the whole House examined this Bill, that would have provided that a court would decide on an application for an order from the Home Secretary. In that debate, my right hon. Friend said that he believed that that should be an Executive decision, and he made that clear again at the start of his contribution this afternoon. I hold an equally strong but opposite view. Like my right hon. Friend, I am not a lawyer, but my feeling is that the decision cannot be left entirely to the Executive.

The Bill has returned from the other place with myriad amendments. Some of them appear complex to people who are not lawyers. The Government have replied with their own set of amendments and they, too, are quite complex. In my contribution this afternoon, I want to set out what I believe the Home Secretary is trying to achieve. I also want to explore what might happen in the future, and I hope that some of my fears about this legislation will be calmed.

Perhaps my hon. Friend the Minister for Crime Reduction, Policing and Community Safety, who is on the Front Bench, will correct me if I go wrong, but this is what I believe will happen. The Home Secretary will apply to a High Court judge for a non-derogating control order in the same way that he will apply for a derogating control order. An order will not take effect unless it is confirmed by the judge, who will consider the evidence and decide whether the Home Secretary has a prima facie case for making an order, whether non-derogating or derogating. That is true despite the controversy that has emerged in this debate about how judicial review might work in respect of non-derogating orders.

[Mr. Win Griffiths]

The lawyers seem to have a difference of opinion, but I am reassured by my right hon. Friend's statement that the judge will be able to consider the evidence when making a decision. When the judge considers the evidence for an order from the Home Secretary, and if he agrees and the order takes effect, he will immediately and automatically transfer that order to the court for a full hearing. That will take place as soon as possible and the defence will be consulted about the amount of time it needs before proceeding to the High Court hearing. In addition, there will be an emergency procedure. The Home Secretary will be able to make an emergency order to take effect immediately, but at the same time he will refer the emergency order—

6.15 pm

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): I do not mean to be short with the hon. Gentleman, but is he attacking his own Home Secretary? Does he think that the Home Secretary so inadequately explained his case for more than an hour that it is necessary to repeat the process?

Mr. Griffiths: I believe that it is. There was a considerable amount of discussion about whether the Home Secretary was right or wrong, and I am saying what I believe he is trying to do.

Mrs. Anne Campbell (Cambridge) (Lab): I am finding my hon. Friend's explanation clear and helpful.

Mr. Griffiths: The Home Secretary will be able to make an order to take effect immediately, but at the same time he will refer it to the court for confirmation within seven days. If the court confirms the order, it will go to the High Court for a full hearing. If it is not confirmed, it will cease to have effect.

The Home Secretary said—let me be plain about this because there seems to be considerable disquiet that it will not happen—that he will report to Parliament on the application of all orders every three months, and he will explain, if he has used the emergency procedure, exactly why he did so. There will be accountability. In making all the orders, the Home Secretary will be required to consult the police and the prosecuting authorities before making them and the police, and the prosecuting authorities will have the opportunity to tell the Home Secretary whether a case can be taken to court as normal. That will be in addition to the fact that in the Bill that went to the other place, the Secretary of State was already making provision for the police and prosecuting authorities to keep under review any person subject to a control order and to continue the process of gathering evidence.

Mr. Kevin McNamara (Hull, North) (Lab): I have been following with interest what my hon. Friend is saying. Can he tell us where in the procedures a person subject to detention will be told the evidence on which he is being detained?

Mr. Griffiths: I was coming to that. The Secretary of State was at pains to point out that some of the evidence could be heard in open court and some would be heard in closed session. An undertaken has been given that the special advocates will be brought together to try to develop a system whereby defendants will be able to know if not everything, enough of the case against them to enable them to mount a defence. That is very important, and the quarterly reports to Parliament will provide an opportunity to test the extent to which that is happening. At the end of the year, Parliament will have an opportunity to decide whether the system is working and it will be able to vote down the legislation if it wants to do so.

Mr. McNamara: Is my hon. Friend saying that a detainee will not always know the evidence on which he is being detained?

Mr. Griffiths: Yes, it is possible that certain intelligence evidence will not be made known to the defendant. These are difficult circumstances and the system is not perfect. We do not live in an ideal world, but hon. Members are welcome to tell me how they think the procedures could be better.

Mr. Gordon Prentice (Pendle) (Lab): Given that so much will ride on information from the intelligence services, is there not a mechanism we could use to test independently the veracity and reliability of information from the security services? We all remember that Colin Powell, then US Secretary of State, relied on information from the British security services in respect of the second dodgy dossier, which was written by a PhD student and was completely fictitious.

Mr. Griffiths: I would hope that in similar circumstances the judge would be able to make some assessment of the evidence. Given that much of the evidence is seen by the Intelligence and Security Committee, I had hoped that an amendment could be tabled to involve it in the process. I hope that that Committee could still become involved.

Mr. Beith: I should point out that the ISC does not look at the individual evidence relating to individual cases. I do not speak on behalf of the Committee on this point, but it would be a major departure for it to become involved in adjudicating on how sound the evidence was in individual cases. One should perhaps therefore look elsewhere for a procedure to meet that requirement.

Mr. Griffiths: The right hon. Gentleman can perhaps correct me on this point, but I wonder whether the Committee would be able to consider the issues in specific cases to assess the value of the evidence against the information it received in the normal run of its examination of intelligence and security matters. I would have thought that the Committee's members would be an eminently suitable group of people to assess whether the evidence was of sufficient quality to enable a judge to make a decision.

My right hon. Friend the Home Secretary made it clear this afternoon that he accepted that the measures were temporary—although we do not know whether they will last one year, 10 years or 20 years—and that he would seek to develop a consensus about new legislation to deal with terrorism that would mean that this

legislation would not have to be used. Although my right hon. Friend is not willing to accept amendment No 31, he made it clear that he would consider some of the wider points about trying to achieve a consensus through some sort of Privy Council committee, if not a Newton-style committee. I accept that the legislation is not perfect, but my right hon. Friend has moved—

David Taylor (North-West Leicestershire) (Lab/Co-op): My hon. Friend tabled an amendment that was defeated by only 14 votes last week—and many hon. Members will hang on his answer to the following question. Despite the Bill's residual flaws, is he content that it should reach the statute book in its present form, with the standard of proof for non-derogating orders remaining suspicion only and charges not necessarily being communicated to the defendant? Could not it still have come straight from "The Trial" by Franz Kafka?

Mr. Griffiths: We can always compare issues in a drama on a stage with what happens in real life, but I believe that the Secretary of State has accepted the fundamental point that he will not make the decision himself, but put the matter to a judge, after which the case will go to a High Court hearing. There will be an opportunity for the evidence to be examined at that hearing, so we have made significant progress.

Mr. Grieve: As I read amendment (a) to Lords amendment No. 1, the Secretary of State is taking back the power to make the orders. I have listened to the hon. Gentleman carefully, but I am worried that he might have been misled by what the Government have told him.

Mr. Griffiths: The hon. Gentleman might be saying that the Government Front Bench is misleading me, but my view, after reading the amendments, is that the Secretary of State will make an application to a judge for a non-derogating order—[HON. MEMBERS: "No."] Well, the Secretary of State will make an order that will be put to a judge so that the judge can decide whether it is right before it is implemented. The judge will be able to reject the order, which would mean that it would not be implemented, or to amend it if he thinks that the Secretary of State's proposal is disproportionate.

The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy) *indicated assent.*

Mr. Grieve *rose*—

Mr. Griffiths: My hon. Friend on the Front Bench is telling me that that is the case, but I shall give way to the hon. Member for Beaconsfield (Mr. Grieve) again.

Mr. Grieve: I must say to the hon. Gentleman that there is a clear difference between an order that is made by a judge and an order that is made by the Secretary of State and presented to a judge for ratification. We have been trying to debate that matter this afternoon. If it has been suggested to him that those orders would be one and the same, he is being misled.

Mr. Griffiths: I am not saying that the orders would be one and the same; I am saying that a non-derogating order made by the Secretary of State could not be implemented unless a judge approved it. If a judge approved it, the case would go to the High Court for further consideration so that the person subject to the order could build up a defence of his position. The Government are examining ways of improving the operation of the special advocate procedure so that such defences can be more effective.

Given the situation in which we find ourselves, rather than having no protection at all we should accept the provisions and the Secretary of State's offer to examine the broader situation over a slightly longer time scale. The Bill gives both Houses the opportunity to vote annually on whether to renew it, so an annual sunset clause is built into it. That is why, even though the Bill is not perfect, I am prepared to support the Government tonight.

Mr. Hogg: I am grateful to Mr. Speaker for selecting amendment (a) to Lords amendment No. 8, which stands in my name and is designed to ensure that there is due process. Before I speak to the amendment, however, I want to say something about the Prime Minister. He, along with the Home Secretary, has told the House several times that he is acting on the advice of the intelligence and security services. However, he also told us that when he said that there were weapons of mass destruction in Iraq. Let us remember a clear finding of the Butler report: the Government did not fully or accurately represent to the House the contents of the intelligence reports that they were receiving. That being so, I say to the Prime Minister and the Home Secretary that if they wish to rely on such advice, they would do well to place it in its written form in the Library of the House of Commons, because otherwise I question it.

I am conscious that we have only a short time for the debate and that many other right hon. and hon. Members wish to speak, so I shall be brief. I shall not go on at any length about the deplorable nature of our proceedings or, indeed, the Bill. I shall focus on justice, because the one thing that we should be asking ourselves is whether what we are doing is just in the broadest possible sense. Let us remind ourselves that these control orders, whether they be derogating or non-derogating, restrict the liberty of the citizen to an extraordinary extent. The derogating orders will keep people in custody; the non-derogating orders can destroy their livelihood and their social existence.

6.30 pm

Chris Bryant (Rhondda) (Lab): Will the right hon. and learned Gentleman give way?

Mr. Hogg: No, I shall not give way at this juncture.

The orders are of profound consequence, and that is no doubt why the American constitution—the fifth amendment—would prevent the American Government from doing just what we are doing. The only place they can do it is in Guantanamo bay because the American constitution does not protect people in Guantanamo bay. What we are doing today is what the

[Mr. Hogg]

Americans are doing in Guantanamo bay, but cannot do on the mainland of the United States. I find that a deplorable and shameful thing.

Chris Bryant: Will the right hon. and learned Gentleman give way?

Mr. Hogg: No, I am going to proceed. I shall be brief because other Members want to speak.

The point I am making to the House is not so much about the identity of the person making the order, although it is better by far that the judge should play a prominent part—what really matters is the process. What material will be placed before the person making the order, on the basis of which somebody can have his liberty and livelihood destroyed? It is at that point that I come to my amendment, which is a modest one. I ask the House to consider it.

First, the detained person should have reasonable notice of the proceedings. Who could quarrel with that? Next, the detained person should have a summary of the allegations. Who could quarrel with that? Next, unless the judge orders otherwise, and that is a protection to the Crown, the detained person should know the nature of the evidence against him or her. Otherwise, how can he instruct the special advocate? Next, he should be present throughout the proceedings. Next, he should be able to give evidence and call witnesses. Next, he should be able to submit relevant documents. Next, he should be able to ask questions of those who are accusing him. Those are the basic rights that we demand of any court in any civilised country.

If we deny people those rights, we deny them justice. I have practised in the courts for 40 years or more—in the same type of courts as the hon. and learned Member for Medway (Mr. Marshall-Andrews). We know that grave injustices occur even within the judicial system as it exists in the criminal courts. It is certain—absolutely certain—that grave injustices will flow from that which we are doing today.

I say to the House and to Members in the other place that we should not be party to such a disgraceful interference with political and legal rights. We are betraying our country. We are betraying our constituents. We should uphold the House of Lords in all its amendments.

Mr. Frank Dobson (Holborn and St. Pancras) (Lab): I am trying to recognise the dilemma in which the Government find themselves, as they try to find a way between the requirements of security and our traditions of the rule of law and natural justice.

I do not support the sunset clause. Like probably everyone in the House today, I accept that it is unlikely that we shall get this legislation right. It will need sorting out. After the general election, the Government propose to introduce new legislation on terrorism, which will probably command broad support. We shall have to look at that and other terrorism legislation in the statute book and try to come up with something better, but the idea that it can be done by November is preposterous. No work will be done on those measures between now and the general election. There will be turmoil for a few weeks after the general election. There will then be a few weeks of Parliament going about its normal business. Then there will be a recess followed by the party conferences and we shall actually get down to this business, which should be at the heart of what the House is doing, only in October—five or six weeks before the due date of the sunset clause. The idea that the sunset clause would enable us to look rationally, deeply and carefully at the legislation is preposterous and anyone who thinks about it would have to recognise that.

Mr. Beith: Will the right hon. Gentleman give way?

Mr. Dobson: No, I really must get on.

I do not understand why my right hon. Friend the Home Secretary is not prepared to accept the position of the House of Lords on the lesser orders. As I said during the previous debate on the Bill, we can assume that the people who will be subject to house arrest are the most dangerous ones. He has conceded that the judge will take the decision in those cases and I cannot really understand why he will not concede that the judge should take the decision in the lesser cases. That seems to amount, roughly speaking, to administrative convenience, and we should not support that. It is still not clear to me—non-lawyer that I am—whether the judge will be able to look at the facts in all cases, or whether the suspect will know enough about the charges to be able to challenge them, and we need to look very carefully at that.

Mr. Marshall-Andrews: Will my right hon. Friend give way?

Mr. Dobson: No, I would rather not.

On the burden of proof, I have not followed the logic of my right hon. Friend the Home Secretary—he is a good friend of mine—in that he says that we do not need a high burden of proof because this is not punishment. He is quite right: the burden of proof that we need for punishment is that of being guilty beyond reasonable doubt. Nevertheless, people's liberty will be interfered with, and I must admit that I find myself somewhere between "balance of probability" and "reasonable suspicion". We are in that territory. If we had had enough time to think about that, we might have even come up with a novel definition somewhere between those of balance of probability and reasonable suspicion.

Chris Bryant: Will my right hon. Friend give way?

Mr. Dobson: No, I really must get on.

The other point that I would make is that my right hon. Friend the Home Secretary cited certain cases where judges—of course, they are not always right, nor is the Appellate Committee of the House of Lords—and said that reasonable suspicion was all right, but those cases applied to people who were not British citizens. We are talking about an extension of that approach to British citizens for the first time in our history, and I personally cannot, and will not, do that.

I would welcome an opportunity to look at the legislation in perhaps a year's time, when we have all had the opportunity to do so very carefully. The House, which is elected to protect not only the security of the country, but rights to natural justice and the rule of law, could look at it very carefully and we would have done our job properly, which no one can possibly even assert that we have been able to do in the preposterously short time that has been available to either us or the House of Lords.

I once checked on the passage of the Bill of Rights in 1688. It went to and fro, from the Lords to the Commons and back again, and the Commons eventually gave way because the king prorogued the Parliament and they beat him to it, but I have to say that the House of Commons was then in favour of protecting the rights of the individual and the Lords were against doing so—sadly, it seems to be the other way round today.

Mr. Kenneth Clarke: I have the great pleasure of having five minutes—I hope to limit myself to that—of the 20 left to the House to discuss this entire measure, and it is a privilege to have any portion of the three hours that we have been allotted. I might be able to beat five minutes because it seems to me that a very large number of those hon. Members who have taken part in the proceedings have got as near to a consensus as we did a little over a week ago, when we supported the amendment moved by the hon. Member for Bridgend (Mr. Griffiths) and got very near to defeating the Government. There is an enormous degree of consensus, with various Members expressing discontent on both sides of the House. Most of us accept that something like control orders need to be introduced, most of us accept that some special procedures need to be introduced and most of us fully acknowledge our duty to look after the security of this country.

The hon. Member for Bridgend, who courageously pressed his amendment last week, has been persuaded that somehow all has now been satisfied. I accept that the Home Secretary has tried to make concessions. I suspect that he has had difficulties with some of his colleagues in making them. He has tried to meet us but he has not in any way resolved the difficulties surrounding the Bill, in my opinion.

All that I can do is express my frustrations with the enormous issues that are not resolved, which cannot be resolved in the next hour or two, and which cannot be resolved by both Houses in the time remaining before a general election. There is the question, which the hon. Member for Bridgend pressed, about who makes the decision on a control order for the lesser degree of control orders. The Secretary of State is going back to giving himself the power to make the order and subjecting himself to judicial review. I have not practised law for a quarter of a century, so I shall leave others to argue what the up-to-date position is, but I am sure that judicial review does not mean that the judge starts all over again and decides what makes the original decision, on what he regards as the merits. It is a lesser procedure of challenge. It is certainly less than the concession that has been made on the more important control orders. Otherwise, why have the Government gone back to bring in judicial review and not allow the lower orders to be subject to the same process?

There is the question of who determines whether prosecution would have been the proper procedure. I am not content with consulting the police and prosecution authorities before the Home Secretary decides whether or not he would rather go down the route of a control order with the powers that we are discussing.

The burden of proof seems to dissatisfy almost everyone who has spoken this evening. It is astonishing that we are being asked to agree that someone who is probably not guilty of the allegations should be made subject to such severe restrictions on his liberty and livelihood. We would not accept that for a parking ticket, but we are being asked to accept it for a control order. There is an area yet to be developed about how far the accused person should know the nature of the charges against him. His advocate will not be allowed to go back to him once he discovers the true nature of the charges against such a person. That person will not be given even a general description of what actually will lead to him losing his liberty.

I disagree with only one point made by the right hon. Member for Holborn and St. Pancras (Mr. Dobson). I urge the House and the other place to stick to the idea of a sunset clause. We all know that we have to have legislation in place by this weekend. We know also that the legislation that we have is not what the Home Secretary would have wished. We have had no chance to change it but the other place has had three days and it has knocked it about considerably. I suggest that the Government should take the powers that they will have and then we should all agree that, after the election, a fresh piece of legislation should be introduced. We should have a Second Reading, an organised Committee, consideration on Report and a Third Reading before the measure goes to another place.

No amendments were tabled and considered, except those presented by my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg), along with a crowd of amendments covering the entire Bill. It is a bizarre means of proceeding. The House spent more than 700 hours considering fox hunting, yet it is debating the substance of this Bill in three hours in bizarre procedural terms. It is clear that we should return to the matter and have proper legislation.

Whichever party wins the next election, there will be no difficulty in getting a majority of the House to agree that pretty severe measures, with some unfortunate derogations from our individual liberties, are required to tackle the serious problem of terrorism. We are told no. Some Labour Members say that a concession would be an annual review. I am not going to return to sterile arguments about why some Members were voting on the opposite side when we had annual reviews on the control of terrorism legislation. The right hon. Member for Southampton, Itchen (Mr. Denham) used to vote against them and I used to argue in favour of them. We all agreed, however, on the rest of the measure. We were arguing only about exclusion orders. They stopped somebody who had been living in Ireland for some time getting off a ferry when it reached Liverpool. That person would be sent back, and Labour Members objected to that. We should bear in mind how far we have slipped from then. Look at what we are talking

[Mr. Kenneth Clarke]

about now. Look at what the right hon. Gentleman is advocating now. He thought that there was a matter of principle.

Mr. Denham: Will the right hon. and learned Gentleman give way?

Mr. Clarke: I cannot give way to the right hon. Gentleman. I will just complete my five minutes before I resume my place. I realise that he is on the side of the angels, but his particular angel is being too naive if he thinks that we are half way near to getting the sort of terrorism legislation that the House should approve, in any circumstances, once it is given the proper time to debate it.

6.45 pm

Vera Baird: I am not going to pretend that the Bill is perfect, but now the situation is plain: control orders will not be made by the Secretary of State and they will all have to be made by application to the court and a judge, save for urgent non-derogated orders. I accept that such orders will be rare, as my right hon. Friend the Home Secretary said, but these are extremely important matters. Government Members who have held out for the applications to be made to the judge first would not like the court to be sidestepped if every application were claimed to be urgent because it dealt with terrorism. I therefore rely heavily on my right hon. Friend's assurances that it will be only in rare cases that the court is sidestepped.

Decisions will be made by judges, not the Home Secretary, who has Executive responsibility for national security and who will carry the can if he has too light a touch with suspected terrorists and an incident occurs. That responsibility is a strong wind blowing in one direction and the most civil libertarian Home Secretary would find it difficult to balance it against the civil liberties of the person from whom they are told the danger is coming. A judge does not have that Executive responsibility. His professional role is to be completely separate from the Government and objectively and with reasoning to make a judgment between the Government concerned and the ordinary liberties that hon. Members, I and the defendant all share. From that point of view, the judge's decision is fairer and better and there is a better calibre of scrutiny all round. Detention is not Executive detention if it is imposed by a judge who is satisfied that the Home Secretary's application passes the test in the statute.

Mr. Marshall-Andrews *rose—*

Vera Baird: I regret that I cannot give way, because I have to hurry.

I shall return to the test in the statute in a minute. However, I wish that we had never even started to talk about Executive detention. We have now moved away from that completely. Talk of Magna Carta has clogged the airwaves for several weeks, but it was simply not necessary. It is a far from perfectly analogy, but the orders are recognisably similar to antisocial behaviour orders. Someone applies for an antisocial behaviour order, often on hearsay, and information is collated by a local authority noise inspector or by a police officer who was not present when the incidents occurred. Following a complaint that someone has behaved in an antisocial way—they have not committed a crime, but they offer a risk—rules are imposed and the recipient of the order cannot go into a particular area, must wear a tag and must be in their home after 10 pm. It is not the same as a control order, but it is in the same ball park. Anticipating that someone is engaged in terrorism, we will require him to follow orders imposed by a court to protect the public from risk.

Turning briefly to the test, there is a major question to be asked—is the standard of proof good enough? We are arguing about two different requirements. Are there reasonable grounds to suspect that someone is a terrorist, or is it more probable than not that he is a terrorist? That it is not half as important as the question of whether he can answer the charges against him. In most instances in which there are reasonable grounds to suspect that the guy is a terrorist, that is unlikely not to be the case. If there are reasonable grounds to suspect that he is a terrorist, he probably is one. In my own view, I must tell the House plainly that, where there is evidence providing reasonable grounds to suspect that he is a terrorist, a judge should impose restraints on him to stop him carrying on in that way.

Far more important than that almost but not quite arcane point about the standard of proof is the condition that the suspect must have the best opportunity to answer the case against him. I have been greatly cheered by the attitude of my right hon. Friend the Home Secretary to reviewing the system of special advocates.

It is clear that, at present, defendants in this position will not talk to their special advocates because they regard them as appointed by the Attorney-General, who is often their opponent in these very cases. It is imperative that these people should have faith in their advocates and be allowed to pick from a security cleared list of barristers, so that they have their own choice of person. Then the advocate can see the defendant, take a long and detailed history over the relevant period, then see the secret intelligence and hope that he has the instructions to answer the allegations. If he has not, my right hon. Friend has also indicated that he would be willing to discuss a system where, in that situation, a special advocate lists the questions that he wants to ask and approaches the judge as to whether he may be able to ask them without endangering intelligence. This is as good as it is ever going to get.

That is extremely reassuring. We all wish people who are suspected of terrorism could be brought to the criminal courts and tried. Now, one cannot do anything else to these people until one has ascertained that they cannot be tried. That, too, is hugely reassuring. I do not see that a sunset clause in November would help anyone at all. There is supposed to be a general election in May. It will take us until June to be sworn in again. By July, we will be in recess until October. A long time for

reflection is needed to improve upon the Bill, and November has nothing to do with it. It will be reviewed in a year.

Mr. McWalter: Will my hon. and learned Friend give way?

Vera Baird: No, I do not have time and others want to get in. I am about to conclude.

Let me make a short list. One has to exhaust the possibilities of prosecuting before one can make an order. One can get an order only if one goes to a judge and the Home Secretary has a positive attitude to ensuring that the defendants get a better deal out of their special advocates than they get now. That is good progress towards an acceptable Bill. The people who are in Belmarsh will be coming out on Friday. We can, in my view, with greater contentment than I thought possible last week, vote now for the Bill.

Sir Patrick Cormack: The hon. and learned Member for Redcar (Vera Baird), for whom I have considerable respect, is rather too easily persuaded. There is a great degree of consensus in the Chamber tonight, and between the Chamber and the other place, first, that some legislation is necessary—we accept that, albeit reluctantly; secondly, that the Bill is wholly unsatisfactory; and thirdly, that the way in which the House of Commons has been treated by the Government in general and the Home Secretary in particular is nothing short of disgraceful.

We have had three hours today, ending at 7.5 pm, to consider a raft of amendments passed by the House of Lords, which had a couple of days in Committee to crawl over the Bill and to improve it. We will have had three hours, of which the Home Secretary took an hour and 10 minutes or more. My right hon. Friend the Member for Haltemprice and Howden (David Davis) made an admirable speech from the Front Bench, and spoke for about half an hour. The rest of the House of Commons, including the Liberal Democrat Front-Bench spokesman, has had less than an hour and a half. That is a disgrace.

I hope the Home Secretary will recognise that such treatment of Parliament and of the elected Chamber, which is supposed to have primacy, is something of which he ought to be deeply ashamed. He should be all the more ashamed when we are dealing with such a far-reaching subject that touches upon the liberty of the individual. I am one of those who have some sympathy with what the Government seek to do, but I feel nothing but disgust for the manner in which they have done it.

I urge the Home Secretary to think again about the sunset clause. Reviewing the Act every year is no answer because, as others have pointed out, when the Act comes up, it has to be accepted or rejected. Whoever is the Home Secretary, we are under pressure to do that. The Home Secretary has only one point of substance in his opposition to the sunset clause, and that is the timing of the sunset. My right hon. Friend the Member for Haltemprice and Howden made it plain that the sunset need not necessarily be in November. Let it be at the end of the year, at the end of January or even a year from today, but there should be a sunset clause so that this wholly unsatisfactory, imperfect, intrusive, draconian legislation can be properly examined, so that there can be pre-legislative scrutiny of whatever is put before both Houses, so that there can be full consideration in both Houses, and so that Members in all parts of the House can contribute to the debate in a way in which we have not been able to do hitherto.

I make this plea to the Home Secretary: let the sunset be later than November, but there must be a sunset. He proposes to foist upon the country an imperfect, appallingly drafted Bill. The other place has tried to improve the Bill, and it has improved it in some measure, but he does not want its improvements. He wants the Bill on the statute book, and he wants it to be reviewed annually, but it should not be.

The Bill is far too appalling for any Government to take any pride in it, and the Home Secretary should at least rescue some of his reputation, if he has any left.

Mr. Soley: This will probably be the last time that I discuss this issue, with which I have been involved since the 1970s in this House. I address my remarks to a number of Conservative Members who have spoken, including the former Home Secretary, the right hon. and learned Member for Rushcliffe (Mr. Clarke), and the right hon. and learned Member for Sleaford and North Hykeham (Mr. Hogg).

When the right hon. and learned Member for Sleaford and North Hykeham was a Home Office Minister, he used to lecture me on why I should not try to criticise the prevention of terrorism Act. At that time, we were excluding people within the UK and picking up several thousand people a year, of whom we charged less than 1 per cent. with terrorist offences. Before that, the right hon. and learned Members for Rushcliffe and for Sleaford and North Hykeham supported Northern Ireland internment orders, which resulted in several thousand people being interned on the Secretary of State's say so with no judicial involvement whatever, which was a total breach of habeas corpus.

Conservative Members' indignation is not right. I do not say that just to score a political point—it could be argued that I do so in view of the history—but to make the point that we must not continue to legislate on terrorism in this way. For some 30 years, we have legislated on terrorism, which is a central problem for the British judicial system—this point applies to other systems, too, although perhaps it applies to ours in particular—because in dealing with terrorism, we are trying to stop something happening.

British law is good at dealing with situations in which an offence has been committed. If the Liberal spokesman, the hon. Member for Somerton and Frome (Mr. Heath), re-reads his speech, he will see that his party's position is muddled. He wants to introduce a legal process to deal with someone who has committed a crime, whereas the Bill—this is why the Conservatives and Liberals supported the old prevention of terrorism Act—is designed to stop something happening.

If anybody has any doubt about the seriousness of the situation, they should examine the UN report on terrorism, "Threats, Challenges and Change". A couple of weeks ago, Kofi Annan discussed the profound and serious threat to London of a terrorist attack using weapons of mass destruction, which we must take seriously. I fully understand the Home Secretary's

[Mr. Soley]

position when he argued that the legislation should be executive, because we are trying to prevent something from happening and are not dealing with an offence that has been committed. The Bill is a way of trying to assess intelligence in order to prevent such action. However, because of the feeling in the House of Commons and the House of Lords, my right hon. Friend the Home Secretary was absolutely right to make these changes, and I particularly welcome the annual renewal of the legislation.

We must take our time to get the legislation right. After the election, the three main parties—I hope that the minor parties will participate, too—must find a structure in which we can come up with a system to deal with an ongoing terrorist threat, which Kofi Annan and the UN report say will continue for some decades yet, which will be international and suicidal and which will aim to kill masses of civilians.

That is what we have to deal with, and it would be a good idea for the parties to agree a broad structure. We should consider a new Act that deals with acts preparatory to an act of terrorism. We should consider the possibility of importing, difficult as it will be, the narrow area of European law whereby the inquisitorial system is used for terrorism, or the Irish system of special courts. Those are all options that we are not currently considering. I certainly do not want to go back to what the Tories did when they rammed legislation through, often late at night when nobody was around. They complain about three hours of debate today, but they did it at 1 o'clock in the morning. That was an appalling way in which to legislate on terrorism.

I make my final plea to the Tories and the Liberals, who have a duty not only to support the Bill today but to come back after the election and join in all-party talks to set up the appropriate Committee structure in this House to examine the procedure and then come up with legislation that we can all live with over the coming years.

7 pm

Mr. Shepherd: I support the Lords in all their contentions in respect of the Bill. This comes down to a question of trust. I listened to the Prime Minister today when he asserted, as he often does, that only he and his Home Secretary can judge the security of the citizen, the security of this nation and the balance between the two. I do not accept that proposition. As my right hon. and learned Friend the Member for Sleaford and North Hykeham (Mr. Hogg) pointed out, he took us to war on a supposition—[HON. MEMBERS: "Oh!"] Hon. Members may say, "Oh!", but that fundamentally undermines our confidence in a Government whose assertions put at risk our liberty, freedom, custom and history.

I stand by those things that have seen us through the most desperate hours in the life of this nation. The security of this nation is secure in our hands if we have access to due process. This Government have sought to strike away the most fundamental liberties that we need to secure our own freedom—*[Interruption.]* The hon. Member for Blyth Valley (Mr. Campbell) may shout at me, but the truth is that this is what this House stands for. We are meant to be able to hold up these standards, and they should not depend on the House of Lords reminding us where we come from and what this is all about. I urge this House to continue to support the House of Lords and to give us the opportunity to consider this legislation again in a sensible, measured and proper way, because the way in which it has been debated is a denial of due process, which is what the whole argument is about.

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): The legislation that is before us this evening is some of the most serious and important that we will ever be called upon to consider. I think that there is now a recognition right across the House that there is a real and serious—

Mr. Grieve: On a point of order, Mr. Speaker. I understood that there were to be no winding-up speeches—otherwise, I would have sought to catch your eye—so on what basis are we having this one?

Mr. Speaker: This is not about winding-up speeches. The hon. Lady tried to catch my eye, and I have agreed to let her speak. Sometimes the hon. Gentleman tries to catch my eye, and I let him speak.

Ms Blears: This is serious and complex legislation. I think that there is now widespread recognition of a real and serious terrorist threat of a different nature from that which we faced in the past. The amendments put forward today represent significant progress. I am grateful to all my hon. Friends for the constructive way in which they have engaged and the suggestions that they have made. We now have significant judicial involvement in all the orders that we seek. We have consultation with the police on whether prosecution is possible, because that is always our preferred route. We have examined the standard of proof and my hon. Friend the Member for Ealing, Acton and Shepherd's Bush (Mr. Soley) made it clear that we are considering preventive orders, which seek to anticipate what might happen, and assessments of intelligence and risk. I therefore believe that our standard of proof for reasonable suspicion for the non-derogating orders is correct.

The Bill includes a series of checks and balances. We have proposed annual renewal and three-monthly reports to Parliament on the way in which the measure works. We will have an independent review of how the Bill works in practice. The sunset clause that Conservative Members propose is unrealistic for the practical reasons that my right hon. Friend the Member for Holborn and St. Pancras (Mr. Dobson) set out.

A sunset clause is inappropriate for another reason: it could send the message to terrorists, who will be watching our debate closely, that we are uncertain about what we want to do to ensure that we have a proper legal framework to tackle terrorism in our country. We have tried to establish a legal framework that balances national security with individual liberty, but it is vital that we convey the message that we want to make this country the most hostile environment in which terrorists could consider operating. That is why we need a series of control orders that are proportionate to the threat that we face and non-discriminatory, in compliance with the European convention. Our amendments will achieve that.

I ask the House to support our amendments and reject the Lords amendments—

It being three hours after the commencement of proceedings, MR. SPEAKER *put the Question necessary for the disposal of business to be concluded at that hour, pursuant to Order [this day].*

Question put, That amendment (a) to Lords amendment No. 1 be made:—

The House divided: Ayes 348, Noes 240.

Division No. 122] **[7.6 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cabom, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hunter, Andrew
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Paisley, Rev. Ian
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce

Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Paul Clark and Joan Ryan

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Godsiff, Roger
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Grogan, John
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Herman, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marsden, Paul *(Shrewsbury & Atcham)*
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*

Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and
Mr. Peter Atkinson

Question accordingly agreed to.

Lords amendment, as amended, agreed to.

Amendments made: (b) and (c).

Lords amendment, as amended, agreed to.

Lords amendment: No. 16

Amendments made: (a) to (g).

Lords amendment, as amended, agreed to.

Lords amendment: No. 23

Amendment made: (a).

Lords amendment, as amended, agreed to.

Lords amendment No. 6 disagreed to.

Lords amendment: No. 8.

Motion made, and Question put, That this House disagrees with the Lords in the said amendment.—*[Mr. Heppell.]*

The House divided: Ayes 340, Noes 251.

Division No. 123] **[7.19 pm**

AYES

Adams, Irene
Ainger, Nick
Ainsworth, Bob
Alexander, Douglas
Allen, Graham
Anderson, Donald
Anderson, Janet
Armstrong, Hilary rh
Atherton, Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, Kevin rh
Battle, John rh
Bayley, Hugh
Beard, Nigel
Beckett, Margaret rh
Begg, Anne
Benn, Hilary rh
Benton, Joe
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, Tony rh
Blears, Hazel
Blunkett, David
Boateng, Paul rh
Borrow, David
Bradley, Keith rh
Bradley, Peter
Bradshaw, Ben
Brennan, Kevin
Brown, Gordon rh
Brown, Nicholas rh
Brown, Russell
Browne, Desmond
Bryant, Chris
Buck, Karen
Burgon, Colin
Burnham, Andy
Byers, Stephen rh
Byrne, Liam
Caborn, Richard rh
Cairns, David
Campbell, Alan
Campbell, Anne
Campbell, Gregory
Campbell, Ronnie
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian
Challen, Colin
Chapman, Ben
Chaytor, David
Clark, Helen
Clark, Lynda
Clarke, Charles rh
Clarke, Tom rh
Clarke, Tony
Clelland, David
Clwyd, Ann
Coaker, Vernon
Coffey, Ann
Colman, Tony
Cook, Frank
Cooper, Yvette
Cranston, Ross
Cryer, Ann
Cummings, John
Cunningham, Jim
Cunningham, Tony
Curtis-Thomas, Claire
Darling, Alistair rh
Davey, Valerie
David, Wayne
Davidson, Ian
Davies, Denzil rh
Davies, Geraint
Dawson, Hilton
Dean, Janet
Denham, John rh
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim
Dodds, Nigel
Donaldson, Jeffrey M.
Doran, Frank
Dowd, Jim
Drew, David
Drown, Julia
Eagle, Angela
Eagle, Maria
Edwards, Huw
Efford, Clive
Ellman, Louise
Ennis, Jeff
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Lorna
Flint, Caroline
Flynn, Paul
Foster, Derek rh
Foster, Michael
Foster, Michael Jabez
Foulkes, George rh
Francis, Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane
Griffiths, Nigel
Griffiths, Win
Hain, Peter rh
Hall, Mike
Hall, Patrick
Hamilton, David
Hamilton, Fabian
Hanson, David
Harman, Harriet rh
Harris, Tom
Havard, Dai
Healey, John
Henderson, Doug
Henderson, Ivan
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, Patricia rh
Heyes, David
Hill, Keith rh
Hinchliffe, David
Hodge, Margaret rh
Hood, Jimmy
Hoon, Geoffrey rh
Hope, Phil
Howarth, Alan rh
Howells, Kim
Hoyle, Lindsay
Hughes, Kevin
Humble, Joan
Hunter, Andrew
Hurst, Alan
Hutton, John rh
Iddon, Brian
Illsley, Eric
Ingram, Adam rh
Irranca-Davies, Huw
Jackson, Robert
Jamieson, David
Jenkins, Brian
Johnson, Alan rh
Johnson, Melanie
Jones, Helen
Jones, Jon Owen
Jones, Kevan
Jones, Martyn
Jowell, Tessa rh
Joyce, Eric
Kaufman, Gerald rh
Keeble, Sally
Keen, Alan
Keen, Ann
Kelly, Ruth rh
Kemp, Fraser
Kennedy, Jane rh
Khabra, Piara S.
Kidney, David
King, Andy
Knight, Jim
Kumar, Ashok
Ladyman, Stephen
Lammy, David
Lawrence, Jackie
Laxton, Bob
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom
Lewis, Ivan
Liddell, Helen rh
Linton, Martin
Lloyd, Tony
Lucas, Ian
Luke, Iain
Lyons, John
McAvoy, Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, Ian rh
McDonagh, Siobhain
MacDonald, Calum

MacDougall, John
McFall, John
McGuire, Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John
Marsden, Gordon
Marshall, David
Martlew, Eric
Meale, Alan
Merron, Gillian
Michael, Alun rh
Milburn, Alan rh
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Lewis
Moran, Margaret
Morgan, Julie
Morris, Estelle rh
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Meg
Murphy, Denis
Murphy, Jim
Murphy, Paul rh
Naysmith, Doug
Norris, Dan
O'Brien, Bill
O'Brien, Mike rh
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra
Owen, Albert
Paisley, Ian
Palmer, Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter
Plaskitt, James
Pollard, Kerry
Pond, Chris
Pope, Greg
Pound, Stephen
Prentice, Bridget
Prescott, John rh
Primarolo, Dawn rh
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, Joyce rh
Quinn, Lawrie
Rammell, Bill
Raynsford, Nick rh
Reed, Andy
Reid, John rh
Robertson, John
Robinson, Geoffrey
Robinson, Iris
Robinson, Peter
Roche, Barbara
Rooney, Terry
Ross, Ernie
Roy, Frank
Ruane, Chris
Ruddock, Joan
Russell, Christine
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn
Singh, Marsha
Smith, Andrew rh
Smith, Angela
Smith, Geraldine
Smith, Jacqui rh
Smith, John
Soley, Clive
Southworth, Helen
Spellar, John rh
Starkey, Phyllis
Steinberg, Gerry
Stewart, David
Stewart, Ian
Stinchcombe, Paul
Stoate, Howard
Strang, Gavin rh
Straw, Jack rh
Stringer, Graham
Stuart, Gisela
Sutcliffe, Gerry
Tami, Mark
Taylor, Ann rh
Taylor, Dari
Thomas, Gareth
Thomas, Gareth
Timms, Stephen
Tipping, Paddy
Todd, Mark
Touhig, Don
Trickett, Jon
Turner, Dennis
Turner, Neil
Twigg, Derek
Twigg, Stephen
Tynan, Bill
Vaz, Keith
Walley, Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Alan
Wicks, Malcolm
Williams, Alan rh
Williams, Betty
Wills, Michael
Wilson, Brian rh
Winnick, David
Winterton, Rosie
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James
Wright, Anthony D.
Wright, David
Wright, Iain
Wright, Tony
Wyatt, Derek

Tellers for the Ayes:
Paul Clark and
Joan Ryan

Abbott, Diane
Ainsworth, Peter
Allan, Richard
Amess, David
Ancram, Michael rh
Atkinson, David
Austin, John
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John
Barrett, John
Beggs, Roy
Beith, A. J. rh
Bellingham, Henry
Bennett, Andrew
Beresford, Paul
Best, Harold
Blunt, Crispin
Boswell, Tim
Bottomley, Peter
Bottomley, Virginia rh
Brady, Graham
Brake, Tom
Brazier, Julian
Breed, Colin
Brooke, Annette L.
Browning, Angela
Bruce, Malcolm
Burden, Richard
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, John
Cable, Vincent
Cameron, David
Campbell, Menzies
Carmichael, Alistair
Cash, William
Chapman, Sydney
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, Kenneth rh
Clifton-Brown, Geoffrey
Cohen, Harry
Collins, Tim
Connarty, Michael
Conway, Derek
Corbyn, Jeremy
Cotter, Brian
Cousins, Jim
Curry, David rh
Dalyell, Tam
Davey, Edward
Davies, Quentin
Davis, David rh
Djanogly, Jonathan
Dobson, Frank rh
Dorrell, Stephen rh
Doughty, Sue
Duncan, Alan
Duncan, Peter
Duncan Smith, Iain rh
Dunwoody, Gwyneth
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark
Flook, Adrian

NOES

Follett, Barbara
Forth, Eric rh
Foster, DonFox, Liam
Francois, Mark
Gale, Roger
George, Andrew
Gerrard, Neil
Gibb, Nick
Gibson, Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Cheryl
Godsiff, Roger
Goodman, Paul
Gray, James
Green, Damian
Green, Matthew
Grieve, Dominic
Grogan, John
Gummer, John rh
Hague, William rh
Hammond, Philip
Harris, Evan
Harvey, Nick
Hayes, John
Heald, Oliver
Heath, David
Heathcoat-Amory, David rh
Hendry, Charles
Hermon, Lady
Hoban, Mark
Hoey, Kate
Hogg, Douglas rh
Holmes, Paul
Hopkins, Kelvin
Horam, John
Howard, Michael rh
Howarth, Gerald
Hughes, Simon
Jack, Michael rh
Jackson, Glenda
Jenkin, Bernard
Johnson, Boris
Jones, Lynne
Jones, Nigel
Keetch, Paul
Kennedy, Charles rh
Key, Robert
Kilfoyle, Peter
Kirkbride, Julie
Kirkwood, Archy
Knight, Greg rh
Laing, Eleanor
Lait, Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David
Leigh, Edward
Letwin, Oliver rh
Lewis, Julian
Lewis, Terry
Liddell-Grainger, Ian
Lidington, David
Lilley, Peter rh
Llwyd, Elfyn
Loughton, Tim
Luff, Peter
McDonnell, John
McIntosh, Anne
Mackay, Andrew rh
Maclean, David rh
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marsden, Paul

Marshall-Andrews, Robert
Maude, Francis rh
Mawhinney, Brian rh
May, Theresa rh
Mercer, Patrick
Mitchell, Andrew
Moore, Michael
Murrison, Andrew
Norman, Archie
Oaten, Mark
O'Brien, Stephen
Opik, Lembit
Osborne, George
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, Michael rh
Prentice, Gordon
Price, Adam
Prisk, Mark
Pugh, John
Randall, John
Redwood, John rh
Reid, Alan
Rendel, David
Robathan, Andrew
Robertson, Angus
Robertson, Hugh
Robertson, Laurence
Roe, Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob
Salmond, Alex
Sanders, Adrian
Sarwar, Mohammad
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, Gillian rh
Shepherd, Richard
Short, Clare rh
Simmonds, Mark
Simpson, Alan
Simpson, Keith
Skinner, Dennis
Smith, Llew
Smith, Robert
Smyth, Martin
Soames, Nicholas
Spelman, Caroline
Spicer, Michael
Spink, Bob
Spring, Richard
Stanley, John rh
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo
Syms, Robert
Tapsell, Peter
Taylor, David
Taylor, Ian
Taylor, John
Taylor, Matthew
Taylor, Richard
Taylor, Teddy
Teather, Sarah
Thomas, Simon
Thurso, John
Tonge, Jenny
Tredinnick, David
Trend, Michael
Trimble, David rh
Turner, Andrew
Tyler, Paul
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve
Weir, Michael
Whittingdale, John
Widdecombe, Ann rh
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel
Willis, Phil
Wilshire, David
Winterton, Ann
Winterton, Nicholas
Wishart, Pete
Wood, Mike
Yeo, Tim
Young, George rh
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and
Mr. Peter Atkinson

Question accordingly agreed to.

Lords amendment: No. 9

Motion made, and Question put, That the House disagrees with the Lords in the said amendment.—*[Mr. Heppell.]*

The House divided: Ayes 343, Noes 244.

Division No. 124] **[7.34 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cabom, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hunter, Andrew
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally

Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Paisley, Rev. Ian
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stuart, M's Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Paul Clark and
Joan Ryan

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Connarty, Michael
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Dunwoody, Mrs Gwyneth
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Grogan, John
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles

Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Killoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Last, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marsden, Paul *(Shrewsbury & Atcham)*
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Mumson, Dr. Andrew
Norman, Archie
Osten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sarwar, Mohammad
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and Gregory Barker

Question accordingly agreed to.

Lords amendment disagreed to.

Lords amendments Nos. 12, 13, 15 and 17 disagreed to.

Government amendments (a) to (f) to the words so restored to the Bill, agreed to.

Lords amendment Nos. 22, 27 and 28 disagreed to.

Lords amendment: No. 31.

Motion made, and Question put, That this House disagrees with the Lords in the said amendment.—*[Mr. Heppell.]*

The House divided: Ayes 341, Noes 238.

Division No. 125] **[7.45 pm**

AYES

Adams, Irene *(Paisley N)*
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive

Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gerrard, Neil
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hunt, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Mr. Nick Ainger and
Mr. Jim Murphy

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent

Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Connarty, Michael
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
Lyons, John *(Strathkelvin)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and Gregory Barker

Question accordingly agreed to.

Lords amendment disagreed to.

Lords amendment No. 32 disagreed to.

Lords amendment: No. 33.

Motion made, and Question put, That this House disagrees with the Lords in the said amendment.—*[Mr. Heppell.]*

The House divided: Ayes 340, Noes 240.

Division No. 126] **[7.58 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*

Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Lewis, Terry *(Worsley)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*

Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Margaret Moran and
Mr. Jim Murphy

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bourmth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Cohen, Harry
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and
Mr. Peter Atkinson

Question accordingly agreed to.

Lords amendment disagreed to.

Amendments made: (a) to (c) in lieu.

Lords amendment No. 37 disagreed to.

Amendments made: (a) to (o) in lieu of Lords amendments Nos. 8, 9, 12, 13, 15, 17, 22, 28 and 37.

Lords amendment: No. 38

Motion made, and Question put, That this House disagrees with the Lords in the said amendment.—*Mr. Heppell.]*

The House divided: Ayes 326, Noes 231.

Division No. 127] **[8.10 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meacher, rh Michael
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Paisley, Rev. Ian
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*

Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes: Gillian Merron and Margaret Moran

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Connarty, Michael
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sarwar, Mohammad
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Singh, Marsha
Smith, Llew *(Blaenau Gwent)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*

Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Mr. Peter Atkinson and Richard Younger-Ross

Question accordingly agreed to.

Lords amendment disagreed to.

Lords amendment No. 39 disagreed to.

Lords amendment: No. 40.

Motion made, and Question put, That this House disagrees with the Lords in the said amendment.—*[Mr. Heppell.]*

The House divided: Ayes 317, Noes 233.

Division No. 128] **[8.22 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Begg, Miss Anne
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Borrow, David
Bradley, rh Keith *(Withington)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Gregory *(E Lond'y)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Cawsey, Ian *(Brigg)*
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cranston, Ross
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dodds, Nigel
Donaldson, Jeffrey M.
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Flynn, Paul *(Newport W)*
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hinchliffe, David
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Lawrence, Mrs Jackie
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Paisley, Rev. Ian
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Robinson, Mrs Iris *(Strangford)*

Robinson, Peter *(Belfast E)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Stringer, Graham
Stuart, Ms Gisela
Sutcliffe, Gerry
Tami, Mark *(Alyn)*
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wray, James *(Glasgow Baillieston)*
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Gillian Merron and Margaret Moran

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Connarty, Michael
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Duncan Smith, rh Iain
Evans, Nigel
Ewing, Annabelle
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Godsiff, Roger
Goodman, Paul
Gray, James *(N Wilts)*
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Grieve, Dominic
Gummer, rh John
Hague, rh William
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hermon, Lady
Hoban, Mark *(Fareham)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Lewis, Terry *(Worsley)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Llwyd, Elfyn
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prentice, Gordon *(Pendle)*
Price, Adam *(E Carmarthen & Dinefwr)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Salmond, Alex
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Singh, Marsha
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thomas, Simon *(Ceredigion)*
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David

Trend, Michael
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Hywel *(Caernarfon)*
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wishart, Pete
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George

Tellers for the Noes:
Gregory Barker and Richard Younger-Ross

Question accordingly agreed to.

Lords amendment disagreed to.

Lords amendment No. 42 disagreed to.

Amendments made: (a) to (c) in lieu of Lords amendments Nos. 38 to 40 and 42.

Remaining Lords amendments agreed to.

Committee appointed to draw up Reasons to be assigned to the Lords for disagreeing to their amendments Nos. 6, 27, 31 and 32: Ms Hazel Blears, Mr. Dominic Grieve, Mr. David Heath, Mr. John Heppell and Kali Mountford; Ms Hazel Blears to be the Chairman of the Committee; Three to be the quorum of the Committee.—*[Mr. Heppell.]*

To withdraw immediately.

Reasons for disagreeing to Lords amendments Nos. 6, 7, 31 and 32 reported, and agreed to; to be communicated to the Lords.

PETITIONS

Falun Gong

8.35 pm

John Robertson (Glasgow, Anniesland) (Lab): I want to present a petition on behalf of more than 15,000 people throughout the United Kingdom who wish to protest against the appalling persecution of Falun Gong practitioners by the Chinese authorities.

The petition states:

The Petitioners further declare serious concerns about allegations of unlawful detention and torture, which have led to countless injuries and over seven hundred documented deaths.

In addition, the Petitioners declare their respect for the peaceful and traditional message of Falun Gong, and its principles of truthfulness, compassion and tolerance.

The Petitioners therefore request that the House of Commons urge the Government to work with its international partners to bring the perpetrators of this persecution, including Jiang Zemin, to justice for the crimes that they have committed.

And the Petitioners remain, etc.

To lie upon the Table.

Health Services (South Buckinghamshire)

8.36 pm

Mr. Paul Goodman (Wycombe) (Con): I wish to present a petition on behalf of more than 40,000 people in South Buckinghamshire against cuts and closures in our local health services.

The petition states:

To the House of Commons

The petition of the residents of High Wycombe, Marlow and surrounding areas,

Declares that the undersigned support the current maternity special care baby unit, children's unit and other services provided at Wycombe General Hospital.

The Petitioners therefore request that the House of Commons strongly urge the Secretary of State for Health to do all in his power to retain these services.

And the Petitioners remain, etc.

To lie upon the Table.

Radio Services (Visually Impaired People)

Motion made, and Question proposed, That this House do now adjourn.—*[Mr. Fitzpatrick.]*

8.37 pm

Rosemary McKenna (Cumbernauld and Kilsyth) (Lab): I am extremely grateful that I have secured this debate on Government support for radio services for people who are visually impaired. I want to express my thanks to Royal National Institute of the Blind Scotland for its assistance in preparing for this evening's debate.

Over the past 10 years, and particularly since 1997, we have moved forward considerably in raising awareness of the problems encountered by people with disabilities of all kinds. In my time in local government in Scotland, I chaired many committees that addressed issues of equality of opportunity. I therefore know that much has been done.

Members will be aware of substantial measures taken during this Parliament aimed at improving the quality of life of people who are blind or partially sighted. Those include new legislation on copyright, guide dogs in taxis and special educational needs, together with the extension of the Disability Discrimination Act 1995, the creation of national eye care pathways and so on.

An estimated 2 million people in the UK have uncorrectable sight loss—about 3,000 people per constituency. Ninety per cent. of those are aged 60 or over. However, a stark picture of the typical blind and partially sighted person in the UK emerges from a series of recent RNIB research reports. The average profile is of a woman in her 70s who lives alone on the margins of poverty, with no contact with social work services, who has not left her house in the previous week even to go into the garden.

Therefore, while the Government have done a lot to address the exclusion of people with disabilities and visually impaired people in particular, too many of our constituents with serious sight problems remain excluded and isolated. I cannot imagine what it would be like to lose my sight, especially if I lived alone. How would I read my mail or the newspaper? Although many young people gain access to news through various media, it is the elderly who still value the daily and weekly newspapers. They are a lifeline for many.

Of course, there are many excellent services that help blind and partially sighted people to remain as independent and safe as possible. Much of that support is provided by carers, social work services and the voluntary sector. I want to focus on one inspiring service, VIP On Air. It is the first radio station in Europe that specifically serves a blind and partially sighted audience in Glasgow and west central Scotland. Not only is the principal audience visually impaired, but so are the presenters and producers.

John Robertson (Glasgow, Anniesland) (Lab): I, too, have been fortunate enough to visit VIP On Air. Does my hon. Friend agree not just that it does an excellent job, needs to do more and needs help to broaden its service to the rest of the country, but that Glasgow city council in particular has done an excellent job in subsidising it and finding premises for it?

Rosemary McKenna: My hon. Friend is right. Along with RNIB Scotland, the Guide Dogs for the Blind Association, Visibility and Playback, Glasgow city council played a major role. It formed a consortium to operate and develop VIP On Air. A listeners' forum has also been formed, which regularly gives the station team feedback via an e-mail group. Both the listeners' group and the visually impaired volunteers have representatives on the project board.

Throughout its brief history to date, VIP On Air has greatly benefited from the support and assistance of BBC Scotland. It helped to recruit the station manager in April 2003 and has provided line management support since then. BBC Scotland has provided support and guidance on studio refurbishment, and recorded and broadcast a national radio programme to help publicise the station. It also seconded a programmer for two months to assist in the launch of the station. BBC Scotland's training programme is a crucial part of all that and one of the blind volunteers has secured an appointment as a researcher with BBC Scotland.

Not only is VIP On Air a source of high-quality specialist programmes such as those featuring unabridged talking books, it is a tremendous way of sharing information with blind and partially sighted people that is typically available only in print. Programme content includes detailed read-throughs of daily newspapers, reports on service information from central and local government, changes in transport timetables and what's on and when at the local cinema or theatre—not to mention lively phone-ins and interviews with local and national politicians, celebrities and so on.

Besides making great programmes that tackle social isolation, VIP On Air has helped to develop the confidence, skills and experience of those involved in the station. Many started as volunteers, but have progressed to become employees of VIP On Air or mainstream broadcasting organisations such as the BBC. There is a problem, however, and I ask the Minister to address it. The station currently broadcasts on the internet, at www.viponair.com, although most of its potential audience does not have easy access to the internet. How many elderly people do we know who can listen to the radio at home via the internet? Not many. I know that we now have many more silver surfers in this country, but thousands are denied access to this excellent service.

VIP On Air is looking for a chance to reach the 3,000 mainly elderly people in each of our constituencies. It needs a broadcasting platform that its large potential audience can easily access. It has already set up a digital studio in Glasgow, as my hon. Friend the Member for Glasgow, Anniesland (John Robertson) said, with the assistance of Glasgow city council, and it has the staff, volunteers and financial backing. I cannot stress enough the thanks that are due to RNIB Scotland, Glasgow city council and North Lanarkshire and South Lanarkshire councils. To its great credit and in the spirit of a true public service broadcaster, the BBC sits on the VIP On Air board and provides the station with training, marketing and other backing. The programming is good and there is capacity for expansion and further diversification to address a UK audience.

However, VIP On Air cannot develop further while it is restricted to the internet. It tells me that its efforts to reach a wider audience have been frustrated by certain

[Rosemary McKenna]

Ofcom regulations. Given the lack of available AM or FM band width, Ofcom has advised VIP On Air that the only realistic broadcasting option open to it is to apply for a geographically restricted community radio licence. It has indeed applied for such a licence for the Glasgow area. If granted, it will be of great assistance to blind and partially sighted people in Glasgow, but what about the rest of the UK? What about my constituents and those of every other Member?

The station even investigated whether it could apply for more than one community radio licence and broadcast from its Glasgow studio to a number of areas in the UK. Of course, that would not provide universal coverage, but it would certainly increase reach. However, it was told that it could not. Under current regulations, the nearest that we could get to that is if a large number of radio stations similar to VIP On Air were created, with their own studios, and so on. What a waste of time and resources, given that the infrastructure is there, even if the bandwidth is not.

These limitations seem unnecessarily restrictive. VIP On Air is a unique and ground-breaking radio station; indeed, it is the first such station in Europe. How much longer do blind and partially sighted people in the UK have to wait to get a chance to listen? Our visually impaired constituents constitute an often isolated and excluded community of interest spread across the UK. Surely the Department for Culture, Media and Sport and Ofcom can offer more to VIP On Air than the possibility of a community radio licence in Glasgow alone.

I have learned this week that Pure Digital has developed the first voice-enabled digital radio set in the UK. That tremendous development will be much welcomed, but that set can access only existing radio stations that have bandwidth. VIP On Air cannot be accessed as it is available only via the internet. The problem is that VIP On Air is being frustrated in its effort to secure the bandwidth necessary to broadcast to its isolated audience across the UK. I am sure that every Member of Parliament wants their visually impaired constituents to be able to receive this service. I urge the Minister to investigate urgently and to discuss with Ofcom the broadcasting barriers facing VIP On Air, which serves a community of interest rather than a geographical community.

Additionally, I call on digital providers to carry VIP On Air as part of the large number of radio stations that broadcast via digital television. I can listen to BBC Radio Scotland in my London flat because I have digital television via cable. That would help some of our constituents, but I am certain that most of our elderly visually impaired constituents do not have access to digital television.

VIP On Air is a charitable organisation—the first and only in Europe—operated on a non-profit-making model and radio could provide the bandwidth to enable it to work throughout the UK. The Government have done much to assist our poorest pensioners, but there are still many who are private people, unaware of how to obtain the help to which they are entitled, or who simply want their lives enriched. VIP On Air can help them achieve that.

I began by describing the typical profile of a visually impaired person in the UK—a woman in her 70s, living alone on the margins of poverty with no contact with social work services, who has not left her home in the last week, not even to go into the garden. Surely we can allow her to listen to a radio station that tackles such exclusion.

8.51 pm

The Minister for Sport and Tourism (Mr. Richard Caborn): First, I congratulate my hon. Friend the Member for Cumbernauld and Kilsyth (Rosemary McKenna) on securing the debate and on presenting to the House her case for the visually impaired. She has spoken with a great deal of feeling and passion. I am grateful for the opportunity to discuss such an important issue.

Radio is and will remain a vital medium for the blind and partially sighted community. I am particularly pleased to hear of the continued success of radio services specifically designed for the blind and partially sighted. As my hon. Friend powerfully explained tonight, they provide an important contribution to the lives of the people that they serve.

VIP On Air is one such service. It is a web-based radio located in Glasgow, but available to everyone with an internet-linked computer. It is, as I understand it, Europe's first radio station for the blind and partially sighted, and I hope that it will not be the last. Programmes such as "Between the Sheets" and "Telly Guide" give listeners access to the daily newspapers and TV listings, which are current and easily accessible. "Between the Sheets", for example, features "straight read" newspaper articles, which gives blind and partially sighted people direct access to the newspaper media. That can provide accessibility to a range of information that many of us take for granted.

I congratulate VIP On Air on reaching its first birthday in November last year and on the way in which it recruits its staff. I also thank Glasgow council for the support that it has given to the station and for the service that it provides to the Glasgow population. VIP On Air has not only contributed to its listeners' lives through radio, but has provided training, education and employment opportunities for the blind and partially sighted community. Those achievements have all been accomplished as an internet radio service. It is a rapidly growing platform, but it suffers the drawback of being less portable than traditional radios.

I fully understand the desire of VIP On Air to look to the future and to seek ways in which it can communicate more effectively and easily with its audience—an audience with the potential to exceed, I am led to believe, 2 million listeners. I am also aware that VIP On Air would, above all, like to be able to provide a national service for its listeners.

The problem is spectrum availability: analogue spectrum for radio is very limited, particularly at a national level. There are only eight national radio services in the UK—five held by the BBC and the remaining three by the commercial sector. There is simply not enough spectrum for another national service.

So what are the alternatives? There is no reason in principle why VIP On Air should not hold a local licence, but there are a number of features that inevitably make that difficult. As with national services, spectrum at a local level is limited. In awarding licences, Ofcom must have regard for its statutory duties. For example, it must consider the extent to which a proposed service caters for the tastes and interests of people in the area.

Ofcom also has to consider the ability of the service to be maintained throughout the licence period. It is not clear that a station aimed at blind and visually impaired listeners would easily satisfy those criteria, but that is a matter for Ofcom. It is always possible to buy a station from an existing licence holder, although format constraints may apply. Primarily, however, those are commercial matters between the parties concerned.

In July 2004, the community radio order came into force, creating a third tier of radio in the UK. Those are generally very local, not-for-profit stations. They are required to show that they are for the good of members of the public or of particular communities, and that they will deliver social gain.

It is relevant to this discussion that the community radio order defines community not in just geographical terms, but as communities of shared interests or characteristics. The aims of VIP On Air appear to be consistent with the thinking behind those aims. Indeed, it has submitted an application for a community radio licence for the Glasgow region, which Ofcom is considering. I hope that the House will appreciate that it would not be appropriate for me to comment on that, as it is clearly a matter for Ofcom, but I want to address the concerns that VIP On Air and my hon. Friend have raised about the further growth of community radio.

The community radio order sets clear restrictions on ownership of licences. It prevents one person, or anyone connected to another station, from holding more than one licence. That could be something of an impediment as, under those terms, VIP On Air would be permitted to hold only a single licence for a specific area.

The restrictions were put in place after wide consultation with the radio industry. They were generally welcomed, as they were recognised as a way of protecting the localness of the services, and of ensuring that they have roots in the communities that they serve. There are, of course, no restrictions on other organisations holding licences to provide services for blind and partially sighted people, but they would have to be separate from one another. There is also nothing to prevent VIP On Air from providing programmes for other community radio stations.

My hon. Friend asked whether that could be reviewed, and Ofcom has been asked to conduct a review of the community radio sector two years after the first community station is licensed. If that review concludes that the restrictions are unnecessary or too burdensome, a further order for Parliament's approval could be brought forward that would remove or modify them. The review may provide an opportunity for my hon. Friend and VIP On Air to make representations.

As my hon. Friend said, digital radio has developed consistently over the past two years and many see it as the real future of radio in the UK. By the end of 2004, more than 1.27 million sets had been sold in the UK and that figure is set to rise. It is calculated that by 2008 about 30 per cent. of households will have digital radios.

Digital radio is broadcast using multiplexes, which bundle together a number of services. Typically, there are between seven and 10 services on a single frequency. That allows a more effective use of spectrum, and it has already made possible an increase in the number of services available. There are currently 18 national services available on digital: 10 are offered by the BBC and eight are run by the commercial sector. In total, digital radio offers more than 210 stations at both national and regional level. It is still a growing technology, and may represent too great an expense for VIP On Air. However, if the digital market continues to grow, it could represent a more credible model than its analogue alternatives.

The technological developments are not just offering new opportunities for broadcasters. DAB digital radio has brought with it a new breed of radios. One such radio set, launched just last month by Pure Digital, offers a unique voice feedback technology, which vocalises the station selected, the time and any alarm settings. In other words, each time the user turns the dial, the radio will tell them the station they have selected. Those are potentially useful features to a blind or partially sighted listener. My hon. Friend said that she has seen that new product, and I would welcome any comments she may have.

Digital radios are still more expensive than analogue radios, with the aforementioned set costing around £120. The cost of digital receivers is nevertheless falling, with sets now available for less than £50.

I again congratulate my hon. Friend on raising this important issue this evening, and VIP On Air on its success over the past year. I hope that that continues for many years to come.

Question put and agreed to.

Adjourned accordingly at one minute past Nine o'clock.

House of Commons

Thursday 10 March 2005

The House met at half-past Eleven o'clock

PRAYERS

[MR. SPEAKER *in the Chair*]

Oral Answers to Questions

TREASURY

The Chancellor of the Exchequer was asked—

New Deal

1. **David Wright** (Telford) (Lab): If he will make a statement on public expenditure on the new deal.
[221066]

3. **Ms Dari Taylor** (Stockton, South) (Lab): If he will make a statement on public expenditure on the new deal.
[221068]

The Chancellor of the Exchequer (Mr. Gordon Brown): At a cost of £3.6 billion, the new deal has helped 2 million men and women. It has moved 1.2 million into work, contributed to a fall in long-term unemployment of over three quarters, and helped the creation of 2 million jobs. Every week 125,000 men and women are finding new jobs. Compared with 1997, the Government now spend £5 billion a year less on unemployment benefits.

David Wright: Over 870 young people in Telford have benefited from the new deal. Will my right hon. Friend do all he can to protect that programme, and look at ways in which we can integrate it with modern apprenticeships?

Mr. Brown: My hon. Friend represents the interests of the people of Telford with great distinction. Unemployment since 1997 has fallen by half, and is 2.5 per cent. Long-term unemployment has fallen by 77 per cent. and youth unemployment by 80 per cent. All that would be put at risk if the Tories' policy to abolish the new deal were implemented.

Ms Taylor: The new deal in my constituency, Stockton, South, has helped over 2,500 people into work. In the northern region that figure is more than 150,000. Could the new deal be extended as an employment support programme to the disabled, supporting programmes such as Blind Routes to Work, an initiative of Stockton Blind People's Voice?

Mr. Brown: I will certainly look into that with the Secretary of State for Work and Pensions. As my hon. Friend knows, unemployment in Stockton, South has fallen dramatically since 1997. There has been a 70 per cent. cut in long-term unemployment and an 80 per cent. cut in youth unemployment. One of the reasons why that has happened is the existence of the new deal. It is therefore sad that both the Liberal party and the Conservative party want to abolish it.

Mr. Stephen Dorrell (Charnwood) (Con): Can the Chancellor of the Exchequer produce a single piece of independent research evidence to support the inflated claims that the Government continue to make for the new deal? Is it not the case that the most recent research into the cost per job created by the new deal shows that the number of jobs actually created in addition to those that were created by a normally buoyant economy is at best 17,000 a year? Are not the figures cited by the Chancellor of the Exchequer a continuing example of inflated claims which he cannot substantiate with any independent research?

Mr. Brown: The right hon. Gentleman speaks about a buoyant economy. Who is responsible for a buoyant economy? I am grateful for the gratitude he expresses to the Government. In his own constituency, would he not congratulate us also—*[Interruption.]* Perhaps the right hon. Gentleman should get more interested in his own constituency. Unemployment has fallen by 41 per cent. since 1997. He asks what the evidence is. The National Institute of Economic and Social Research estimated that the economy is £500 million a year richer as a result of the new deal. The national institute conceded that without the new deal, the level of long-term unemployment would be twice as high. That is the evidence, and that is why the Opposition are making a mistake by abolishing the new deal.

Mr. Mark Francois (Rayleigh) (Con): I appreciate that the Chancellor has a particular interest in methods of helping people to find new jobs, but even allowing for that, how can the Government explain the fact that despite the new deal the number of people under 25 not in employment, education or training has risen and stands at more than 1.1 million? Why is the new deal failing those young people so badly?

Mr. Brown: The Opposition ask the same question as they asked last month and I dealt with it then. The shadow Secretary of State for Work and Pensions went to his local jobcentre last Friday in Daventry to claim credit for the opening of Jobcentre Plus. That is the Conservative party which, in the House of Commons, wants to abolish the new deal, privatise Jobcentre Plus and make thousands of civil servants unemployed. The hon. Member for Rayleigh (Mr. Francois) should go back and think again.

International Finance Facility

2. **Ann McKechin** (Glasgow, Maryhill) (Lab): If he will make a statement on progress made with G8 partners on support for the international finance facility.
[221067]

4. **Ian Lucas** (Wrexham) (Lab): what steps he is taking to promote the international finance facility. [221069]

The Chancellor of the Exchequer (Mr. Gordon Brown): Frontloading aid and doubling it through the international finance facility would enable us to provide free primary education for all young children and help to meet the millennium development goals by 2015. Fifty countries have indicated support for the IFF and for the pilot IFF on immunisation in partnership with the Gates Foundation. It would frontload $4 billion of investment in vaccination and could save 5 million young lives between now and 2015.

Ann McKechin: I thank my right hon. Friend for his commendable efforts in trying to secure the additional aid that the world needs to eradicate poverty. As he knows, a number of alternative forms of financing aid have recently been proposed, including a revised form of the Tobin tax and a tax on aviation fuel. Has he had an opportunity to assess those particular alternatives and whether the international community is likely to accept such proposals to try to achieve the goal of doubling aid?

Mr. Brown: A few weeks ago, the G7 meeting of Finance Ministers agreed to examine all those specific proposals. The advantages of the international finance facility are that it would frontload aid, that it could be implemented immediately, and that it would provide the necessary money to give us a chance of meeting our millennium development goals.

If present rates of progress were to continue in sub-Saharan Africa, we would not meet the goal of primary education for all by 2015—we would meet it in 2150, 135 years late—which is why additional finance is required and why the world community must examine the provision of resources. Scientists have highlighted malaria in a report published today, and the additional money provided by the IFF could enable the provision of malaria bed nets, which can save a life at the very small cost of less than $10.

The IFF will also allow us to introduce an advance purchase scheme for the newly developed malaria vaccine, which is being tested in Mozambique, and the drugs companies and the Gates Foundation believe that it could be up and running as a preventive vaccine very soon. Advance purchasing, which the rich countries must support, will be required, which is another reason why we need the frontloading mechanism.

Ian Lucas: It is excellent news that the German Government have swung behind the IFF, but the real concern is the US Government's position. Will my right hon. Friend give us his assessment of the US Government's position, and tell us what steps he has taken to persuade them?

Mr. Brown: When President Bush spoke at the debt and development conference in Monterrey, he said that no country that is making the necessary reforms to achieve economic development should be denied resources for health and education. After that speech, the Americans set up the millennium challenge account and trebled their spending on HIV/AIDS. In our discussions over the next few months, we will examine how each continent can support the IFF and other innovative financing mechanisms. We hope to reach an agreement with all our G7 partners, and I believe that the developed world is looking to the G7 and to the UN special summit to achieve a settlement that will make it possible for us to achieve the millennium development goals.

Sir Peter Tapsell (Louth and Horncastle) (Con): Does the latest International Monetary Fund report suggest to the Chancellor that his ministerial colleagues on the G8 may be losing confidence in his capacity to guide the international finance facility or, indeed, the British economy? The report warns of the likely necessity of a massive rise in British taxes by £10 billion a year to fill the black hole in the Chancellor's calculations, following what the IMF describes as a sharp deterioration in Britain's public accounts over the past five years.

Mr. Brown: Trust the hon. Gentleman to turn a question about developing countries into a question not about the IFF, but about the IMF—he is wrong to do so. The IMF has praised the British Government on their macro-economic management.

Dr. Vincent Cable (Twickenham) (LD): I welcome the Chancellor's efforts to speed up aid flows through the IFF. At this week's meeting of ECOFIN Ministers, what success did he have in dealing with the European Commission and its statisticians, who say that IFF contributions cannot be treated as contingent liabilities and be taken off the balance sheet, but that they must be counted against Government borrowing debt, thereby imperilling the pledged contributions from France and Germany? How will that problem be dealt with in terms of Britain's public accounts?

Mr. Brown: First, the hon. Gentleman is wrong—the matter was not discussed at the ECOFIN meeting. Secondly, EUROSTAT is independent of ECOFIN, and it makes independent judgments. Thirdly, EUROSTAT has said no such thing. The hon. Gentleman has been reading speculation in the newspapers, which is invariably inaccurate.

Along with the Gates Foundation, we are considering a proposal for a pilot facility for vaccination, which many countries, including South Africa, Canada and Scandinavian countries, would support. That proposal has not yet gone before EUROSTAT, but it should be accepted, and I hope that it will be accepted.

Mr. Andy Reed (Loughborough) (Lab/Co-op): The Chancellor is to be congratulated on coming up with the initiative of the IFF and on the work that he has done to make progress so far, but what assessment has he made of the impact of the discussions to date on how far he will be able to go? Without reaching the £100 billion target that he has set himself, most of the targets in the millennium development goals will not be met. Does he

have any ideas about ways in which other countries will be able to buy into the idea of 0.7 per cent. through different finance facilities, if not through the IFF?

Mr. Brown: I am grateful to my hon. Friend, who is chairman of an all-party committee on these matters, which will continue to be discussed. Our first aim is get 100 per cent. debt relief for the multilateral debts owed by the poorest countries. That would itself provide substantial additional resources on an annual basis for those countries. Our second aim is to get the IFF pilot set up. I believe that there is now sufficient support for the vaccination pilot to move ahead very quickly; it is not necessary for the whole world to support it. Our third aim, which will be discussed at the G8 at Gleneagles, is the creation of the new facility itself.

My hon. Friend may see tomorrow a report from the Commission for Africa which will recommend that we move fast to set up the facilty. Those are the next three stages. I believe that we will see success in the first and second very soon, and the third is a matter for debate at Gleneagles.

Environment

5. **Norman Baker** (Lewes) (LD): What further plans he has to encourage the adoption of good environmental practice through the use of economic instruments. [221070]

The Economic Secretary to the Treasury (John Healey): We will continue to build on the success that we are achieving in the use of economic measures to protect the environment. As with other taxes, my right hon. Friend the Chancellor will give a policy update in the Budget next week.

Norman Baker: Does the Economic Secretary agree with the conclusions of the report on fiscal incentives published last month by the Institute for Public Policy Research and the Green Alliance, which said that many people felt that

"the government was providing clear signals about the importance of climate change and the need to take action, but that there was no clear link between this overall message and individual policies."

In other words, the Government's use of economic instruments is not working. Will they, in particular, consider replacing the climate change levy with a carbon tax and stop trying to water down Britain's commitments under the EU emissions trading scheme?

John Healey: I do not agree with that at all, and if the hon. Gentleman looks at the range of measures that we have introduced since 1997 he will realise that it is a difficult argument to sustain. I do not doubt the hon. Gentleman's commitment to the environment—he speaks on that subject for his party—but his problem is the Liberal Democrats' lack of credibility and consistency. They always say one thing and do another. I have to tell the hon. Gentleman that they have been rumbled, because the director of Greenpeace has said that they

"lecture other political parties on the environment and then fail to apply those principles in places which they actually control."

Mr. Tam Dalyell (Linlithgow) (Lab): Will Ministers get together with Derek Simpson and his senior colleagues in the engineering section of Amicus? What could be a better economic instrument to help the environment than doing something to finance new nuclear stations at Sizewell, Hinckley and Hunterston?

John Healey: As it happens, I was with senior officials from the Amicus union, including the general secretary, only last Friday, but they did not raise that matter with me. If my hon. Friend would like to bring a delegation of officials from that union who have an interest in this, I would happily see him to discuss those issues.

Mr. Howard Flight (Arundel and South Downs) (Con): Do the Government believe in the implicit principle of their environmental taxes—that fiscal incentives and disincentives drive behaviour in this and other areas?

John Healey: The short and simple answer is yes. It is fundamental to the rationale of many of the polices that we have introduced. However, as the hon. Gentleman knows, because we have dealt with these matters in our discussions on Finance Bills, it is not simply a question of environmental taxes—other economic measures such as voluntary arrangements, trading agreements and public support measures are often equally important in tacking the challenges that we face in relation to climate change.

Lawrie Quinn (Scarborough and Whitby) (Lab): My hon. Friend will know about the difficulty of disposing of plastics and the problems that it causes the environment. What can his Treasury colleagues do to encourage small firms that want to innovate through trying to find other sources and different ways of disposing of plastics? Econoplas, a firm in my constituency, converts and recycles plastics to create an effective drainage medium, which helps to benefit the environment through drainage schemes in rural areas. Would my hon. Friend be interested in hearing about that good innovation and bringing it to the attention of the regional development agencies?

John Healey: I am well aware of my hon. Friend's efforts to promote the interests of businesses and jobs in his constituency, and I pay tribute to him for that. I will write to him with details of new tax reliefs that we have recently put in place precisely to encourage the development of new, environmentally friendly technologies. If those special reliefs to try to help us to tackle some of the environmental problems that confront us are of interest to the company that he mentioned, I will happily meet him and the company.

Mr. Michael Jack (Fylde) (Con): I am sure that the Economic Secretary acknowledges that carbon dioxide emissions from the transport sector have continued to increase in recent years. Why, therefore, has no United Kingdom bioethanol plant been built so far, to fulfil our European Union requirements to blend biofuels with

non-biofuels? Why has the European Union apparently rejected Britain's proposals for emissions trading in the air sector?

John Healey: In fact, transport-related emissions have fallen by 50 per cent. in the past decade. The right hon. Gentleman will know that the duty discounts—of which he was one of the strongest advocates, and I pay tribute to him for that—to support the development of the market in and UK production of bioethanol were introduced only in January. It is therefore a little early to tell.

G7 Presidency

6. **Paddy Tipping** (Sherwood) (Lab): What economic priorities he has set to be achieved during the presidency of the G7. [221071]

The Chancellor of the Exchequer (Mr. Gordon Brown): Our aims are: that all countries agree to play their part in maintaining global growth and stability; that structural economic reform is taken forward to increase growth; and that, with the reform of the international institutions, we ensure that the world's poorest can share in rising prosperity. Tomorrow, the Commission for Africa will publish its report and the G7 and G8 in Gleneagles will consider it.

Paddy Tipping: Will the Chancellor continue to give Africa a high priority? Ten million people there are co-infected with HIV and TB. Tuberculosis is growing at 4 per cent. and, in parts of the region, only one in three people complete a TB drug programme. Would not investment make a significant difference?

Mr. Brown: My hon. Friend is right and I praise him for his work. Tuberculosis, HIV/AIDS and malaria are the diseases that are responsible for millions of people dying unnecessarily every year. The purpose of creating the global health fund was to ensure the capacity to treat them and the availability of immunisation and vaccinations. That is why it is especially appropriate today, when the scientists' report on malaria is published, that the British Government say that we are prepared not only to contribute towards vaccination for tuberculosis but to join other countries in purchasing and therefore financing an advance purchase mechanism for the new drug that may be a preventive vaccine for malaria. When similar work is done on HIV/AIDS, it will be necessary for the Governments of the richest countries to come together to support vaccination and the preventive work on that, too. That is the best contribution that we can make: not only helping in the short term with bed nets for malaria and vaccination for tuberculosis, but saying that, when those drugs are discovered, we will be behind the first advance purchase scheme in the world whereby the rich countries help the poor.

Mr. Oliver Letwin (West Dorset) (Con): One of the priorities for the G7 is obviously a sustainable tax policy. Has the Chancellor had time, during his pre-election overseas sabbaticals, to consider how to respond to the fact that the tax burden in other G7 countries has fallen by 2.5 per cent. of GDP since 1997? What has happened to our tax burden in the same period?

Mr. Brown: I hope that the right hon. Gentleman agrees that tax policy is a matter for national Governments, not international institutions. On the tax take in Britain, I am greatly influenced by his comments on taxation. He said:

"The sad truth is that when we were in office we made promises on tax we couldn't keep".

Our policy on taxation has been: to reduce the basic rate of income tax; to introduce a 10p starting rate of income tax; to cut capital gains tax from 40p to 10p for long-term investment, and to cut corporation tax from 33p to 30p and small business tax from 23p to 19p. That is the record on which we are proud to stand. We are also proud that we have financed the health service by our decision to raise national insurance. I notice that abolishing that is not part of the Conservatives' manifesto now—they lost the argument on the health service.

Mr. Letwin: Unfortunately, the Chancellor does not seem to want to answer the question. It is perfectly clear why not: while the tax burden in other G7 countries has been falling, Britain's tax burden has been rising. As my hon. Friend the Member for Louth and Horncastle (Sir Peter Tapsell) pointed out a moment or two ago, the other G7 Governments will this week be reading the latest International Monetary Fund report, which shows clearly that the Chancellor, on his spending plans, would have to raise taxes further in the next cycle. As he is so reluctant to tell the people of this country, will he tell the IMF and the other G7 Governments which taxes he proposes to raise?

Mr. Brown: I have just explained to the right hon. Gentleman, who does not seem to be able to listen, that we have cut the basic rate of income tax, we have cut income tax through the 10p rate, we have cut capital gains tax, we have cut corporate tax and we have cut small business tax. When he stood in the 1997 election, he had to report that the Conservative party had raised taxes in many different areas. We will not take any lectures from the Conservative party on taxation. The leader of the Conservative party said to his conference on 5 October:

"In 1992 we promised to cut taxes year on year. But we put them up."

Mr. John McFall (Dumbarton) (Lab/Co-op): The Chancellor is aware that the Treasury Committee visited China last week in the wake of his successful visit. During his visit, did he detect a positive attitude by the Chinese authorities to engage with the G7, the IMF and the World Bank? During our presidency of the G7, has the Chancellor made any progress in ensuring the reform of those international forums, to take account of the current hugely significant impact of China on the global economy?

Mr. Brown: As my right hon. Friend knows, as he is well versed in these matters, China has been present at the last two meetings of the G7 Finance Ministers for a discussion on its economy and the world economy

China, India, South Africa and Brazil will be invited to a special meeting of the G8 summit at Gleneagles with the other G8 leaders. The level of engagement with China is therefore increasing every year. What I found in China was a willingness on the part of China to co-operate with the United Kingdom, a huge market for exports of British goods in the future, and a huge interest in working with this British Government to solve some of the global problems, including international debt and poverty in the poorest countries.

Ms Julia Drown (South Swindon) (Lab): Will one of the economic priorities include trade justice? Does the Chancellor think that he can use his position to consider agricultural subsidies, both from America and the common agricultural policy, so that we can get serious reform? At the moment, subsidised exports are being dumped on the poorest people in the world, and they cannot afford that to continue.

Mr. Brown: I understand the work that my hon. Friend has done in promoting both trade justice and debt relief over the past few years. We are all grateful for the work, which has brought significant results, with non-governmental organisations and others. Over the next few months, the pressure will grow on America and the European Union to enable an agreement on world trade to be possible in Hong Kong in December. Our proposal to end export subsidies is essential. It will also be necessary for us to offer to help countries in Africa, in particular, to have the capacity to enable them to trade. They will need investment in infrastructure, transport and communications so that they can trade fairly with the rest of the world. Part of the settlement at Hong Kong depends on our ability to provide additional overseas development aid to enable infrastructure to be built in those countries.

Mr. David Laws (Yeovil) (LD): Will the Chancellor make it one of his G7 priorities to get international agreement on rules on Government borrowing? Does he still stand by the statement that he made in a speech in 1995, before he was elected to Government, that there should be tough, independent, external scrutiny of whether the Government are meeting their fiscal rules?

Mr. Brown: The hon. Gentleman knows that every organisation in the world comments on fiscal figures in every country. There is not a lack of external scrutiny of our figures. Scrutiny of the Liberal Democrats' figures might be improved, however, because none of the sums add up.

European Union Budget

7. **Joyce Quin** (Gateshead, East and Washington, West) (Lab): What recent discussions he has had with the voluntary sector concerning his Department's negotiations with EU partners about the future of the EU budget. [221072]

The Financial Secretary to the Treasury (Mr. Stephen Timms): Treasury Ministers regularly meet representatives of the voluntary sector. Discussions have covered United Kingdom calls for reform of the European Union budget, including our call for its stabilisation at no more than 1 per cent. of EU gross national income.

Joyce Quin: As my hon. Friend knows, in areas such as the north-east the voluntary sector has been very successful in tapping into European funds, but faces financial uncertainty because of changes in that funding as well as in lottery and single regeneration budget funding. Given the huge contribution that the voluntary sector makes to economic and social regeneration throughout the country, will my hon. Friend undertake to consult the sector and listen to its views in order to safeguard its vital work for the future?

Mr. Timms: Yes, I shall certainly want to listen to the views of organisations in the voluntary and community sector. I agree with my right hon. Friend about the importance of their contribution in the north-east—she has spoken to me about the Invest 2006 campaign—and elsewhere in the country, including work funded partly by European structural funds. Three quarters of the money, however, currently comes from the UK Government rather than the EU. For every pound of structural fund money that we receive, we pay out £1.60.

I think my right hon. Friend will agree that there is no value in rich EU member states merely swapping regional funds among themselves. We want structural funds to go to poor member states; but we have given a guarantee that if our proposals are accepted, we will increase UK funding so that the UK nations and English regions do not lose out. We will certainly want to take full account of the views of organisations in the voluntary and community sector when we do that.

Miss Anne McIntosh (Vale of York) (Con): In the light of the Minister's answer to the question from the right hon. Member for Gateshead, East and Washington, West (Joyce Quin) and the Chancellor's rather emotional outburst in Brussels this week, does the Minister accept that member states should decide how to raise taxes and spend EU funds? Is there not a remarkable distortion of the system at present, in that nearly all the structural funds are being spent in Labour-controlled constituencies?

Mr. Timms: The hon. Lady must know that objective criteria are used, and always have been.

We see a pressing need for reform of the structural fund system. At present, substantial sums are effectively being swapped between rich member states. They should be being used to support the less well-off member states: that is where they could do the most good. The Government's commitment to regional funding remains very strong.

David Cairns (Greenock and Inverclyde) (Lab): I represent a Labour-controlled constituency in which industry was decimated in the 1980s and poverty increased. We are extremely grateful for the assistance that has come to the constituency from European funds, and for the massive extra investment that has come directly from the Government. Does my hon. Friend accept, however, that there is still uncertainty in the voluntary sector and elsewhere about what the future holds, and that it is important to discuss with voluntary

organisations ways in which they can address themselves to the new reality and the increased funding that will come through central Government and the Scottish Executive?

Mr. Timms: I do agree with that. The Luxembourg presidency aims to conclude the budget discussions by June this year. We shall have to see how it gets on, but it is important for everyone who is affected to be given the information that they need as soon as possible.

Government Borrowing

8. **Sir Nicholas Winterton** (Macclesfield) (Con): If he will make a statement on the level of Government net borrowing. [221073]

13. **Dr. Julian Lewis** (New Forest, East) (Con): What representations he has received regarding levels of Government net borrowing. [221078]

The Chief Secretary to the Treasury (Mr. Paul Boateng): The 2004 pre-Budget report set out the Treasury's latest projections for net borrowing. Updated estimates will be published in next week's Budget.

Sir Nicholas Winterton: As ever, I am grateful to the Minister for a factual reply.

The Government have some ambitious expenditure plans. Some are very desirable, but many of the most responsible economic forecasters, including the Institute for Fiscal Studies and the International Monetary Fund, believe that the Government may have to breach their golden rule. Can the Minister tell us whether the Government will consider reducing expenditure, increasing taxation or increasing borrowing? Manufacturing industry awaits Government decisions with great interest.

Mr. Boateng: Like the hon. Gentleman's party, those organisations have been wrong before and they are wrong again. The hon. Gentleman was a distinguished Chairman of the Health Committee, which constantly urged investment in the health service during the period of the Conservative Government. He well knows that this Government have embarked on a programme that involves moderate borrowing, but it is justified by the need to bridge the years of under-investment in public services that occurred under the Conservative Government, which he drew attention to himself. The reality is that our borrowing is sustainable because at the outset of the Labour Government we took the hard, tough decisions which the Conservative Government singularly failed to take throughout their 18 years of misrule.

Dr. Lewis: In his earlier answer to my hon. Friend the Member for Louth and Horncastle (Sir Peter Tapsell), the Chancellor painted a rather rosy picture of what the IMF said about the British economy and its borrowing. In fact, the report said that many directors viewed the British authorities' projections to be "somewhat more optimistic" than warranted. Does not the build-up to a £10 billion black hole mean that the Chancellor is going to leave a pretty poor legacy to his successor, whether it be my right hon. Friend the shadow Chancellor or, perish the thought, the Chancellor's own special pal, the Chancellor of the Duchy of Lancaster?

Mr. Boateng: Nothing could be further from the truth. Each and every one of the hon. Gentleman's assertions was wrong. I would draw his attention to what the IMF really said. For example, it said:

> "Economic performance in the United Kingdom remains impressive . . . This success owes much to strong institutions underpinned by clear and well-designed policy frameworks . . . Fiscal policy is bound by well-constructed rules to which the authorities have reaffirmed their commitment".

None of those things could ever have been said about a Conservative Government. That is why, in the fullness of time, the British people will return a Labour Government and reject the option on offer from Conservative Members.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): Does my right hon. Friend agree that there is nothing wrong with borrowing? The golden rule is about what one does with the money that has been borrowed. The Government have invested in education, health and the new deal, so they have spent that money wisely in comparison with previous Governments who borrowed to the hilt and spent the money on things that produced no jobs, no employment and no investment.

Mr. Boateng: My hon. Friend is absolutely right. Ten years ago, the deficit stood at the equivalent in today's money of some £90 billion. Today it is £35 billion and we are meeting our fiscal rules. In the last full year of the Conservative Administration, they were spending more on servicing debt than they were on schools. That is the difference between them and us, and my hon. Friend is quite right to draw the House's attention to it.

Mr. Brian Jenkins (Tamworth) (Lab): Congratulations are due to the Chancellor for taking brave decisions to reduce our national debt. Much of the tax that our citizens pay can now be spent on services rather than on interest to fund that debt. We all recognise that, over the cycle, borrowing—

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. May I remind the House that this is Question Time, not statement time? The hon. Member for Huddersfield (Mr. Sheerman) did not actually ask a question and I have not yet heard one from the hon. Member for Tamworth (Mr. Jenkins). Will he now put his question succinctly?

Mr. Jenkins: Will my right hon. Friend give the House an assurance that, when it comes to the push, we will not use borrowing to avoid taking the tough decisions that are needed to keep our economy stable, which has happened in the past?

Mr. Boateng: We have never avoided taking tough decisions. We have always stood by our fiscal rules and we will continue to stick by them. That is what has given our economy the sound macro-economic base that has seen 50 consecutive periods of growth.

Mr. George Osborne (Tatton) (Con): The Chief Secretary will have noticed with his legendary eye for

detail that Government forecasts for borrowing are £34 billion this year—three times what the Chancellor himself predicted at the beginning of this Parliament. The reason for it is the black hole in Government finances. Will the Chief Secretary give the House an assurance that capital gains tax on people's homes will not be one of the taxes that Labour increases, if it wins the election?

Mr. Boateng: The hon. Gentleman knows that decisions on taxation are announced in the Budget. He also knows, as does the House, that the country believes this Government in a way that it never believed the previous Conservative Government. People know that we will do what is right by the economy and that we will keep our promises on tax. The Conservatives never did that, and as a result they presided over successive periods of boom and bust. There will be no return to boom and bust.

Mr. Osborne: People remember that the Government promised there would be no tax increases under them, but in fact there have been 66 tax rises. Will the Chief Secretary take this second opportunity to reassure home owners that capital gains tax will not be levied on their homes, and that no one in the Treasury is looking at that?

Mr. Boateng: What people know is that the Tories consistently failed to keep their promises on tax. They know that it was the Tories who raised value added tax on fuel, and gave this country double-digit inflation and interest rates and 3 million unemployed. There will be no return to the days when the Tories ruined the economy. If people compare and contrast their record on tax and growth with ours, this Government win hands down, every time.

David Taylor (North-West Leicestershire) (Lab/Co-op): There has indeed been a remarkable transformation since 1 May 1997, when debt stood at 44 per cent. of gross domestic product. It is now at 35 per cent. Will my right hon. Friend assure the House that the private finance initiative—which is expensive, inflexible and unnecessary—is not wiping off so much debt that the present figure of 35 per cent. of GDP would, if it were reassessed according to normal international standards, be in the low 40s?

Mr. Boateng: We consistently operate according to what my hon. Friend calls normal international standards. Our borrowing is sustainable, and we borrow to invest. We are meeting our fiscal rules and will continue to do so over this cycle and beyond. That forecast is based on the cautious, audited and internationally recognised assumptions that have caused this country to have a record on growth and stability that is the envy of the G7.

Child Tax Credit

9. **Mr. Andrew Turner** (Isle of Wight) (Con): How much child tax credit has been (a) overpaid and (b) recovered in the past 12 months. [221074]

The Paymaster General (Dawn Primarolo): Statistics on tax credit overpayments will be published by the Office for National Statistics in the spring. The overpayments are mainly being recovered through payment reductions in later awards.

Mr. Turner: If the statistics are going to be published, I do not see why the Minister should not give them to the House. However, does she agree with *The Guardian* that £2 billion in overpaid tax credit was wasted up to 2003 because it was written off as irrecoverable? Does she also agree with Advice Northern Ireland that families who need to claim the benefit are extremely unlikely to have cash lying around that they can repay to the Inland Revenue? Are not waste on overpayments, and the misery faced by those from whom the overpayments are recovered, the hallmarks of this policy?

Dawn Primarolo: I remind the hon. Gentleman that the hallmark of the policy in his constituency alone is that 10,800 families receive tax credits. That does not include those who claim income support or jobseeker's allowance. On average, those families receive considerably more than they did under either family credit or working tax credit. The reason why I cannot give him the statistics is that they are a matter for the ONS, and not for me.

Angela Eagle (Wallasey) (Lab): Does my right hon. Friend accept that many thousands of people in Wallasey receive child tax credit and that they are extremely grateful for the substantial increase in living standards that it gives them? They are also grateful for the extra chances that it gives many people to go to work and make it pay. That is why unemployment in my constituency has fallen by more than 60 per cent. since this Government came to power.

Dawn Primarolo: The House will know that, in real terms, families with children will be better off by an average £1,300 a year. The poorest fifth of the population are, on average, £3,000 a year better off. There is a massive programme of support for working families. We want to help them to balance their commitments to paid employment and to their children.

Mr. David Curry (Skipton and Ripon) (Con): The right hon. Lady asked to see copies of the letters that the Inland Revenue has written to people who have been overpaid. Would she note that the Inland Revenue blames them for not realising that they have been overpaid? Would she tell the Inland Revenue that this sort of bureaucratic arrogance is entirely unacceptable, and that its staff should remember that they are there to serve the people?

Dawn Primarolo: I am actually very grateful to the right hon. Gentleman, who had a private conversation with me a week or two ago, precisely on the phrasing of some of the letters that the Inland Revenue is sending out. I can tell him that as a result of the conversation with him I have asked that those letters be sent to me. I have asked that the phraseology be considered again, and I have made very strongly the points that he made to me then and has now made in the Chamber.

Minimum Wage

10. **Mr. Jim Cunningham** (Coventry, South) (Lab): What assessment he has made of the impact of the increase in the level of the minimum wage on women and ethnic minorities in the work force. [221075]

11. **Mr. Mike Hall** (Weaver Vale) (Lab): What assessment he has made of the effect of the national minimum wage on low-paid workers. [221076]

The Economic Secretary to the Treasury (John Healey): Around 1 million workers have benefited from the minimum wage each year since it was introduced, around two-thirds of those beneficiaries being women. This year, the increase in the national minimum wage takes the rate above £5 for the first time ever, which will guarantee a pay rise to 1.3 million workers in October.

Mr. Cunningham: Can my hon. Friend clarify whether a 21-year-old will be paid the adult minimum wage, and if there is no intention to do that, can he tell us why not?

John Healey: We have indeed considered that; it was recommended to us by the Low Pay Commission. The economic evidence is mixed, so we have decided to make no change this year, but we will look at it carefully again in future.

When we bear in mind the 140,000 people who are destined to benefit from the national minimum wage rise in my hon. Friend's region, the real question is whether there will be a minimum wage in the future, and the real concern should be the comments of the shadow Minister for deregulation, the right hon. Member for Wokingham (Mr. Redwood), who said:

"there are several ways of dealing with the damage to jobs done by the minimum wage. It could be repealed, or it could be frozen"—[*Official Report*, 29 April 1999, vol. 330, col. 541.]

Mr. Hall: I really do welcome the recent announcements and the increase in the national minimum wage. Through the new deal, a large number of people in my constituency have found work, but there is still one thing that I am concerned about, which is allowing people to become more prosperous when most people at the lower-wage end need more help from the Government. What can my hon. Friend say to me that would give reassurance to my constituents?

John Healey: My hon. Friend is right, of course, that the national minimum wage is just part of the set of measures that we need and have put in place to support the wages and take-home pay of poorer families. The national minimum wage should be seen alongside, and working with, tax credits. It is there as an essential guarantee of fair minimum pay for workers, but it cannot reflect family circumstances, so the tax credit, set alongside it, means that we can target help better on tackling poverty for those families. With the two put together, in October, families with one full-time worker and one child will be looking at take-home pay of £7 an hour.

Mr. John Bercow (Buckingham) (Con): Naturally, the logic of the existence of the minimum wage is that it should be periodically and affordably increased, and the reasonable increases recently announced are therefore heartily welcomed by sensible people. However, given that the poorest fifth of households in this country pay a higher proportion of their income in taxation than any other group, does the hon. Gentleman agree that the prime candidates for tax reduction, those for whom we should do most, are those who have least—the poorest people in our country?

John Healey: That is precisely the role of the tax credits.

On the national minimum wage, I served on the Standing Committee, as the hon. Gentleman did, when we passed the historic National Minimum Wage Act 1998. I remember that he and his colleagues were arguing that it would cost 2 million jobs. They had argued that before 1997, but now there are 2 million more jobs in the British economy, under Labour, with the national minimum wage.

I refer the hon. Gentleman to the Low Pay Commission, which has looked very carefully at concerns such as his. It has been able to prove that around 1 million workers each year benefit from the national minimum wage, and that the economy has continued to generate new jobs since it was implemented, including in those sectors with a tradition of low pay. This policy is successful. I hope that the shadow Chancellor will give it his full backing.

Employment

12. **Siobhain McDonagh** (Mitcham and Morden) (Lab): If he will make a statement on his policy measures to help people into work. [221077]

The Financial Secretary to the Treasury (Mr. Stephen Timms): Building on a foundation of stability in the economy, the new deal, our investment in skills and training, and our policies to make work pay mean that 28.52 million people are in work in the United Kingdom—the highest number ever and 2 million more than in 1997.

Siobhain McDonagh: In Mitcham and Morden, we have seen staggering reductions in unemployment, but one of the biggest hurdles remaining, particularly for lone parents who want to return to work, is the concern about the reassessment of benefits and the interrelationship between benefits. Will my hon. Friend discuss with the Department for Work and Pensions and other Departments responsible how that can be smoothed even further?

Mr. Timms: I will be very happy to do that. Of course, lone parent employment is above 55 per cent. for the first time ever—10 percentage points up since 1997—but I agree that we need to maintain that progress, and I will be glad to do what my hon. Friend suggests.

Mr. David Trimble (Upper Bann) (UUP): I understand the Minister's pleasure at the increase in the number of people in work, but if he breaks down the figures regionally and looks at the regional economic participation ratio, he will find that the ratio in Northern Ireland is about the lowest in the entire

country. Has he made any inquiries into why his policies are not having the same success in Northern Ireland as he is celebrating elsewhere?

Mr. Timms: Employment has risen and unemployment fallen in every region and every nation of the UK, and vacancies are close to record levels across the country. Northern Ireland has done very well on employment. There are still concentrations of worklessness in some localities, and we are addressing them, but the picture across the country, in every region, has been a very good one.

G7 Presidency

14. **Claire Ward** (Watford) (Lab): If he will make a statement on the steps he plans to take during the UK's presidency of the G7 to make further progress towards the millennium development goals. [221079]

The Financial Secretary to the Treasury (Mr. Stephen Timms): In September, the UN millennium declaration review summit will acknowledge that progress has been too slow. Only two of the 18 goals are on course to be met, so as my right hon. Friend the Chancellor has already said this morning, we will be working in our presidency for an international finance facility to increase aid, for 100 per cent. multilateral debt relief and for a freer and fairer global trade system.

Claire Ward: I was due to speak to the Watford Oxfam and World Development Movement meeting this evening, but owing to the likelihood of business this afternoon, I probably will not get there. I wanted to give them an assurance that we would be working towards achieving those millennium development goals. Can he give me an assurance that I can pass on to them at another time that we will be doing all that we can to ensure that we erase debt and that we can truly make poverty history?

Mr. Timms: Yes, I can give my hon. Friend that assurance, and I pay tribute the work of Oxfam and the World Development Movement in her constituency, her work with those organisations and those organisations' work across the country. The campaigning on the issue has been extremely important in bringing about the progress that we are seeing. We need to double total aid flows from $50 billion to $100 billion a year to deliver the millennium goals. That is what the IFF will allow. Alongside that, we have also announced our timetable to meet the UN target of 0.7 per cent. of gross domestic product going to aid by 2013. As my right hon. Friend the Chancellor has already said today, the publication of the Commission for Africa report tomorrow will also be a very important step in our developing world leadership in this area.

Rev. Martin Smyth (Belfast, South) (UUP): May I congratulate the Minister on the work that is being done, but can we have an assurance that, in a world where we are seeking to help people, we will not encourage Governments to continue to oppress their people and abuse their liberties? On a day when we commemorate the low interest rates of 300 years ago, I should like to think that the liberty and democracy that was brought to our country then will be brought to Africa—to Eritrea, Zimbabwe and, in particular, Sudan and Darfur.

Mr. Timms: I completely agree, and I think the hon. Gentleman will welcome the proposals set out in the Commission for Africa report when it is published tomorrow.

Mr. Harry Barnes (North-East Derbyshire) (Lab): Is my hon. Friend aware that emails to Members are flooding in from young people who are galvanised by the "Make Poverty History" campaign? That is probably what led to the incredible number of Members—412—signing early-day motion 9. What can we do as a package during our presidency of the G7 to ensure that serious advances are made towards the objectives of that campaign, which means so much to so many people throughout the world? Thankfully, it means something to the younger generation in this country; they are often said to be uninterested in politics, but they are certainly interested in improving the world.

Mr. Timms: My hon. Friend is absolutely right about the enthusiasm, especially, as he rightly says, of young people. When Nelson Mandela spoke in Trafalgar square the other week, I noticed how excited young people from my constituency and throughout the country were about that event and what it signified.

We are absolutely determined to make progress through our presidency in the three areas that I identified: first, the IFF; secondly, 100 per cent. debt relief on the part of the multilateral organisations; and thirdly, a freer and fairer global trade system. I pay tribute to the work of all those who are campaigning, in particular the faith groups, which have provided a large share of the individual energy that is going into the campaign. "Make Poverty History" is doing a terrific job, and it needs to be continued throughout this year to maintain pressure on all the G7 countries.

First-time Buyers

15. **Mr. Alistair Carmichael** (Orkney and Shetland) (LD): What steps he is taking to help first-time home buyers. [221080]

The Financial Secretary to the Treasury (Mr. Stephen Timms): Low interest rates and high employment have given more people the confidence to buy their houses. Home ownership has risen by 1.5 million since 1997. Shared ownership and equity stake schemes are already helping first-time buyers, and in "Homes for All" my right hon. Friend the Deputy Prime Minister has set out plans for further progress.

Mr. Carmichael: Does the Minister accept that stamp duty is now another barrier against people becoming first-time home owners? In 1993, when the duty was first applied to homes costing more than £60,000, it affected

only 10 per cent. of first-time buyers, but it currently affects 85 per cent. Does he accept that reconsideration of the threshold and where it is set is long overdue?

Mr. Timms: That is a matter for my right hon. Friend the Chancellor in his Budget statement next week. However, I can say that the problem with proposals from the Liberal Democrats is that the numbers simply do not add up. Furthermore, it is worth making the point that at present 20 per cent. of residential purchases are exempt from stamp duty, and house purchases of up to £150,000 in the UK's most deprived wards are also exempt.

Ms Sally Keeble (Northampton, North) (Lab): Will my hon. Friend consider the possibility of providing tax incentives for low-cost and shared equity housing schemes for first-time buyers in the growth areas, which include Northampton? Where a large number of houses are being built there are real opportunities to meet some of the needs of first-time buyers who cannot purchase homes elsewhere.

Mr. Timms: I had the opportunity of meeting a number of people in my hon. Friend's constituency earlier this week, and we talked about exactly that point. There is extremely good news for her constituents in my right hon. Friend the Deputy Prime Minister's paper, "Sustainable Communities: Homes for All", especially the commitment to help more than 80,000 more people into home ownership by 2010. It includes new incentive schemes for first-time buyers and key workers, as well as the use of surplus public sector land—one of the particular topics that arose in that discussion.

Tax

16. **Mr. Geoffrey Clifton-Brown** (Cotswold) (Con): What percentage of gross domestic product was taken up by taxation in 1997; and what his estimate is for 2007–08. [221081]

The Chief Secretary to the Treasury (Mr. Paul Boateng): The 2004 pre-Budget report set out the Treasury's latest projections for tax receipts. Updated estimates will be published in next week's Budget.

Mr. Clifton-Brown: I thank the Chief Secretary for that very full and very informative answer, but can he tell us why, in that 10-year period, tax as a proportion of GDP has gone up 2.5 per cent. in this country, whereas it has gone down 2.5 per cent. for most of our European competitors? Does not that prove once and for all that the Conservative party will always tax lower than the Labour party?

Mr. Boateng: That is a tired old mantra. The reality is that the figure has never reached the heights that it did under the last Conservative Administration and that the OECD figures show that we have one of the lowest tax burdens in the European Union, as well as a below-average tax burden compared with the OECD as a whole. That fact has been recognised by the right hon. Member for Wokingham (Mr. Redwood), who in addressing a Tenon techlocate conference only last year, entitled "Challenges for Regional Development", said:

> "Places like Ireland, the UK, the USA, Hong Kong, Singapore attract because their tax rates for business are low."

What better endorsement could we have of Labour policy than that?

Business of the House

12.30 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): Will the Leader of the House please give us the business for next week?

The Leader of the House of Commons (Mr. Peter Hain): The business for next week is as follows:

MONDAY 14 MARCH—Second Reading of the Education Bill *[Lords]*.

TUESDAY 15 MARCH—Second Reading of the Inquiries Bill *[Lords]*.

WEDNESDAY 16 MARCH—My right hon. Friend the Chancellor of the Exchequer will open his Budget statement, followed by, if necessary, consideration of Lords amendments.

THURSDAY 17 MARCH—Continuation of the Budget debate.

FRIDAY 18 MARCH—Private Members' Bills.

The provisional business for the following week will be:

MONDAY 21 MARCH—Continuation of the Budget debate.

TUESDAY 22 MARCH—Conclusion of the Budget debate.

WEDNESDAY 23 MARCH—Second Reading of the Disability Discrimination Bill *[Lords]*.

THURSDAY 24 MARCH—Motion on the Easter recess Adjournment.

FRIDAY 25 MARCH—The House will not be sitting.

I should like to inform the House that business in Westminster Hall for 17 and 24 March will be—

THURSDAY 17 MARCH—A debate on the report from the Science and Technology Committee on the use of science in UK international development policy.

THURSDAY 24 MARCH—A debate on the UK and Africa.

The House may also wish to be reminded that, subject to the progress of business, we will rise for Easter on Thursday 24 March and return on Monday 4 April.

Mr. Heald: I thank the Leader of the House for giving us the business. He will be aware of the public concern over the Deputy Prime Minister's latest guidance on unauthorised Traveller sites, which makes it even more difficult for councils to uphold planning law. There is the prospect of even more unrestricted development. Can we have an early statement or a debate so that the Deputy Prime Minister can be challenged on this new initiative?

Two weeks ago, I asked the Leader of the House about the St. David's day debate. He replied that

"it will have to come later . . . But there will certainly be a Welsh affairs debate." —[*Official Report*, 24 February 2005, Vol. 431, c. 477.]

Members in all parts of the House want to raise issues such as the unfair treatment of the Welsh regiments and the rising hospital waiting lists in Wales, where it has been reported that the Leader of the House, in his other job, has told the Welsh Assembly to pull its socks up. We know that Wales was recently missed off the European Union map; now it seems to have been missed off the Order Paper. When will the debate take place?

In the light of the Chief Secretary's comments earlier today, which suggested that Labour is considering capital gains tax on people's homes, will the Leader of the House give an assurance that there will be an opportunity to discuss this further during the Budget debate? I would like an assurance that there will be a real opportunity to do so.

What is the last moment at which motion 13 on page 1099 of the Order Paper needs to be passed to be effective in continuing the Anti-terrorism, Crime and Security Act 2001?

Finally, the last Modernisation Committee report recommended that there should be a system for tabling questions in September, even though we are not sitting in September this year. Can we expect to see a motion from the Leader of the House on the Order Paper soon or will it be left for me to table after our general election victory?

Mr. Hain: Dream on. I do not intend to table a motion to that effect.

On the question of Gypsy sites, the truth is that the ability to deal with the situation lapsed in 1984 when the Tory Government abolished the 1968 duty to provide sites. The Deputy Prime Minister is trying to ensure that there are proper controls on where such sites are put so that local residents are protected and the rights of Travellers are respected. The absence of the measures that the Conservatives repealed in 1984 has caused the current situation.

There will be a Welsh affairs debate on 4 April—as soon as we get back from the Easter recess. I can give the hon. Gentleman that absolute assurance, as I indicated would be the case. He asked what might be discussed in that debate and mentioned national health service waiting times in Wales. There is no way in which the Secretary of State for Wales can order the National Assembly for Wales to do anything within its responsibilities, and the health service and waiting times are included in that. It is true that waiting times have not come down in Wales as quickly as in England, and the First Minister intends to make a statement about that matter in the coming weeks. However, it is also true that the real choice on health services in Wales is between a Labour Government, who are investing more and recruiting more nurses and doctors, and a Conservative Government, who would slash health service provision in Wales, which would lead to rocketing waiting times again.

I did not hear the comments about capital gains tax to which the hon. Gentleman referred, but I think that there must have been some misinterpretation of what was said. I have announced four days of debate on the Budget, so there will be plenty of time for him and his colleagues to raise any matters that they like.

On the terrorism legislation, a clear choice now faces the House of Commons and Parliament. Tomorrow is the anniversary of the Madrid bombing, which was an attack on the people of Spain by terrorists who could mount exactly the same kind of attack on London or anywhere else in Britain. That is why, on the clear advice of the security services and the police, we need new

[Mr. Hain]

legislation. We have gone the extra mile to find consensus within the House on extra judicial protection, but the Government will not allow the fact that the Conservatives are playing politics with people's security to put us in a position of neglecting the safety and security of our citizens. The House of Lords is inviting the House of Commons to put its and the Conservative party's interests ahead of those of our constituents, but we will not do that. [HON. MEMBERS: "Answer the question."] That is answering the question directly. We will pursue the legislation because we believe that it is absolutely essential. We have made concessions to build consent in the House. The Bill will provide proper safety and security for our citizens and voters, but it is quite clear that the Conservatives are playing politics.

Mr. Paul Tyler (North Cornwall) (LD): Will the Leader of the House give urgent consideration—perhaps he will make a statement on the matter next week—to the way in which his ministerial colleagues make statements that are directly relevant to the constituency work of hon. Members on both sides of the House without informing those Members? Let me give him an example. A written statement is being made today by the Ministry of Defence. Although the subject that it covers is not immediately apparent, I understand from my local media that they are to be briefed in just a few minutes about its implications for RAF St. Mawgan, which is in my constituency. I had to be briefed by the media to ring the office of the Minister of State, Ministry of Defence, the right hon. Member for East Kilbride (Mr. Ingram), to find out what was going on. In the past he has been meticulous in telling me what was happening, but surely it should be the responsibility of Ministers to inform constituency Members of such a matter before informing the local media.

I understand that the statement will demonstrate that RAF St. Mawgan will be eligible for the stationing of the joint combat aircraft from 2012—that is fine. However, apparently the statement shows that the airfield will effectively be mothballed from 2007 to 2012. That would have a huge impact on my constituency, and the statement may also affect other hon. Members. Why should the local media be informed before constituency Members? Is that not a discourtesy to the House and to Members, and what will the Leader of the House do about it?

When does the Leader of the House expect the Identity Cards Bill to complete its passage through Parliament? Apparently, it will not come before the House before the Easter recess? Does he expect it to receive Royal Assent before Monday 11 April? Does he accept that it is not urgent, and that there are much more pressing matters that need to be dealt with? Has he had an opportunity to read the extremely important report by the Home Affairs Committee, chaired by his right hon. Friend the Member for Southampton, Itchen (Mr. Denham), a former Home Office Minister? In particular, has he seen the recommendation about the present practice of including paperwork in police frontline activities? The report says:

"These tasks may be essential, but they are not what most people would consider street policing. Their inclusion skews the statistics and gives an exaggerated impression of the Government's success in returning police officers to street duties".

Is that not a more pressing, urgent and important issue in the fight against crime than the Identity Cards Bill?

Mr. Hain: May I first deal with the important point about Members of Parliament receiving adequate notice of statements? We always endeavour to inform local Members of Parliament of ministerial statements and decisions affecting their constituencies. If that has not happened in this case I am sorry because, as the hon. Gentleman was good enough to point out, the Ministry of Defence is usually punctilious about such matters. It is an issue that the Secretary of State for Defence will obviously want to take into account.

On the Identity Cards Bill, we would like it to receive Royal Assent as early as possible. If that is possible before 11 April, that would be very desirable indeed.

Mr. Tyler: An, 11 April—I will make a diary note.

Mr. Hain: The hon. Gentleman asked me a question. Of course, we would like the Bill to receive Royal Assent by then, but if he wants the legislation to complete its passage on such an early date, it will depend on the co-operation of both the Conservative and the Liberal Democrat Opposition. The country needs no reminding that the Labour party believes in the sensible, phased introduction of identity cards. We are moving in that direction anyway with passports and driving licences, and virtually everyone has to carry photographic ID to board an internal flight. I therefore hope that the hon. Gentleman will back the measure.

On police activity on the street, there is widespread concern that there should be more street-level policing and people want to see bobbies on the beat. That is why we have recruited 12,500 extra police officers—the last Conservative Government cut the number of police officers—why we have recruited an extra 4,000 community support officers and why we intend to drive the number of CSOs up to 20,000. All of that would be put at risk by the massive cuts planned by the Conservatives in the Home Office budget.

Mrs. Anne Campbell (Cambridge) (Lab): Has my right hon. Friend had time to look at early-day motion 802, which has been signed by 44 right hon. and hon. Members ?

[That this House is concerned that small UK science and technology businesses are at present significantly disadvantaged compared with their US competitors because of the absence of an effective UK programme to the Small Business Innovation Research (SBIR) programme in the US and that the commercial exploitation of the UK science base for the benefit of the UK economy is being jeopardised as a result; further notes that the introduction of such a scheme would be to the benefit both of the UK Government departments commissioning research and development projects and of the companies undertaking them; and urges the Government to introduce legislation similar in effect to the SBIR Program in the US, under which US Federal

Government agencies are required by law to spend a minimum proportion of their research and development budgets with small businesses.]

The early-day motion asks the Government to introduce a scheme similar to the small business innovation research programme in the United States, which requires Government Departments to spend 2.5 per cent. of their research and development budgets on contracts for small businesses and has proved extremely helpful in providing stable and secure funding for early-stage small businesses.

Mr. Hain: It is an interesting early-day motion, and I am sure that the Secretary of State for Trade and Industry will want to look at it carefully. My hon. Friend has worked carefully and tirelessly in her constituency to support the many small local businesses that are the backbone of the Cambridge economy and, indeed, the whole British economy. The buoyancy of small businesses and the growth of start-ups across Britain have developed on the back of a strong economy and are crucial to future job creation, the success of our economy and the prosperity that that brings.

Sir George Young (North-West Hampshire) (Con): Is the Leader of the House planning to introduce any more timetable motions during the weeks ahead? If he is, will he ensure that the House has adequate time to discuss crucial issues? I accept that the Government are entitled to get their business through the House as long as they have a majority, but the amount of time allowed yesterday and previously was absurd. If he intends to continue timetabling Bills, can we at least have adequate time for discussion of them?

Mr. Hain: Of course I want adequate time for discussion and the right hon. Gentleman is entitled to press me on the matter, as is any other hon. Member. However, the debate on the Prevention of Terrorism Bill will continue today and may continue for a long time if the Conservative-controlled House of Lords— *[Interruption.]* Yes it is. What the House of Lords is doing down the Corridor is responding to the diktats of the Leader of the Opposition. It is playing politics with our constituents' safety and security. There will be plenty of time to discuss the Bill. The existing measures lapse on Monday, on the instruction of the Law Lords, which is why we need to hurry the legislation through in the interests and security of our voters.

Huw Irranca-Davies (Ogmore) (Lab): Will my right hon. Friend find early time for a debate on cuts in front-line services in local authorities? My local authority is proposing a council tax rise of 4.6 per cent. and cuts in youth services and social services—that is under a Liberal-Democrat-led, Tory and Nationalist coalition. Should we expect that from a rag, tag and bobtail outfit?

Mr. Hain: Well, I am sure that it is. My hon. Friend's electors will soon have the opportunity to see what it is like, having such a coalition in power, to have local services cut compared with its predecessor Labour council which expanded social services week by week, month by month and year by year.

Mr. John Wilkinson (Ruislip-Northwood) (Con): The Leader of the House will know that the Paddington health campus is the biggest private finance initiative health project ever. The cost has escalated from £135 million at its launch to £1.1 billion. Will the Secretary of State for Health come to the House at an early date and explain the future of the project? *The Times* stated on 5 March that this

"hospital cannot be built at Paddington Basin".

Is it not only right that the Secretary of State for Health should explain the future of that project when Harefield, Royal Brompton and St. Mary's hospitals are all supposed to be subsumed into it?

Mr. Hain: I think that I am right in saying that the tabling for Health questions ends early next week, so the hon. Gentleman will have a chance to try to raise that matter. The Secretary of State for Health will certainly want to give close attention to his point.

Ms Gisela Stuart (Birmingham, Edgbaston) (Lab): Tomorrow morning, I hope to be at Bartley Green technology college to discuss with young students the work of Parliament and MPs as part of its citizenship project. Could my right hon. Friend provide some time to debate the recommendation of the Modernisation Committee, which suggested that the Youth Parliament should use this Chamber for some of its debates?

Mr. Hain: I am pleased to hear that my hon. Friend is engaging with young people in citizenship education projects in her constituency because, as the Modernisation Committee recently reported to the House, the gap between our parliamentary democracy and our younger citizens is a big problem. I support the principle of the Youth Parliament using the Chamber or Westminster Hall and I hope that that recommendation may be taken forward.

Sir Nicholas Winterton (Macclesfield) (Con): I look to the Leader of the House to provide balance in his dual responsibilities in this place. He must know that if not a single Conservative peer had voted in the other place yesterday, the Labour Government would have lost the vote there by 45. To blame that on the Conservatives when many of his colleagues in the other place voted against the Government is an abuse of this House.

Can the right hon. Gentleman say when the finance Bill resulting from the Budget will have its Second Reading?

Mr. Hain: As soon as possible is the answer to that question, and when I am able to provide it with a Second Reading. I take seriously the hon. Gentleman's first point, because he is an experienced parliamentarian and I have a great deal of respect for him. The truth is, however, that in the vote on the sunset clause, which would water down the ability of the Bill to control security and safety, the Government had a majority of more than 100 in this House. I do not think that the House of Lords has the constitutional right continually

[Mr. Hain]

to overturn decisions of this House, especially when the elected Members here are representing their constituents, whose safety and security must come first. That is the issue that is at stake—whether the Lords overturn us again on the matter or whether we pass into law a Bill that reflects the needs of the police and the security services and the safety and security of all of our citizens.

Mr. Tam Dalyell (Linlithgow) (Lab): So in that case why did Lord Condon, Lord Irvine of Lairg and our old friends Bob Sheldon, Joel Barnett and John Morris vote against the Bill? Why should they do such a thing? My right hon. Friend should be a bit more careful. In whole sections of the country, the Bill is not seen as Commons versus Lords, but as particular people in this Government against the Law Lords. Commons against Law Lords is an entirely different kettle of fish.

Mr. Hain: May I respectfully say to my hon. Friend that I just do not think that that is the situation. As a result of the arguments that were advanced in the House of Lords, by my hon. Friend and other Labour Members, and by Members on the other side of the House, my right hon. Friend the Home Secretary made a series of concessions to try to find common ground. He sought to bring judicial supervision and authorisation up front, not only on the derogating orders but on the non-derogating orders; to ensure that Parliament has to renew the legislation every year, otherwise it lapses; that an independent review of how the Bill operates is carried out; and that the judges and the courts are put in pole position. That is why we have listened to the points that have been made. The entirely separate issue that is at stake is whether the House of Lords insists on the sunset clause, which would mean that the whole legislation would disappear in a matter of months. That is the issue—the Conservatives are busy nodding their heads—and it is a different issue from the points that Labour Members and others of independent mind made in the House of Lords and in this Chamber. The Conservatives are inviting Parliament to send a signal to any likely suicide terrorist that this House is wobbly on terrorism and suicide attacks. We cannot possibly do that.

Malcolm Bruce (Gordon) (LD): Has the Leader of the House seen early-day motion 855, on the possibility of creating political prisoners?

[That this House believes that if the Government persists in seeking legislation that gives to a Minister of the Crown the right to impose detention or control orders on UK residents without the decision being taken in a court on the basis of a trial of evidence then the UK will stand accused of creating political prisoners seriously damaging the reputation of this country's legal system as a beacon to the world.]

Is not that an issue that should be taken seriously?

Is the Leader of the House aware that the Secretary of State for Trade and Industry responded to a question from me about reports of plans to privatise the Export Credits Guarantee Department by saying:

"On the issue of the Export Credits Guarantee Department, I have not seen the reports that the hon. Gentleman refers to, but let me say that there are no plans to privatise that organisation".—[*Official Report*, 3 March 2005; Vol. 431, c. 1088.]

In the *Evening Standard* on Tuesday, a DTI spokesman said that

"we are considering whether we can work with private sector partners to deliver some of the Export Control Organisation's services."

Is not that a clear indication that the Secretary of State either does not know or is not prepared to tell the House what her policy is? Nor did she make any comment on the proposal to extend open licences for defence equipment from two years to 10 years. May we have a debate in which the Secretary of State can explain to us exactly what she is doing on arms control and how that is consistent with the Government's claim that they want to tighten it up?

Mr. Hain: My right hon. Friend the Secretary of State will certainly study what the hon. Gentleman has said very carefully. However, there is a difference between a Government agency working with the private sector, as many do, and privatisation. They are very different matters.

Early-day motion 855 refers to the part 4 powers that were ruled to be illegal by the Law Lords. That is why we have had to introduce emergency legislation that will provide judicial control, a regular report back to the House of Commons, an opportunity for review, independent scrutiny and the need for renewal after one year. All the necessary safeguards will be put in place. The most serious provisions on home detention will require a vote of the House of Commons and the House of Lords before they can be proceeded with. All of the legitimate concerns about civil liberties have been addressed, but the paramount necessity is to ensure the security and safety of our citizens, and eliminate or at least closely control the risk of suicide and other terrorist attacks. That is what we are trying to do, and I regret that an unholy coalition of the Conservatives and the Liberal Democrats seeks to impede the progress of that important legislation, which would be in the interests of all of us, as the police and the security services have said.

Jane Griffiths (Reading, East) (Lab): We all welcome the publication of the long-awaited Bill on Crossrail. Hon. Members will recall the unseemly demise of a previous incarnation of that Bill in 1996. We have not heard today of any allocation of parliamentary time to make progress on the hybrid Bill. Will my right hon. Friend assure me that time will be found and that the Bill will not recede so far into the future that the opportunity is lost?

Mr. Hain: This is an important issue, but my hon. Friend will understand that it is a hybrid Bill and, therefore, it is not possible to rush it through in one Session. It takes several Sessions to get it through. Having made a start with the Bill, we intend to make progress and to secure the Bill, because it is so important.

Mr. Eric Pickles (Brentwood and Ongar) (Con): I support my hon. Friend the Member for North-East

Hertfordshire (Mr. Heald) in requesting an urgent debate on the new guidelines set by the Office of the Deputy Prime Minister, because it might be able to clear up one issue that is exercising my constituents. Why is Brentwood borough council, alone among councils throughout the country, being asked to provide an official Traveller and Gypsy site when it has but a handful of unauthorised caravans? Adjoining constituencies, represented by Labour Members, have hundreds of unauthorised sites and a history of migration by Travellers and Gypsies. Without an explanation, the Office of the Deputy Prime Minister will not be able to demonstrate that it has acted objectively or, for that matter, sanely.

Mr. Hain: I just do not agree with the point made by the hon. Gentleman. My right hon. Friend the Deputy Prime Minister is minded to direct Brentwood to prepare a plan to allocate land to meet demand for Gypsy sites because the council is about to adopt a local plan that makes no such provision, despite the evidence of demand. The issue is whether, in the absence of the necessary controls because of the failures of the last Conservative Government, sites should be allowed to develop in a haphazard and uncontrolled way, or whether proper controls and plans should be put in place. Otherwise, Travellers will move around, creating difficulty and nuisance for local residents. The issue is whether we have proper sites that are properly regulated, controlled and located in order to protect local residents' interests. That is what the Deputy Prime Minister wants to do in Brentwood.

Mr. Kevin McNamara (Hull, North) (Lab): May I draw my right hon. Friend's attention to early-day motion 298, which has been signed by more than 130 Members and calls for the abolition of the means test for the disabled facilities grant?

[That this House is extremely concerned about the unfair nature of the Disabled Facilities Grant means test, particularly for families with disabled children; notes that many families who need to make vital adaptations to their home are often forced into massive debt by having to pay for the full cost of adaptations themselves or are unable to carry out the work, leaving their home inaccessible for their child; believes this situation is unacceptable; welcomes the ODPM's current review of the Disabled Facilities Grant and urges the Government to follow the recent decision to abolish the means test in Northern Ireland; and further believes that such a move would greatly improve the quality of life for many disabled children and their families.]

Is my right hon. Friend aware that because of the unfair nature of that means test, many hard-working families with disabled children who want to make vital adaptations to their homes are unable to do so without getting into massive debt? Others have to live in homes unsuited to their children's needs. As we have published a paper on improving the life chances of disabled people, will my right hon. Friend ensure that the House has an opportunity to debate the issue? Perhaps we may look forward to my right hon. Friend the Chancellor making provisions to address that issue in his Budget.

Finally, will my right hon. Friend bear in mind that many of us wish to congratulate my right hon. Friend the Deputy Prime Minister on the course of action that he has taken in seeking to settle the problem of sites for Travellers and Gypsies? Is he further aware that we deplore—

Madam Deputy Speaker (Sylvia Heal): Order.

Mr. Hain: My hon. Friend made—or was seeking to make—an important point. On his first question, which was about the disabled facilities grant, the Government have announced an interdepartmental review of the grant programme, which will include analysis of the impact of the means test on different groups of applicants, including the families of disabled children. I hope that he is encouraged to hear that his point will be taken into close account by those undertaking the review.

Mr. Patrick McLoughlin (West Derbyshire) (Con): May we have a debate on the use of exaggerated language? Can the Leader of the House explain his referring a few minutes ago to "a Conservative-controlled House of Lords," when the numbers in the Lords are as follows: Conservative 209, Labour 207, Cross Benchers 187, Liberal Democrats 68 and others 36? How can he describe that as a Conservative-controlled House of Lords?

Hon. Members: The Cross Benchers are all Tories!

Mr. Hain: I am delighted that the hon. Gentleman has asked that question, because he provides me with the opportunity to remind him of the remarkable coincidence whereby, when Labour Governments are elected, the number of defeats of Government legislation in the House of Lords increases exponentially, as it has repeatedly done in the past few years. That happens because the Conservatives, the hereditaries—and, indeed, some Cross Benchers who are conservatives with a small "C"—can mobilise a majority to defeat the will of the elected House of Commons. There is a huge Labour majority in the House of Commons, and there is, in effect, a conservative—with both a small and a big "C"—majority in the House of Lords. In the end, democracy should prevail. In the present case, Conservatives in Parliament should put the safety and security of our constituents before opportunism and playing politics.

Laura Moffatt (Crawley) (Lab): Is my right hon. Friend aware that in Portcullis House yesterday and today two private health care companies—BUPA and CS Healthcare—have been plying their trade? Will he look into that and tell us whether their desperate attempt to ply their strange trade in the House of Commons is being made because of falling NHS waiting lists?

Mr. Hain: I shall certainly look into the matter for my hon. Friend, because I understand her point, although I am not responsible for the event.

Mr. James Paice (South-East Cambridgeshire) (Con): May I repeat the plea for a proper debate on Traveller policy? The guidelines issued by the Deputy Prime Minister on the requirement for councils to provide sites are not the whole answer to the problem.

[Mr. James Paice]

Throughout the country there are areas such as mine, where although there is a plethora of sites, that does not prevent Travellers from buying other pieces of land, moving on to that land and developing it without any planning controls. There is paralysis between the planning system and the courts, with the result that the Travellers just stay there and no one stops them. Whatever the legal provision of other sites, Travellers are not prevented from developing their own unauthorised sites wherever they can get hold of a piece of land. That is the issue that must be addressed, and the Government have not yet addressed it.

Mr. Hain: I respectfully suggest that that is why the hon. Gentleman should support the Deputy Prime Minister's effort to put in place some sort of order and controls, instead of the rather haphazard situation in which Gypsy and Traveller sites are established all over the place. That is what my right hon. Friend is trying to do and, in the light of what he has just said, the hon. Gentleman should give my right hon. Friend his enthusiastic backing.

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): Following his earlier comments, will the Leader of the House confirm that he is prepared for the House to sit late this evening—late into the night, if necessary—to get the Prevention of Terrorism Bill passed? I voted against the Government last week because of my concern about the lack of judicial involvement in non-derogated orders, but I now accept that the Home Secretary has gone a long way to meet my concern and that of other hon. Friends. Is not the reality that either we will pass the Bill following the changes proposed by the Home Secretary and accepted by this elected House, or we will end the sitting with no effective anti-terrorism legislation in this country, and face all the risks to national security that that will create?

Mr. Hain: That is spot-on. We will sit as late and for as long as it takes to get the legislation through. We will not accept the Conservatives here and in the House of Lords trying to dictate to the Government. Were they in power, they would be taking similar action to deal with the consequences of the Law Lords' ruling last December that the existing powers were not lawful. We have to put something in their place. My hon. Friend says that his legitimate concerns have been met by the concessions that we have made to put judges and the judicial process in pole position. All we have now is an exercise based around a sunset clause—a specious reason to oppose the principles behind the Bill. That is what the Conservatives are doing.

Mr. Gregory Campbell (East Londonderry) (DUP): During last week's debate on renewal of the BBC charter, I raised the issue of substantially higher rates of licence fee evasion in certain parts of Northern Ireland. I have tabled early-day motion 810 on the matter:

[That this House notes that the Department for Culture, Media and Sport has indicated in several replies to Parliamentary Questions from the honourable Member for East Londonderry that the information regarding a regional geographic breakdown of those people not in possession of a valid television licence fee is not available; further notes that the limited information which is available indicates that in certain undefined parts of the United Kingdom there is a considerably higher rate of evasion; and calls for a more open strategy to be deployed in order that people across the United Kingdom will know where the highest evasion rates are and will be able to see that the Department is acting accordingly to ensure licence fee payments are made and the law upheld.]

When can we expect a debate on transparency regarding the identification of areas in which evasion is rife, so that we can establish that the Department has not attempted a cover-up and ensure that the law is upheld?

Mr. Hain: We have only just had a debate on the whole subject, and we had the statement by the Secretary of State for Culture, Media and Sport. If the hon. Gentleman wishes to pursue the point, as he is entitled to do, he can table a question to my right hon. Friend.

Julie Morgan (Cardiff, North) (Lab): May I tell my right hon. Friend how much I welcome the publication last week of the Equality Bill, which will set up the commission for equality and human rights? Is he aware of how much it has been welcomed by various organisations, including the Equal Opportunities Commission and the Disability Rights Commission, and in Wales? When will Second Reading of that important Bill take place?

Mr. Hain: I hope that we can have a Second Reading debate on the Bill which, as my hon. Friend says, is an important measure dealing not only with discrimination against people with disabilities and women, and discrimination on grounds of sexual orientation or race, but with discrimination on grounds of age or religion. The latter will support the Muslim community, which has felt besieged in recent times. *[Interruption.]* I hope that the measure will be passed. If Labour is re-elected, the Bill will certainly get Royal Assent as soon as possible—*[Interruption]*— although I can tell from the unseemly heckling from Conservative Members that if we are not re-elected, they will not see the legislation through.

Mr. Gary Streeter (South-West Devon) (Con): May we have an urgent debate on the practices of the Ministry of Defence in awarding surface ship refit work? The feeling is growing in the west country that dockyards are winning such work based not on a competitive tender, or the best one, but on heavyweight political muscle being applied by some of the right hon. Gentleman's Labour colleagues, especially north of the border. He will understand that that is absolutely unfair and requires urgent investigation and debate.

Mr. Hain: I understand the hon. Gentleman's constituency point, which he is advancing quite properly, but he knows that a rigorous assessment

process and tendering process are applied to surface ship refit work and other such activity, and I am sure that he is not suggesting that there is any impropriety.

Mr. David Chaytor (Bury, North) (Lab): Millions of parents and students in Britain, including conservatives with a small and a big "C", will appreciate the record investment that the Government have made in Britain's schools and colleges, especially in the past three years. However, my right hon. Friend will be aware that in 16-to-19 provision a funding gap remains between schools and colleges. He might know that next Wednesday, the day of the Budget, the Association of Colleges is launching a parliamentary lobby. If in his Budget the Chancellor makes no reference to closing further the funding gap between schools and colleges, will the Leader of the House find time for a debate on the subject in the near future?

Mr. Hain: First, I do think that there are some decent conservatives—and Conservatives—but there are none on the Opposition Benches at present. The better ones have crossed the Floor and joined the Labour party over the past few years. On the important point that my hon. Friend makes, there is indeed a gap between further education funding and school sixth form funding, and it has been too wide. That is why we saw the largest ever investment in further education funding under this Government. It is set to rise by over £1 billion by the coming year, compared with three years ago—a real-terms increase of 60 per cent. compared with 2002–03. I should like to see the further education sector emerge from having been the Cinderella of the education world to being right at the top of the education sector, because it is so crucial for those who get their education under its roof.

Andrew George (St. Ives) (LD): The leader of the Liberal Democrats supports the hon. Member for Cardiff, North (Julie Morgan) in the campaign for an Equality Bill. The Leader of the House will be aware that in November 2004, in response to a question from me regarding the need to reconvene the Standing Committee on Regional Affairs following the failure of the referendum in the north-east, the Deputy Leader of the House said:

"The hon. Gentleman makes a reasonable point"—[*Official Report*, 11 November 2004; Vol. 426, c. 935.]

and went on to say that the Leader of the House would want to consider the matter seriously. Given the unacceptable vacuum that has existed since the beginning of November following the failure of the referendum in the north-east of England, will the right hon. Gentleman ensure that the Standing Committee on Regional Affairs is reconvened, and that we have time to debate that important matter?

Mr. Hain: I shall bear in mind the reasonable point that the hon. Gentleman makes and look into it. I am delighted that the Liberal Democrats support the Equality Bill. Does that mean that they also support the new offence of religious discrimination, and the new offence in another Bill of incitement to religious hatred? That is crucial to protecting the interests and rights of the Muslim community, and I hope that the hon. Gentleman is signalling a change of policy on that matter too.

Mrs. Helen Clark (Peterborough) (Lab): My right hon. Friend will be aware that there is rising concern and anger among doctors, patients, families and carers about the initial National Institute for Clinical Excellence recommendation to deny Alzheimer's disease drugs on the national health service. Will he allocate parliamentary time to debate that devastating and disastrous proposal?

Mr. Hain: I assure my hon. Friend that that is draft guidance for consultation, and I am sure that those responsible will take into account the strong feelings that she and others have expressed. It is important that we trust NICE to make an informed and fully considered recommendation on those drugs, which will provide protection for everybody concerned.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Yesterday, in PMPs—

Mr. John Bercow (Buckingham) (Con): PMPs?

Mr. Forth: Prime Minister's porkies. Yesterday, in PMPs, my right hon. and learned Friend the Leader of the Opposition said that the Prime Minister had said that the provisions of the Prevention of Terrorism Bill could be used against protesters. The Prime Minister then said that he confessed that he had absolutely no recollection of saying that. He went on later to say that he—the Prime Minister—

"will have to check whatever transcript there is."—[*Official Report*, 9 March 2005; Vol. 431, c. 1509.]

Can the Leader of the House ensure that the Prime Minister comes to the House as a matter of some urgency with the transcript in his hand, so that we can clarify just what the truth of the matter is? This is yet another case in which the Prime Minister has conveniently forgotten something, dodged the question and denied what he said. Can we please get to the bottom of this? We have had quite enough of these episodes over the past eight years, and it is time we pinned this to the Prime Minister once and for all.

Mr. Hain: On the substance of the right hon. Gentleman's remarks, the Prime Minister was simply making the point that we all, especially when we are in government, read from time to time in the media reports that bear no resemblance to reality, and he suggested that that was one of them. He was also making the important point that legitimate protest, which I have undertaken regularly in my time, and which I will continue to respect and defend the right of people to do, is in quite a different box from the threat of suicide terrorism, the like of which we saw in Madrid a year ago and which we could see in London or elsewhere in Britain at any time. That is why we are determined to introduce the legislation. That is in an entirely different category from legitimate democratic protest, which has

[Mr. Hain]

always been an important part of our democracy. By the way, I do not recall the right hon. Gentleman ever going round the streets of Britain to protest about anything.

Chris Bryant (Rhondda) (Lab): I congratulate my right hon. Friend the Leader of the House on finding time for a St. David's day debate, and particularly on his cunning plan of delaying it until after the Welsh rugby team has defeated the Scots and the Irish, as well as the French, the English and the Italians. One of the issues that is particularly keenly felt in the Welsh economy is consumer credit, with many families still taking on debts that they cannot afford. Has my right hon. Friend had further conversations with those in the House of Lords to try to make sure that they see the Consumer Credit Bill through its final stages as soon as possible, before a general election?

Mr. Hain: Like my hon. Friend's constituents, mine are anxious to see the Consumer Credit Bill receive Royal Assent so that they can be protected from loan sharks and other forms of exploitation—and I am sure that the Welsh day debate will provide an opportunity to celebrate a grand slam by Wales, who will have defeated Scotland and Ireland in the meantime.

Mr. John Baron (Billericay) (Con): Will the Leader of the House please make it clear to the Deputy Prime Minister, on behalf of many Members, that the temporary stop notices brought in by the Government to deal with Travellers who break the law are utterly useless and a shambles? All they do is postpone the problem for 28 days. Thereafter our normal ineffective planning laws kick in. Councils need much stronger powers, as outlined in my Greenbelt Protection Bill, to evict those who break the law and to put right any damage. Otherwise, residents who live close to illegal Traveller encampments, such as Hovefields, Crays Hill and Sadlers Farm in my constituency, and in many other constituencies where this is happening, will continue to be discriminated against while uneven and unfair handling of the situation is allowed to continue.

Mr. Hain: I understand the concerns that the hon. Gentleman and others have expressed. There is a shortage of authorised sites for Gypsies and Travellers, alongside a growth in unauthorised development which is causing problems for neighbouring communities and Gypsies and Travellers alike. Local councils need more powers for swift enforcement against development in problem areas, but they also need to do more to identify land for authorised sites. The two go hand in hand. Temporary stop notices provide local planning authorities with an additional enforcement tool to deal with a wide range of planning breaches. I should have thought that in the circumstances and in his own community, the hon. Gentleman would support these tougher measures.

Mrs. Claire Curtis-Thomas (Crosby) (Lab): Will my right hon. Friend convey my thanks to the Deputy Prime Minister for the work that his Department has done in relation to "competent persons"? We need to tackle cowboy electricians, the vast majority of whom work illegally in people's homes, in some cases causing death. The competent persons scheme will do that—but the measures taken thus far will not address the bulk of the problem that still exists. I would welcome an opportunity to debate on the Floor of the House the competent persons scheme and further steps that we can take to ensure that people are protected from cowboys operating in their communities.

Mr. Hain: The House is grateful to my hon. Friend for raising the matter and for acknowledging that the Deputy Prime Minister is trying to deal with it. I hope she will consider applying for a debate in the usual way, so that the matter can be further explored.

Pete Wishart (North Tayside) (SNP): Yesterday, the Prime Minister said that we should not rush into new legislation on airguns following the tragic and appalling death of toddler Andrew Morton. This morning, I discovered that a further attack took place last night on a fire crew in Tayside and that the use of airguns cannot be ruled out. Regardless of what the Prime Minister said, will the Leader of the House assure me that there will be an early look at the legislation concerning airguns? Does he agree that the most stringent penalties must be given to anybody who attacks our emergency services?

Mr. Hain: I agree with the hon. Gentleman on his latter point. We must closely monitor the unauthorised and malevolent use of airguns, and I am sure that his remarks will be taken into account.

Kevin Brennan (Cardiff, West) (Lab): Can we have a debate on the history of human rights in the UK, in order to counter the frequently repeated myth that the measures that the Government are introducing in the Prevention of Terrorism Bill are unique? We should remind the House of the measures that the Conservative Government introduced in the 1970s in conjunction with Stormont, which resulted in 3,500 British citizens being detained without the intervention of a judge, and on the orders of a politician. That sets in clear relief the fact that the Government's proposals that we are considering today are a moderate and proportionate response to a real threat.

Mr. Hain: Indeed, my hon. Friend is absolutely right, and his point illustrates the rank hypocrisy of Conservative Members.

Mr. Adrian Flook (Taunton) (Con): In recent months, the Office of the Deputy Prime Minister has been very busy in my constituency. It forced the unelected regional assembly to ask whether Taunton should have 13,000 houses, and it conducted what it called a "consultation", which involved no more than forcing local councils to take Gypsy and Traveller camps. If the Leader of the House is good enough to grant us a debate on Traveller policy, can we also discuss the sham of Government decentralisation policy?

Mr. Hain: The policy is not a sham; it is a commitment to empower local communities wherever possible, and the Deputy Prime Minister has introduced detailed proposals to that effect. On extra housing, the hon.

Gentleman knows that demand for housing has increased in Taunton, as well as elsewhere in Britain. Under this Labour Government, communities are doing very well with low mortgages, greater prosperity and more jobs, and the Deputy Prime Minister is meeting the twin imperatives of environmental protection and people's desire for more affordable housing.

Dr. Julian Lewis (New Forest, East) (Con): May we have an urgent statement from a Constitutional Affairs Minister, not about the Chancellor of the Duchy of Lancaster but about this statement, which was made by a deputy High Court judge two days ago:

"The postal voting system is open to widespread corruption, because the authorities are powerless to tackle fraud"?

The Times has discovered that the distinguished local government chief executive and expert returning officer, Max Caller, warned the Government in advance that

"The current position runs the risk of the whole electoral process being discredited".

Bearing in mind the fact that in an exchange with me on 10 June the Leader of the House dismissed those very dangers, which have now been confirmed, will he now tell the House of Commons that the Government's policy on postal voting has done a grave disservice to the process of democracy in this country?

Mr. Hain: We take the Electoral Commission report very seriously, and Ministers are considering the matter. I am sure that the hon. Gentleman would have wanted to remind the House that postal voting is a democratic right for those with disabilities, those who are not at home on voting day, senior citizens who find it difficult to get to the polling station and others who want to vote at ease from the privacy of their own homes, rather than having to go down to the polling station.

Dr. Lewis *indicated dissent.*

Mr. Hain: The hon. Gentleman is shaking his head, so is it now Conservative policy to deny postal voters the right to apply for postal votes and to vote? *[Interruption.]* When fraud occurs, which appears to have happened in Birmingham, it must be dealt with and vigorously clamped down on. If the hon. Gentleman were being fair minded, he would concede that those are isolated cases compared with the millions of extra people who had the opportunity to vote last year. Millions of people took advantage of the postal vote with no impropriety or accusations of fraud, and although fraud cases are unacceptable, they are isolated examples against the general trend.

Andrew Selous (South-West Bedfordshire) (Con): I, too, call for an urgent debate on planning policy in relation to Travellers, because my constituency already contains five unauthorised sites. Britain is, rightly, a country tolerant of people who live different lifestyles, but good community relations depend on the law applying equally to all without fear or favour, and currently the discrimination is against the settled community. I recognise that some authorised sites should be provided, but before the Leader of the House blames the wicked old Tories again for this problem, will he recognise that the supply of authorised sites will never match demand, given that many Travellers come to this country from overseas?

Mr. Hain: The hon. Gentleman has made some reasonable points, which is why the Deputy Prime Minister has introduced stop notices and is seeking to deal with the problem. He and other hon. Members from both sides of the House should work with the Deputy Prime Minister to try to resolve that nationwide problem. I hope that the hon. Gentleman will give the Deputy Prime Minister some credit for acting decisively and seeking to impose control and order where there has been none.

Mr. Geoffrey Clifton-Brown (Cotswold) (Con): In contradistinction to the Leader of the House's rant about democratic opposition to the Prevention of Terrorism Bill in the other place—opposition that includes a majority of Labour peers—the Leader of the House has made a great deal of the safeguard provided by a vote of both Houses to the renewal orders in the Bill. Will he confirm that the safeguard will entail a statutory instrument, which cannot be amended, can be debated for only an hour and a half, and will be taken in Committee, where relatively few hon. Members can participate? Is that really a safeguard? A better safeguard would be to introduce an entirely new Bill with enough time for proper parliamentary scrutiny and with the support of all parts of this country, including the judiciary.

Mr. Hain: The hon. Gentleman has made his point reasonably, so he will not get a rant in return. The problem is that the existing legislation, which the Law Lords have deemed unlawful, expires on Monday. What should we put in its place? The security services and the police have told us that they believe that the legislation that has been ruled unlawful acted as a powerful deterrent. They have told the Government, the Prime Minister, the Home Secretary and me, in my capacity as Leader of the House of Commons, that that legislation effectively put up a notice to would-be suicide terrorists that Britain is not a soft touch. We cannot continue to use that legislation so we must replace it, and that is what we are seeking to do. All Conservatives, wherever they are in Parliament, should respect the safety and security of our citizens and support the Government, as we would have done in opposition, and they have shown rank hypocrisy in failing to do so.

Mr. Bercow: May I reiterate the call made by the hon. Member for Cardiff, North (Julie Morgan) for the Second Reading of the Equality Bill to take place? The Leader of the House can readily find support for that Bill on both sides of the House, because it will establish a commission on equality and human rights, outlaw discrimination in the provision of goods and services and give public authorities a duty to promote equality of opportunity for all our citizens. Will he accept that after all the extensive consultation on that important matter, there is no good reason to delay any longer? The argument for holding the Second Reading either next week or the week after is overwhelming.

Mr. Hain: I have announced the business for next week and the week after, which is dominated by the

[Mr. Hain]

Budget, but we want to proceed with the Equality Bill as quickly as we can. I am grateful for the hon. Gentleman's support, and I am sure that he is equally grateful that we have found time for a debate on Africa, which he and the shadow Leader of the House have asked me about.

CONSOLIDATED FUND (APPROPRIATION) BILL

Order for Second Reading read.

Question, That the Bill be now read a Second time, *put forthwith, pursuant to Standing Order No. 56 (Consolidated Fund Bills), and agreed to.*

Bill accordingly read a Second time.

Question, That the Bill be now read the Third time, *put forthwith, and agreed to.*

Bill accordingly read the Third time, and passed.

Support For Members Who Have Chosen Not To Take Their Seats

Madam Deputy Speaker (Sylvia Heal): I must inform the House that Mr. Speaker has selected amendments (a) and (b), and both can be referred to during the debate. Mr. Speaker has also imposed a 12-minute limit on Back-Bench speeches.

1.30 pm

The Leader of the House of Commons (Mr. Peter Hain): I beg to move,

That for a period of suspension of one year commencing on 1st April 2005 the Resolution of the House of 18 December 2001 relating to Members who have chosen not to take their seats and thus do not qualify to participate in proceedings in Parliament shall not have effect in so far as it provides for their claiming support for their costs under the provisions of the Resolutions of this House relating to Members' Allowances, Insurance etc., and the allowances relating to travel within the United Kingdom for Members, their families and staff.

The motion stands in my name and that of my right hon. Friend the Secretary of State for Northern Ireland. It relates to the allowances paid to Members of this House who choose not to take up their seats and provides that payment of these should be suspended for 12 months. The Government propose this change in recognition of the concern felt on both sides of the House about the involvement of the Provisional IRA in the Northern bank robbery that took place just before Christmas.

I will not reiterate the points made by my right hon. Friend the Secretary of State for Northern Ireland when he reported to the House the conclusion reached by the Chief Constable of the Police Service of Northern Ireland that the Provisional IRA had been behind the Northern bank robbery. Nor will I list the other crimes that the Independent Monitoring Commission concluded had been the work of that same organisation. The House is well aware of the issues. It is clear that this organisation continues to engage in serious criminality and that this criminality has grave implications for our attempts to restore sufficient trust to enable a power-sharing Government to be restored in Northern Ireland.

Mr. Patrick McLoughlin (West Derbyshire) (Con): The Leader of the House and the Secretary of State for Northern Ireland announced this measure in the light of the Northern bank robbery. Does he think that the same rule should now apply given Sinn Fein's disgraceful behaviour this week in suggesting that it might shoot people who carried out murder in Northern Ireland?

Mr. Hain: I agree with the hon. Gentleman in condemning outright that extraordinary and abhorrent statement, which is a dreadful stain on everybody concerned with Northern Ireland. That underlines the importance of this motion.

Sir Patrick Cormack (South Staffordshire) (Con): In view of what the Leader of the House just said—I agree with every word of it—how can he possibly defend rules that would still allow, even after the passing of this motion, terrorist sympathisers and supporters to come to this House and to have facilities within the precincts of the Palace of Westminster?

Mr. Hain: Let me remind the House that until 1997 there was no bar on Members who had not taken the Oath entering the precincts and having access to facilities and services. I can see no logic in the Conservatives' suggestion that we should bar Sinn Fein Members from the Palace of Westminster now, given that not once during their 18 years in government did they attempt to withdraw the right of access from Sinn Fein. Long before the IRA ceasefire and the Good Friday agreement, Gerry Adams, as an elected Member, was allowed the right to enter the precincts and to use the services of the House. We are now in a different situation, since the Good Friday agreement, whereby Sinn Fein has been signed up, in name at least, to a peaceful and democratic path. That is the difference.

Mr. Oliver Heald (North-East Hertfordshire) (Con): Surely the Leader of the House will acknowledge that up until 1997 Sinn Fein Members stood on a clear platform of abstention and said that they would not come here. The problem arose when they changed their policy in 1997 and said that they wanted to come here but not to take their seats.

Mr. Hain: They have not changed their policy of refusing to take their seats in the House. In managing this difficult situation, which I hope the whole House will want to support my right hon. Friend the Secretary of State for Northern Ireland in doing, we have to bear in mind the duties of the House and my duties as Leader of the House, as well as the necessity to try to deal with criminality and the equal necessity to take every opportunity to lock in all the political forces in Northern Ireland on a democratic path.

Mr. David Trimble (Upper Bann) (UUP): I appreciate that careful distinctions have to be drawn here, and it is sometimes difficult to do so, but I think that the Leader of the House was mistaken when he said that all that needed to be done was to remove the money to which the persons returned to serve in the House who had not taken the Oath had access. That is not entirely accurate. Yes, they could have come into the House, although they did not have offices assigned to them. However, they have access on those terms to offices and, indeed, to facilities that a member of the public would not have. The position for people who had not taken the Oath was that they could enter in the same way as a member of the public, but the resolution that has been mentioned gave them additional access and offices. The Leader of the House may not have appreciated those distinctions and may now want to revisit them.

Mr. Hain: I shall explain why the Government are adopting this position instead of seeking to bar access entirely. This a very serious motion. It will deprive Sinn Fein MPs of £439,542, on the last recorded figures. That is a considerable amount of money that was being claimed and used for staffing allowances, additional costs allowances, incidental expenses provision and travel by Members and staff. This is a very serious decision, and I should have hoped that the right hon. Gentleman would support the Government in taking it forward.

David Winnick (Walsall, North) (Lab): I support the motion. At a British-Irish parliamentary body meeting earlier this week, there was very strong condemnation of the IRA, not least from Irish Deputies, one after another of whom bitterly criticised the criminality in the organisation and its betrayal of the Good Friday agreement. In supporting the motion, is it not important to recognise that Sinn Fein was elected with the electorate voting for it in the knowledge that Sinn Fein MPs would not take their seats in the House of Commons? We must be very careful, now and in future, not to give Sinn Fein Members any idea of being martyrs and playing to their electorate along those lines.

Mr. Hain: If I may say so, those are wise words of advice for the House. There is a careful balance to be struck, and it is important that we do so, notwithstanding the individual points of view that right hon. and hon. Members on both sides of the House may have. My right hon. Friend the Secretary of State, who is well respected in that role, has made the judgment—and I fully support him—that we should withdraw these privileges, but at the same time we should allow elected Members of Parliament to serve their own constituents. As I shall explain, that is precisely what our decision and motion are designed to do.

Jeremy Corbyn (Islington, North) (Lab): I listened with care to the reply that the Leader of the House gave to my hon. Friend the Member for Walsall, North (David Winnick). Does he accept that the support allowances paid to Sinn Fein MPs are in order for them to represent the constituents who elected them? Are we not on the rather dangerous ground of denying facilities for those people to be represented in a parliamentary way by their MPs, whether they take their seats or not?

Mr. Hain: That is precisely the balance to be struck. My hon. Friend again asserts the primacy of elected Members of Parliament in being able to represent their constituents and the right of those constituents to have their views represented. That is why, under this decision, they will not be barred from access to the House. They and their staff will still be able to use the offices, free post, and telephone facilities, and have access to the Library and to catering, in order to carry out their responsibilities to their constituents, some of whom may have elected them and some of whom may have voted for other parties. I am trying to advance a parliamentary point here.

Rev. Ian Paisley (North Antrim) (DUP): It is nice that a voice from Northern Ireland who represents a majority of Unionists can finally be heard. The hon. Member for Islington, North (Jeremy Corbyn) was not even here at the beginning of the debate, but I have been sitting here since the House commenced.

Is it not strange that the Leader of the House's reason for doing this, which he is explaining from the Dispatch Box, is not mentioned in his motion? The only description of these people is that they did not take their seats. Are the Government afraid of naming these

[Rev. Ian Paisley]

people and the crime that they committed, which has been verified by the Independent Monitoring Commission? A commission that the Government set up found this out and exposed it. Why is not that mentioned in the motion?

Mr. Hain: It is not for me, as Leader of the House of Commons, to name the individuals to whom the hon. Gentleman refers. It is a matter for the police, who are mounting an investigation in which my right hon. Friend the Secretary of State for Northern Ireland, on behalf of the Government, takes a close interest.

I must now make progress because many hon. Members wish to speak and my right hon. Friend the Secretary of State will reply fully to the debate.

Hon. Members will recall that the Independent Monitoring Commission made clear in its report that, had it been reporting when the Assembly was sitting, it would have recommended the exclusion of Sinn Fein Ministers from the Northern Ireland Executive. In the absence of an Assembly, the commission's power to make recommendations is more limited and it therefore recommended that the Secretary of State should consider taking financial measures against Sinn Fein in the context of the suspended Assembly. My right hon. Friend has made clear his intention to do just that.

The House will, in due course, have the opportunity to debate that issue further in the context of a direction made by my right hon. Friend to suspend the payment of Northern Ireland party grants for a further 12 months. The commission also mentioned in its report other public money paid to Sinn Fein. Although it was outside the commission's scope to make recommendations about that, its comments have nevertheless led the Government to conclude that it was right that the House should have the opportunity to consider imposing a similar restriction on allowances paid to Sinn Fein Members of this House.

The motion before us today is an expression of the House's profound disapproval of the activities of the Provisional IRA and the responsibility that Sinn Fein shares for those activities in the estimation—that is the important point—of the Independent Monitoring Commission. However, the motion also takes account of the fundamental right of citizens in constituencies that have returned Sinn Fein Members to be represented.

Mr. Robert Walter (North Dorset) (Con): The Leader of the House mentioned the sanctions to be taken against Sinn Fein as a party. He knows that, when the House passed the Political Parties, Elections and Referendums Act 2000, we made an exception for Northern Ireland political parties on accountability and foreign funding on the ground that some were all-Ireland parties. We had Sinn Fein in mind at the time. The regulations in the Republic have now changed and parties there are accountable. Will the Government therefore consider repealing the relevant provisions of the Political Parties, Elections and Referendums Act?

Mr. Hain: The House has just renewed the measure, but the Government are in discussion with the Republic of Ireland Government and we will continue to monitor the position.

The balance involved is difficult to strike and it gives me no pleasure to bring forward the motion because I believe that every Member elected to this House should take his or her seat in the Chamber. Not to do so is a denial of the representation that their constituents have a right to expect, whether those constituents voted for the elected Member or not—indeed, whether they voted at all. That is important. Those in the constituencies of the four affected Members, even those who did not vote Sinn Fein, have a right to normal parliamentary representation. That is why we are taking away the £430,000-odd but leaving in place those Members' right to help their constituents through the facilities of the House.

Although we all acknowledge the political position of Irish republicanism, the Government believe that Sinn Fein Members should take their seats and participate fully in the democratic process, partly because we want them to be committed to exclusively democratic means and partly because their constituents have a simple right to that representation.

When the House voted in 2001 to grant allowances to Members who chose not to take their seats, it did that in recognition of the importance of those Members' fulfilling their duty to constituents. It is important and fair to say that the House was also mindful of the progress along the path to democracy made by Sinn Fein at that time. We all want continuously to encourage that progress and the motion is designed to do that.

It is the view of the British and Irish Governments and of international opinion that the progress has faltered and slipped backwards because of the activities of the Provisional IRA. That is what has changed since the House made its decision in 2001. However, neither the duty of Sinn Fein Members to their constituents nor those constituents' rights have changed, which is why I believe that the motion achieves the right balance.

Mr. Jeffrey M. Donaldson (Lagan Valley) (DUP): The Leader of the House mentioned international opinion. Is he aware of an opinion poll that the *Belfast Telegraph* published today? It gives the Democratic Unionist party 28 per cent. and Sinn Fein and the Social Democratic and Labour party 20 per cent., with the Ulster Unionist party down on 16 per cent. That marks a significant decline in popular support for Sinn Fein-IRA from 26.3 per cent. in the European elections—

Madam Deputy Speaker: Order. That is wide of the scope of the debate.

Mr. Hain: I did not see the opinion poll, but I should think that the hon. Gentleman, as a representative from Northern Ireland, wants Sinn Fein and the important

constituency that it represents, whatever its rating in the polls, to be involved in and committed to the political democratic process. That is in the interests of us all.

Sir Patrick Cormack: Surely it is the duty of those elected to the House to serve in it. Those who decline to fulfil their democratic duties do not deserve the sort of support that they will continue to have even after the motion has been passed.

Mr. Hain: I understand the hon. Gentleman's point, but several factors must be carefully balanced. First, the four Members are elected just as he is and just as I am. Their constituents have a right to representation just as his do. He represents them well and I try to do that for my constituents. We are imposing an important sanction—withdrawing nearly £440,000-worth of expenses, which help those Members to represent their constituents. However, access to the House's facilities remains to enable them to perform their duties.

Mr. Harry Barnes (North-East Derbyshire) (Lab): Is not one of the problems that Gerry Adams and his colleagues have never made sufficient use of the opportunity to visit the House and enable the rest of us, who disagree with many of their positions, to contact them, nobble them and press differing views? They took the money and ran. There is therefore a case for removing the money, although the argument about the facilities for serving constituents—that does not always have to be done by them but could be done by people whom they appoint—is pertinent.

Mr. Hain: I understand that point, but my hon. Friend will understand the republican view on whether Members should take their seats in a United Kingdom Parliament, although we disagree with it. In the past few years, as a result of Government decisions and the leadership that my right hon. Friend the Secretary of State has shown, there has been, until recently, increasing political mainstreaming of Sinn Fein in the democratic process. It is important not to lose sight of the opportunity to re-engage with that.

I know that some will argue that we should go further than today's motion and deny Sinn Fein the use of facilities in the Palace of Westminster—indeed, the hon. Member for South Staffordshire (Sir Patrick Cormack) and others have done that. However much we may disapprove of the activities of Sinn Fein, and however much we disapprove of the recent criminality of especially the Provisional IRA, the Government's view is that we should not give the appearance of denying the rights of the electorate. Whether we like it or not, that is how a decision to deny them access to their offices would be perceived.

I also believe that a decision to deny Sinn Fein access to facilities here would put the House out of step with the devolved institutions that many Members have tried so hard to construct and sustain in Northern Ireland. The Government have signalled their intention to renew the financial penalties imposed on Sinn Fein in the suspended Northern Ireland Assembly, but all Members of the Legislative Assembly continue to have access to the building and its facilities, and neither Unionist nor nationalist parties have suggested that that should be withdrawn.

For those reasons, I urge hon. Members to reject amendment (b). I also urge the House to reject amendment (a). I can understand the argument for simply withdrawing the allowances and considering at a later date whether they should be reinstated, but the Government believe that imposing a suspension of one year sends a better message and a clear time frame, thus encouraging the republican movement to put its house in order rather than rejecting its Members from Westminster.

Sir Patrick Cormack: A sunset clause.

Mr. Hain: No, actually, it is not a sunset clause in the sense that the Conservatives propose for the terrorism Bill, because that Bill would die with their sunset clause. It is much more akin to the Government's proposal to renew the order at the end of the year.

We will, of course, consider an extension to the suspension if circumstances do not change. That is an important point, which I want to underline and repeat: we will consider an extension to the suspension if circumstances do not change.

Mr. Trimble: I tried to intervene earlier when the Leader of the House was drawing a distinction between Sinn Fein and the IRA in relation to his reference to the activities of Sinn Fein and, subsequently, to the criminality of the IRA. Will he take into account what the Independent Monitoring Commission said, in that it made clear that the criminal activities of republicans were known and approved by leading members of Sinn Fein? The distinction that he draws is therefore not upheld by the IMC, which is quite clear that leading Sinn Fein members knew and approved of the Northern bank raid. He is therefore wrong to draw the distinction, and that is highly important in relation to his point about Sinn Fein Members as persons who are elected as if they were normal politicians. That point has been lost.

Mr. Hain: I understand the right hon. Gentleman's point of view, but as the Leader of the House of Commons I have a responsibility, with the Secretary of State for Northern Ireland, to take a balanced view and to assert the principles of the House while bearing in mind the need for further progress to cement in the peace settlement.

Kate Hoey (Vauxhall) (Lab): I am disappointed that the Leader of the House will not accept amendment (a). Can he tell the House what criteria will be used to judge whether these allowances will automatically be given back next year? Will a criterion be whether there is a move in the peace process, so called? How will he judge it? Alternatively, will it just be an automatic one-year suspension? It is important that we know what will determine whether this money is given back next year.

Mr. Hain: First, we will want to take advice from the Independent Monitoring Commission. That is crucial. I am sure that my hon. Friend would regard verified evidence of an end to criminality, a commitment to an intensification of the peace process and an absolute commitment to the democratic process as reasonable.

[Mr. Hain]

I am sure that my hon. Friend and others who have properly pressed me on this matter will also understand that we are light years away from where we were. Last year, four people were killed as a result of terrorist activity. In the bad old days, 497 people were killed. Unemployment in Northern Ireland is now lower than it has been for 30 years. More tourists are going to Northern Ireland than there are residents there. The situation has been transformed. What we need to do, in part by keeping Sinn Fein in the democratic process and the whole republican movement committed to it, and in part by continuously seeking to work to achieve that, is to create a new future for Northern Ireland in which peace, stability and economic prosperity will be locked in for good.

David Winnick: Is there not a danger of losing the wider picture? While the IRA can claim that it was never defeated militarily, politically, it and Sinn Fein were defeated. Northern Ireland is as much part of the United Kingdom—of course, that is the wish of the majority—as it was before the IRA started its war of terror. Would not it be wise to recognise that, if anything, the position of Northern Ireland within the United Kingdom has been strengthened by the Good Friday agreement and the right of consent that is recognised as such?

Mr. Hain: I would prefer to put it in a different way: the Good Friday agreement has locked in bitter opponents of the Union with those most fervent supporters of the Union in a common democratic endeavour in Northern Ireland. That is the prize as a result of the leadership that has been given by the Prime Minister, and we must continuously seek to regain that prize and make sure that it is fully implemented and cemented in.

In a place that cherishes the fundamental principles of democracy, it is deeply dispiriting to have to impose penalties on Members who have not lived up to those principles, but I believe that this motion is a just and proportionate response. By withdrawing public subsidy for Sinn Fein Members, it underscores the disapproval of all true democrats for what has happened. I commend it to the House.

1.55 pm

Mr. Oliver Heald (North-East Hertfordshire) (Con): I beg to move amendment (a), in line 1, leave out 'for a period of suspension of one year commencing on' and insert the words 'as from', instead thereof.

Madam Deputy Speaker: With this we will discuss amendment (b), in line 5, leave out from 'effect' to end.

Mr. Heald: This debate is a direct result of the refusal by Sinn Fein-IRA to end all forms of paramilitary and criminal activity. Seven years after the Belfast agreement, they have still to commit themselves fully to what that agreement calls

"exclusively democratic and peaceful means".

That is why we have had no devolution in Northern Ireland since October 2002. It is why the Government have brought forward this motion today.

Last year, Sinn Fein Members claimed almost £500,000. They did not speak here, question Ministers, vote or table written questions on behalf of their constituents. Since the beginning of 2002, they have been able to use the facilities of the Commons that are available to right hon. and hon. Members who take their seats and do the job.

Mr. Barnes: The Leader of the House misunderstood the intervention that I made earlier. I was supporting the Government's position, which is quite unusual for me at the moment. My argument is that not only do Sinn Fein Members not do many of the things that the hon. Gentleman has mentioned, but they do not attend the Building so that the rest of us can have access to and discussions with them. I have talked to all leaders of Northern Ireland political parties, but only once in a great number of years of being interested in Northern Ireland have I had an opportunity to have a private conversation with Gerry Adams. That particular avenue led to some benefit.

The Sinn Fein Members should have been here. They have not made use of that opportunity, so it should now be removed from them.

Mr. Heald: I agree with the hon. Gentleman that the Sinn Fein Members have not lived up to their democratic responsibilities. In effect, we are granting them rent-free, taxpayer-funded, fully-staffed offices, which seem to be used for propaganda purposes.

The original motion put forward by the Government was always unacceptable to my party and to many others in the House. We have two objections: the first is on the issue of principle; the second is on whether the tactical concession was ever really right. The official Opposition have always believed that it is simply wrong to allow Members who refuse to take their seats to enjoy the same rights as Members who do. We echo the views of the then Speaker, Betty Boothroyd, who said:

"I feel certain that those who choose not to take their seats should not have access to the many benefits and facilities that are now available in the House without also taking up their responsibilities as Members."—[*Official Report*, 14 May 1997; Vol. 294, c. 35.]

Later that year, she met the Sinn Fein MPs and upheld her decision. She said:

"I pointed out that my decision does not discriminate against Sinn Fein: it applies equally to any Members not taking their seats for any reason. Those who do not take up their democratic responsibilities cannot have access to the facilities at Westminster that are made available to assist Members".—[*Official Report*, 4 December 1997; Vol. 302, c. 487.]

Jeremy Corbyn: Does the hon. Gentleman accept that Members who have been elected have a duty to represent their constituents? The Sinn Fein Members always made it clear that they would not take their seats here, as they do not believe that the British Parliament should ultimately have jurisdiction, I suppose. They seek to represent their constituents at a local level, however, through letters and so on. By taking away the funding, we are punishing their constituents. The message to their constituents is that we are not prepared

to provide the financial wherewithal to employ staff to undertake the work that we all employ staff to undertake on behalf of our constituents.

Mr. Heald: May I put an alternative view to the hon. Gentleman? He and I agree about hardly anything politically, but he would take up a constituent's case with Ministers and in correspondence, and he would take up issues with public authorities. The point is, though, that if he is not satisfied, he will take up the matter here. He will question a Minister, table written questions and speak in debates. He uses his unique privilege—for it is both a legal and a parliamentary privilege—to stand up for his constituents. The truth is that a Member of Parliament cannot be effective unless he does that.

We do not believe in associate status. We do not believe that there is such a thing as an associate Member of Parliament—a second-class Member of Parliament. If a Member is elected, his democratic responsibility is to take his seat and do the job that he was elected to do.

Mr. Walter: It was suggested a moment ago that this was some form of punishment, and the word "sanction" has been used. Privileges and benefits above and beyond the rights of Members who do not take their seats were granted to these Members. Surely it is wrong to call this a punishment; we are simply withdrawing a benefit.

Mr. Heald: I thank my hon. Friend for expressing that view. I am rather worried about the idea of using the way in which the House arranges its allowances and office facilities as a Government sanction that can be used either to punish Members or to reward them in some way. That should really be a matter for the House. I am glad that the Leader of the House is in charge of today's debate, but—I do not know whether other Members agree with this—I feel that, in respect of our facilities and the terms on which we are Members of Parliament, we should all be equal in this place. The essential fact is that these benefits and facilities are available to those who are elected and then take their seats.

Mr. Desmond Swayne (New Forest, West) (Con): Is not the essential fact that these alleged Members do not regard themselves as Members of Parliament? They are fantasists. They consider themselves to be the legitimate Government of the whole of Ireland. That is the problem.

Mr. Heald: As usual, my hon. Friend makes his point in his own inimitable way.

Mr. John Gummer (Suffolk, Coastal) (Con): Is not the real issue that if people who happen to espouse—quite mistakenly, in my view—the concept that the structure that we have is entirely unacceptable manage to attract the majority of the votes in a democratic election, we must accept that that election has taken place? The question with which we must deal is how we can represent that fact, while not providing large sums of money for all sorts of other activities. I was against giving these people the money in the first place, but it seems to me that there must be some kind of recognition that the electors—mistakenly, foolishly, stupidly and sometimes criminally—elected them. There is a median line to be found, and the House must try to find it.

Mr. Heald: My right hon. Friend makes an important point. We should also bear in mind that at the time when the elections took place in 2001—the House's decision was made shortly after that—the atmosphere seemed to be one of encouragement. Since then—I am sure that this applies to electors in Northern Ireland as well as those of us who are present today—we have observed something that is, as the Leader of the House said, rather dispiriting. Over the past three years, at the same time as claiming taxpayers' money here, Sinn Fein has remained linked to an armed and active terrorist organisation, the Provisional IRA. Those are not just my words. The Republic's Defence Minister, Mr. Willie O'Dea, went much further. The British Government often use the words "inextricably linked"; he said:

> "We are no longer prepared to accept the farce that Sinn Fein and the IRA are separate. They are indivisible".

We have no reason to disagree with that.

The Justice Minister in the Republic, Mr. McDowell, has named three senior members of Sinn Fein—including two Members of the House of Commons—as also being senior figures on the IRA's so-called army council. I am not in a position to dispute that either. We have ample evidence of the extent to which the IRA controls a vast criminal empire to finance its operations. We now know that at the same time as members of Sinn Fein were involved in negotiations that could have led to their being Ministers in the Government in Northern Ireland, the IRA was planning the biggest bank raid in British history.

Rev. Ian Paisley: The hon. Gentleman should bear in mind that yesterday's newspapers quoted the head of the police in Northern Ireland as saying that he agreed that the two Members of the House of Commons were members of the IRA's army council.

Mr. Heald: That builds on the point that I have made.

Sir Patrick Cormack: Is not the nub of the issue the fact that these people are associated with, and have probably been involved in, criminal and terrorist activities? Is it not rather paradoxical that later today we shall impose control orders on those who are probably not terrorists, while giving all the privileges of the House to those who probably are?

Mr. Heald: My hon. Friend makes his point extremely well. Moreover, whereas in the context of those orders we are asking for a sunset clause and being told how unreasonable that is and how such a clause would weaken the legislation, in this instance the Minister is introducing one.

Mr. Hain: It is not a sunset clause.

Mr. Heald: It is a sunset clause—*[Interruption.]* The Minister is saying something sotto voce, but it is exactly that.

[Mr. Heald]

According to the Irish Prime Minister, the bank raid would have been known about at the highest level of Sinn Fein. As one former senior member of the IRA said yesterday, if that were not the case it would be like Britain going to war with Iraq without the Prime Minister knowing.

The Chief Constable of the Police Service of Northern Ireland, Hugh Orde, is in no doubt about where the responsibility for the bank robbery lies; nor is his counterpart in the Republic, the Garda commissioner Mr. Conroy. In blaming the IRA for the Northern bank robbery and a number of other recent robberies in Northern Ireland, the Independent Monitoring Commission was emphatic:

"In our view Sinn Fein must bear its share of responsibility for all the incidents. Some of its senior members, who are also . . . members of PIRA, were involved in sanctioning the series of robberies."

Since then, we have seen evidence of money laundering, in addition to the intimidation, beatings, shootings and murders that continue in nationalist areas. That was illustrated recently by the brutal murder of Robert McCartney by members of the IRA following a row in a Belfast bar.

I, for one, pay tribute to the family and friends of Mr. McCartney for their courage in standing up to the IRA in their efforts to secure justice, and I join those who have expressed their utter disgust at the IRA's offer to shoot those whom they deem responsible. How that contrasts with the dignity of the family who want to see the guilty men brought to court and subjected to due process!

As the McCartney family have said, they want justice, not revenge. They want people to go to the police, not engage in the law of the wild west. Yet even today, despite the warm words of Sinn Fein, we learn that the family still believe that witnesses are being intimidated. Last week, Sinn Fein announced that it was expelling seven members in connection with that incident. What normal political party has to expel a group of its members for involvement in murder?

Jeremy Corbyn: Obviously, the killing was atrocious and appalling, but does the hon. Gentleman acknowledge that at last week's Sinn Fein conference the Sinn Fein leadership made it very clear that people should come forward and go to the police so that the due process of law could take place?

Mr. Heald: I know from past debates with the hon. Gentleman that he reads *The Guardian*. He should read its front page today.

In the light of all that, we welcome the Government's decision to take action against Sinn Fein Members. We opposed the original decision to grant these concessions in December 2001, and we argued for its reversal following the suspension of the Assembly and Executive in October 2002.

In our view, however, the motion does not go far enough. We do not believe that the suspension should be time limited to only 12 months. What is the justification for that? We take the view that Sinn Fein Members should lose access to all, not just some, of the facilities at Westminster that the Government granted to them in December 2001. Amendment (a) would remove the sunset clause and make the removal of facilities and allowances permanent; amendment (b) includes reference to the office and other facilities as well as the allowances.

In justifying the decision of December 2001, the right hon. Member for Livingston (Mr. Cook), the then Leader of the House, was adamant that the concessions were justified by progress made in the peace process. Today we can see that, because of Sinn Fein-IRA, there has been no devolution for two and a half years and there has been a succession of breaches of the agreement and the ceasefire. On the Government's own logic, we should be reversing the changes that were brought about in December 2001.

David Winnick: I would be opposed to Sinn Fein, even if the organisation were not so closely linked with the IRA. I consider it a totalitarian organisation, and heaven forbid if it were ever to rule in Ireland. However, does the hon. Gentleman accept that there is a danger, particularly when Sinn Fein is rightly on the defensive over the brutal murder of Robert McCartney, of giving the organisation a sort of martyr status? It makes it easier for Sinn Fein Members to portray themselves to the electors of Northern Ireland as having been penalised by British parliamentarians and all the rest of it. In that light, is not the Leader of the House achieving the right balance in the motion?

Mr. Heald: It is certainly important to strike the right balance, but I believe that amendments (a) and (b) are required in order to send out the right message. Since the general election of 2001 and the time when the changes were made, we have not seen the full commitment that we expected to see from Sinn Fein-IRA, but experienced the problems that I have already outlined. In those circumstances, simply saying that some of the allowances will be removed for a short period is not the firm response that we would expect from the House. If we were to accept the amendments to the motion, it would highlight for the benefit of Northern Ireland voters what the House thinks about the response to the concessions that were made in the 2001 resolution.

Mr. Gummer: Is not one of the main problems the fact that the Government have not named the organisation that we are talking about? Is not the hon. Member for North Antrim (Rev. Ian Paisley) right that it would be much better if we said that we are making these changes in response to the actions of Sinn Fein-IRA? I believe that it would be much easier if we did that. Because we are not saying that, we have to deal with a very difficult lacuna. What do we do about people who do not want to come to the House for reasons that might, at some future time, be acceptable? I cannot think of an occasion at the moment, but some people have taken that view in the past. Should we not have pressed for the motion to be viewed as a specific response to what Sinn Fein-IRA has done?

Mr. Heald: I am grateful to my right hon. Friend. There are two points here. First, all Members should be treated equally, and they are—or they were—in the sense that elected Members who take their seats receive

the benefits and those who do not take their seats do not get the benefits. That is why we opposed the original resolution in 2001, which we felt was creating two classes of Members. My right hon. Friend's suggestion would interfere with the principle that we want to maintain—that all Members are to be treated in the same way. Secondly, however, there is a strong case for a clear condemnation of the way in which Sinn Fein-IRA has behaved. I certainly agree with all the Members who have made that point. We have been very clear about that at all stages of the proceedings.

Lembit Öpik (Montgomeryshire) (LD): If I understand the hon. Gentleman correctly, it is a matter of principle for him that those who are either unable or choose not to take their seats in the House should not have office access. I presume that if it really is a matter of principle for him, those who are suspended from the House should also be denied access to their offices. [HON. MEMBERS: "They are."] Is my understanding of his position correct?

Mr. Heald: The hon. Gentleman may not realise it, but that is already the case. It is right that Members who take up their seats in this place should have all the facilities available to them, but it is a different matter if a Member is disciplined by the House.

I urge all right hon. and hon. Members who care about the traditions of the House and who are committed to peaceful and democratic politics in these islands to support the amendments.

2.15 pm

Mr. Seamus Mallon (Newry and Armagh) (SDLP): I want to make my position on this matter as clear as I did at the last Northern Ireland questions—I am not in favour of the motion. I have never been in favour of it for a number of reasons that I hope to explain. I am not going to vote in favour of it today. I come from a long tradition in relation to where I live and also to my family, which recognised the refusal to take or affirm an oath of allegiance as part of the nationalist or republican tradition. That is something that goes way back into Irish history and it runs very deeply in people that come from that tradition.

I immediately recognise two sets of principles, which have already been enunciated. It is an absolutely legitimate principle to say that anyone in this House or any democratic forum should have equality and that there should be only one set of rules by which people abide. I recognise that principle and I respect it as absolutely legitimate.

I am also aware of the other principle, as I have already mentioned. There is a curious pristine legitimacy about it. However, I see no pristine legitimacy in justifying a set of actions on the basis of principle, while saying, "Those are my principles; I am not breaking them; but, by the way, can I have the money on the side?" In many ways, that is what is happening here. The nationalist-republican tradition is the principle on which some Members justify not attending Parliament, yet that principle does not seem to get in the way of the allowances or advantages—financial and otherwise—that stem from Parliament.

It is difficult to have respect for a principled position—the shadow Leader of the House touched on it—when that principled position, in terms of its own definition, contaminates itself by having a hand out sideways for the money, while the principle is maintained in public. That is one of the reasons why I look upon the matter with a jaundiced eye.

There will be a lot of righteous indignation about the motion before the House. I recognise and respect that, but there will probably be little recognition of what lies at the heart of the issue—a disrespect for the institutions of Parliament shown by those who will take the money, but not come to put their case on the Floor of the House. People may have different political persuasions, but they must not disrespect our political institutions. In the Northern Ireland arrangement, that disrespect means that there can be little respect between political adversaries.

I want to make several minor points. We all know the value of publicity in the run-up to a general election. How much publicity could the Labour, Conservative, Democratic Unionist, Ulster Unionist or Social Democratic and Labour parties buy for £400,000? Could they buy as much as has been secured today, in this debate, by the party at which the motion is aimed? In my view, they most certainly could not. That party will milk today's debate, making it another grievance to add the list. It seems to thrive on the grievance culture, in which this motion will become another element. Every statement and interview by that party is permeated by a sense of victimhood, and many people will consider the unprincipled decision in this matter to have been taken by this House. For that reason, too, I regard the motion with a jaundiced eye.

Secondly, I want to look beyond today's debate. I do not want to talk about bank raids or recent murders or developments in Northern Ireland. The motion is part of the process by which negotiations are progressed through deals on the side. I do not accept that a shaft of light struck the Government, individually or collectively—but including the Leader of the House and the Secretary of State for Northern Ireland—and that as a result they decided to propose this motion. That decision was made in negotiations with a political party, as a side deal to the other negotiations in hand at the time.

When was the issue discussed with the Ulster Unionist, Democratic Unionist or Social Democratic and Labour parties? It was never discussed, as it belongs in the category of side deals. It is part of the goodies and sweeteners used to get and keep people on board. What effect does such a deal have on the real negotiations about very serious issues, or on the future? What will be its effect on those parties that negotiate in good faith? The harsh reality is that negotiations on Northern Ireland over the past seven years could provide a template, usable by any country in the world, for resolving conflicts by removing all the middle ground. Until the fault line in the negotiating process is recognised, the difficulties will continue and increase.

I was interested to hear various hon. Members say that the political process and mandate required that the party at which the motion is aimed has some presence at Westminster. I am one of those who have fought elections in which men with guns have stood at the

[Mr. Seamus Mallon]

polling station door, telling people that they could not, and should not, vote. I have had the same guns thrust in my face and put to my head, and been told that it was disloyal of me to seek a mandate in an election, regardless of whether that election was for Westminster or the Northern Ireland Assembly. Some people may consider such a mandate sacrosanct; my approach is different.

As I said, two sets of principles are at work. One is demeaned by the very people who pretend and maintain that they uphold it, but do today's debate and the crucible that is the recent past show that there is a need to re-examine the process of negotiation? There is a huge difference between the process of negotiation and its subject. The Good Friday agreement is the basis for the future, but the process of negotiation has served only to diminish its chances of success.

I have one final question, which I cannot answer. Like many other hon. Members, I will not be in the House when it is answered. The motion will be reconsidered in a year: what will happen then, if the money is still required by those who claim to uphold the principle on which the motion is based? What line will the Government of the day take? What will be the criteria governing the reintroduction of the provisions? Will they remain unchanged? Will they be reintroduced in a different form? Will Parliament say that a principle is involved and that it will stick to it?

In many ways, the debate will retain an element of schizophrenia. Beyond a certain point, the Government's position lacks logic. The same is true of my position, or of the position espoused by many of the people involved, and that is because the motion is based on an inherent illogicality. The feelings aroused are deep and legitimate—

Madam Deputy Speaker: Order. I am afraid that the hon. Gentleman's time is up.

2.27 pm

Lembit Öpik (Montgomeryshire) (LD): Given that there will be a free vote on the motion, my guidance to my party colleagues is that they should support the motion and resist amendments (a) and (b).

In the aftermath of the Northern bank robbery in Belfast, I have been frustrated to the point of anger on a number of occasions by the fact that so little of the proof, evidence or intelligence that the Government claim to possess has been made available to Opposition politicians. The Government say that that information has led them to believe that the IRA was responsible for the crime, but they have been determined to keep everyone else in the dark, even though other parties have expressed a genuine and ongoing commitment to the peace process.

Neither I nor any other member of my party has ever said that the IRA is innocent, but we have said that the Government must reciprocate our good faith by showing us the evidence for their claims. I am glad to say that the Government responded recently to my request for more information. It is available only on Privy Council terms, through the office of my party leader, but I am grateful nevertheless. I hope that complaints or objections lodged here or in the press will not be necessary for Ministers to include us in the information loop in the future. But let us not be churlish. People from both sides have learned something from that and I am grateful for the dialogues that we have had since then.

Mr. Kevin McNamara (Hull, North) (Lab): The hon. Gentleman is now creating two classes of Members: those who will be privileged to have the information and those of us who will not. There are other grounds for believing what the Prime Minister and the Taoiseach have said. After 10 years of very hard work—showing a devotion to something that no two leaders in these islands have ever done in history—they would not have put it all at risk by making that statement if they did not believe it entirely and wholeheartedly. While I accept the point on weapons of mass destruction, and while I voted with the hon. Gentleman yesterday because I do not believe that people should be incarcerated without being given the evidence upon which they are being incarcerated and an opportunity to contradict it, on this occasion I am prepared to believe, and do believe, both leaders of both countries.

Lembit Öpik: On the first point, the hon. Gentleman is right that my comments imply two classes of politician. Indeed, they exist: we have Privy Councillors and the rest of us. Let me make it clear to him that I have not been privy to the information that I have discussed—the dialogue has been directly between my leader, who is of course a Privy Councillor, and others—but I do register my belief that those of us who have now been actively involved, as the hon. Gentleman has, for many years do reasonably expect to be involved, on the basis of good faith, in the sharing of information.

On the second point—let me be very clear about this—the Government have in many ways enjoyed a great deal of good will since their election success in 1997, the year in which they formed the Government, but to be honest, much of it has now been squandered. The hon. Gentleman mentioned the weapons of mass destruction debacle, which was used to justify a war, when we now see that no such evidence existed. Any member of the Government or the Opposition is entitled to be a lot more cautious these days and in future, and to require a higher level of evidence before important decisions are made with our support.

Having said that, I think that the Government have made progress, which is welcome. Furthermore, events have moved on and, notwithstanding the Government's resistance to sharing important information with other Members of the House, the Independent Monitoring Commission has made some very important statements and I would be inclined to believe them. Lord Alderdice, whom I know well and respect greatly, is one of the influential thought leaders on these matters, and if he and the IMC believe that the IRA were involved in the robbery from the Northern bank, I would say that that in itself is important, albeit secondary, evidence to suggest that that is the case.

Secondly, and even more importantly, I think that the killing of Robert McCartney dwarfs even the appalling nature of the Northern bank robbery. That is because of the sheer violence of the occurrence, the tragedy that flowed from it and, most significantly of all, the

apparent involvement of the IRA in dissuading witnesses from coming forth. That offence, perhaps more even than the Northern bank robbery, causes me to believe that we have little option other than to introduce the financial sanctions that have been proposed by the Government.

Mr. Gregory Campbell (East Londonderry) (DUP): Would the hon. Gentleman like to consider that, in addition to the offences that he has outlined, the fact that we have significant information from the Chief Constable and others that three of the four Members are in fact members of the IRA army council would add to the weight of evidence that he has outlined and should motivate Liberal Democrat Members to vote in the Aye Lobby tonight?

Lembit Öpik: The information that the hon. Gentleman highlights is, either through fact or assumption, pretty much known to us and has been for a long time. I know his position. I think that he has never felt comfortable with the granting of office facilities to those individuals, in large part for the very reason that he outlines. I have taken a different view. My feeling is that providing office access to these individuals has been, on balance, helpful to the peace process and to increasing pressure on Sinn Fein to try to bring its own house into order. That is a legitimate difference of view, but today's debate and the question of sanctions against Sinn Fein on the direct evidence indicating the seriousness of recent crimes is actually a slightly different matter, and probably not influenced directly by that information.

Mr. Andrew Robathan (Blaby) (Con): I am grateful to the hon. Gentleman for giving way because I am following his argument closely and I want to question his logic. He said that giving the Sinn Fein MPs office space has moved towards encouraging them down the road of good and proper parliamentary democracy, yet actually we have had the Executive suspended in Northern Ireland for over a year because of Sinn Fein activity. Not just that, but we have had the extraordinary behaviour of Sinn Fein-IRA, which are inextricably linked, and he has just admitted that he accepts that three of those MPs are on the army council. They are the IRA itself.

Lembit Öpik: The hon. Gentleman has slightly misunderstood what I said because he believes that I have implied that the office space granted to the Sinn Fein Members has necessarily contributed to—I will try to quote him now—its adherence to parliamentary democracy. That is not what I said. I said that the fact that they can operate within the walls of Parliament has actively helped us—certainly those of us who have been involved from Opposition parties—to commence dialogue with Sinn Fein, which I genuinely believe has altered that organisation's comments in the public domain and pressured Sinn Fein to put pressure on the IRA to come into line. The reason we are here today is because Sinn Fein has evidently failed in what I believe to be its duty to bring the criminal activities of the IRA into order.

The hon. Gentleman will also know that paragraph 13 of the joint declaration made it absolutely clear that it was not acceptable to have an underlying level of either violence or criminal activity, and that those could be considered to constitute a violation of the ceasefire. This is why we are here, because I think we have to recognise that Sinn Fein must be brought to account for what has been going on with the IRA, but here is the irony: had we not given those facilities in the first place, we would not have the sanction to impose now. And the double irony—*[Laughter.]* I am delighted that Conservatives finally recognise the importance of the influence we can now wield. Conservative Front-Benchers disappoint me by failing to understand the seminal importance of what we are doing. We are seeking to normalise Sinn Fein's operation when it comes to being a political party. I, for one, believe that we have gone some way down that track but, crucially, the fact that Sinn Fein has itself in a mealy-mouthed and vague way begun to condemn some of the activities of the IRA of late, can only be as a direct result of the pain it feels as a result of these sanctions. Others in this Chamber may disagree with that point of view, and I am happy to allow the hon. Member for Aylesbury (Mr. Lidington) to intervene, but they must surely recognise that the entire political process in Northern Ireland has been characterised by such difficult decisions, by the Labour Government and previously by the Conservatives.

Mr. David Lidington (Aylesbury) (Con): Much as I would like to believe that conversations that the hon. Gentleman or I or any other Opposition politician have had with Sinn Fein have led to the sort of differences that he thinks he has seen, does not he really believe that what has persuaded Sinn Fein to come up with some of the mealy-mouthed expressions of regret and condemnation of recent weeks has been nothing to do with that, but rather with the drive by the criminal enforcement agencies in the Irish Republic against its operations, and the unmitigated anger of Irish nationalists and republicans at the brutality of the murder of Robert McCartney?

Lembit Öpik: In part, I agree, but I have also had conversations with Sinn Fein and I personally judged that it is hurt—in a financial sense and a very real sense—by the sanctions that we are discussing today. If the hon. Gentleman has a different view, he has obviously had different conversations from mine with Sinn Fein and drawn different conclusions. One of the great things about democracy is that we are allowed to hold different views and I look forward to hearing his further views later in the debate, but what I find particularly confusing is the apparently contradictory position taken by the Conservatives when in opposition in comparison with the kind of things that they did when in government.

Has the hon. Gentleman forgotten, for example, that John Major was in communication with the IRA when it had not even instituted a ceasefire? Was he an apologist for the IRA? Is that what the hon. Gentleman is suggesting? I do not think so. I think that, despite my many criticisms of the Conservative Government at the time, one thing that they can be proud of is the risk that they took to initiate what went on to become the peace process. Taking the hon. Gentleman's absolutist view,

[Lembit Öpik]

one can only condemn John Major as having taken an unreasonable step in giving Sinn Fein and the IRA succour by talking to them while they were still killing people.

Mr. Richard Shepherd (Aldridge-Brownhills) (Con): Does the hon. Gentleman think that, possibly, his argument is founded on naivety, and that that is what astounds the House?

Lembit Öpik: Which would be more naive, I ask the hon. Gentleman: what I have been saying, which is founded on the basis of judgment, or allowing an amnesty for weapons, as was done—once again, under Prime Minister John Major—so that terrorists could give in their guns without any fear of legal cost? Once again, that was a courageous move by John Major and the then Government. Once again, there are those who now seem to criticise the resistance of some of us to removing the offices. That could be regarded by them as further kowtowing and playing into the hands of Sinn Fein and the IRA. Had it not been for the fact that John Major and other Conservatives were willing to take such risks at the time, it is possible that we would not have gone as far as we have.

Mr. Donaldson: The hon. Gentleman said that he recognised, in his terms, that Sinn Fein had made progress, but is he aware of the comments made by Mitchel McLoughlin—a leading member of Sinn Fein—on RTE television after the Northern bank raid, when he said that the murder of Jean McConville, the mother of 10 children, was not a crime?

Lembit Öpik: Yes, I am. My judgment is that Sinn Fein has a terribly long way to go. Apropos of what the hon. Gentleman has just said, it is little short of breathtaking to me that those in the IRA can conduct themselves as they have regarding the killing of Robert McCartney, go on to suggest that the murder of the murderers is in some way a just response to that and then expect that there will be no sanction against Sinn Fein as a result. If the hon. Gentleman is suggesting that Sinn Fein and the IRA are still making astonishing and appalling mistakes and that they have managed in just a few months to harm significantly the public relations progress that they had made over many years, I agree with him, but the decision that we must make today is how best to maintain the pressure on Sinn Fein to try to do right in a very wrong situation.

It is my judgment that to take away the financial resource is an appropriate and measured response to what we have seen—£400,000, even to Sinn Fein, is a significant sum—and it illustrates that we are not satisfied with the performance of Sinn Fein and the IRA of late. Furthermore, I am encouraged that, at long last, it seems that the Government have done what the Liberal Democrats have been requesting for a long time by imposing the conditions of paragraph 13. Many times, Ministers have sought to avoid the inescapable fact that serious and organised crime in many ways constitutes a breach of the ceasefire. I hope therefore that today's debate is an indication that the Government will take more seriously the complaints that many of us have made that the troubles are not simply confined to bombing and shooting, but include organised crime.

Mr. Mallon: Will the hon. Gentleman confirm that organised crime is not specified in paragraph 13?

Lembit Öpik: I think that paragraph 13 makes it pretty clear that organised crime is included. I did not realise that the hon. Gentleman held that view. I would have assumed that he agreed that it is quite a simple matter for Ministers to interpret serious and organised crime as part of the terms of that paragraph. I look forward to hearing what other hon. Members have to say about that point.

In conclusion, it is my judgment that we are right to impose the financial sanctions. Despite the Conservatives' apparent scepticism, about which I am surprised, the financial sanction will cause pain to Sinn Fein. In fact, I am surprised more than anything that the Conservatives feel that we are so ineffectual in the House that such measures are not taken seriously by others. However, it is appropriate to allow Sinn Fein to retain the office space for the reasons that I have given before. Furthermore, that allows us a further opportunity to return to increased sanctions if that is required.

I find the whole issue of sanctions against Sinn Fein manifestly vexing and emotive, as we have heard in our recent exchanges, but one must maintain a level head when dealing with Sinn Fein. One must ask what is objectively the most effective means to control the excesses of the IRA and what limited impact we can have through Sinn Fein. As a result, I will encourage my colleagues in the Liberal Democrats to vote for the motion and against amendments (a) and (b). I ask other hon. Members, including those who sit on the Conservative Front Bench, to subjugate their feelings to their values and to do what they think is right, rather than what they think is expedient.

2.46 pm

Kate Hoey (Vauxhall) (Lab): It is always a pleasure to follow the hon. Member for Montgomeryshire (Lembit Öpik). Usually, we are in agreement, but I am not in agreement with his views today, although I understand his reasons for saying what he said. I noticed that he said that the Liberal Democrats would have a free vote. I do not think that the Labour party will have a free vote. [HON. MEMBERS: "We will."] We will have a free vote—good—because I put my name to amendments (a) and (b) anyway. Clearly, this is a parliamentary matter, and it should be decided on a free vote for all hon. Members. That allows myself and perhaps a couple of my colleagues whom I have sometimes supported and been involved with over the past couple of days to be on different sides on this issue.

I listened with great respect to the hon. Member for Newry and Armagh (Mr. Mallon), and what he talked about and the way that he said it were well worth listening to, even though we may come to a different view about how we vote. However, the clear issue is the huge hypocrisy of Sinn Fein-IRA. They do not respect Parliament. They do not respect you, Madam Deputy Speaker. They do not respect anything about this British institution, yet they are prepared to take British

taxpayers' money from my constituents to fund their political activity. That is rank hypocrisy. Of course, it is one of the reasons why, initially, I and many of my colleagues, even those on the Labour Benches, opposed the original decision—this precedent—to change the way that Members who do not take their seats are treated in the House. I said at the time that that would come back to haunt us. It is coming back to haunt us, and we are now having to go back and the Government are having to move to abolish the £400,000-odd that those Members get, but I do not think that that goes far enough.

The money, the offices and the facilities of the House are linked. When we go down the road of taking away the extra privileges—not a sanction—let us consider that those changes were made specifically as part of a genuine attempt by some Members to help the peace process. That attempt has clearly failed, so we should go back to square one. Square one means that those who are not prepared to take their seats should accept, as many nationalist Members have done over the years, that if they are elected to Parliament while Northern Ireland is part of the United Kingdom, they have to take the good with the bad. The good means that they receive payment and facilities. The bad means that they have to take their seats, as some Members who feel very passionate about the future of Northern Ireland have done over the years.

I know that those people will plead martyrdom. Some Members have used that as a reason why we should not rescind what was agreed, but the reality is that those people will plead martyrdom whatever we do today. It seems rather strange that they will not plead martyrdom if we take away their money, but they will if we take away their offices.

Those Members do not come here very often and in any case they do not try to engage in dialogue, but I find it distasteful to have to sit at a table in Portcullis House, as I did last week, next to someone who, as I and everyone in the House know, is a terrorist and a member of the army council. I do not know quite what he was eating as I did not look that closely, but he was eating subsidised food. That is outrageous at a time when, as the hon. Member for South Staffordshire (Sir Patrick Cormack) pointed out, we are passing a measure that will take away the liberties of many, many people merely on suspicion—although I shall continue to oppose it if the House of Lords continues to maintain its position. We have more than a suspicion about the Sinn Fein Members of the House, certainly two of them.

I find it amazing that, once again, the Government are prepared to do nothing but hold out this carrot, when time after time their hand is bitten off and we still allow these things to continue. Today, there was an opportunity for the Government, backed by all the parties, to move forward and say once and for all that until Sinn Fein-IRA decides that it is a proper political party that will use democratic means and give up criminal activity and organised criminality, its members cannot be treated as normal politicians.

I shall obviously vote for the Government's motion, but I hope that in this free vote Members will realise that the motion does not go far enough. It will not be the martyrdom of Sinn Fein; it will just make them feel that once again they have got away with whatever they want. We must not allow that to happen any longer.

2.52 pm

Rev. Ian Paisley (North Antrim) (DUP): I am very concerned because I believe that the motion contains an indication of future Government policy. Only one crime is mentioned and that is that those people have not taken their seats.

People have told me that they are amazed by the IRA. I reply that if they had lived among the IRA as I and my people have done, they would not be surprised. Because they are elected Members, there is nothing now or even when we have passed the motion to bar them from coming to this place. They can do as they did in Stormont; they can take the Oath in whispers so that nobody can hear them. They can sign the book and walk out and our motion will be finished. Finished. There is only one crime—that they do not take their seats.

I fear that the motion is but a preparation to open the door again to the IRA in a year's time, or perhaps before. I am amazed that the Leader of the House said that we want to keep them in the democratic process. They have left the democratic process. Some of us came to the House and sat on these Benches, and as proper democrats made known our views on policy. For two and a half years, the Prime Minister of this country would not speak to me. Although I attended the House, he would not speak to me. Nobody in the House said, "That's a shame". When they want Government policy to go ahead, they do not worry about who is hurt.

I regret that this is probably the last time that we shall hear the hon. Member for Newry and Armagh (Mr. Mallon) in this place. On the last occasion he spoke, he mentioned side issues—only the people concerned know what they are getting, no one else knows. The hon. Gentleman and I have had many differences, as he knows, but we can at least come to the House and exchange views—

Sir Patrick Cormack: He is an honourable Member.

Rev. Ian Paisley: Indeed. If the hon. Member for Newry and Armagh had stayed in the House long enough, he might even have been a right hon. Member.

However, I disagree with the hon. Member for Newry and Armagh's interpretation of history. As I understand Irish history, the nationalists were keen to come to the House in the old days. They were keen to take the Oath and to declare which side of the House they supported. It seems to me that it is the republican element that brought in boycotting and the refusal to take the Oath. But that is a question for another day.

I am greatly concerned about what will happen when we pass the motion. We are to wait a whole year, but in a year's time, nothing will change and eventually the door will open again to IRA-Sinn Fein.

I have worked all my pastoral life in the Short Strand area. I have been there for about 57 years and I know the area better than anybody in the House. I know the people of the area. Because of the terrible murder that took place, those people were prepared to come out into the open. I salute their heroism and determination, and

[Rev. Ian Paisley]

I hope that they achieve what they are after. If the IRA had shot the people who were named after that murder had taken place, would the House still be doing what it is doing today? Of course it would. The same arguments that we have heard today would be put—that we do not want to make martyrs of them and so on and so forth.

I do not know when all of this will end. I have before me a paper that was given to the Prime Minister and the chief of police. It gives information about what were known as the killing fields of Northern Ireland—south Armagh—and describes many incidents that took place. It is a plea from people whose friends were murdered that the police will do something about it.

The document lists the activities of Thomas Slab Murphy, who is well-known to people in Northern Ireland. It names Michael Carragher, who was an infamous IRA sniper, James McArdle, a leading IRA member, and Eddie Magill of Pointzpass and lists the accusations made against them. It also mentions John Gerard Hughes and his influence in the smuggling racket. It describes the system operated by Collins and Collins the estate agents. People in the area believe that it set up false companies to obtain VAT numbers for the criminal use of others.

Those matters have been placed in the hands of the Prime Minister and the police, yet no real action has been taken. Are those people beyond the bounds or does the writ of the law of the House run in that area? The law-abiding citizens of Northern Ireland look at what goes on in the House. Over the past week, they have heard our debates and have heard the Government emphasise that there could be more terrorist activity, yet terrorist activity is going on and nothing is done about it. That is why the people of Northern Ireland feel that we must tell the Government that it is not peace at any price; it must be peace on the basis of democracy, fairness and justice. After all, those are the words coming from Short Strand: "Give us justice. We do not want indicative anger, and we refuse to take the IRA's guns and say, 'Use them to shoot people,' because who knows who is guilty until the right word is passed?"

One thing is certain: those who have already been dealt with by the IRA in order to get certain information out of them suffered in their bodies, and they cannot be produced so as to see what sufferings they endured, so do not think that it was easy for the IRA to get the information it has put out; it came the same way as violence comes, and the persons involved suffered.

This is the situation we face. What worries me is not only the money taken from the Northern bank, but the fact that there have been other terrible robberies, involving £10 million worth of tobacco and cigarettes. The Independent Monitoring Commission has noted that the IRA is responsible for those robberies. So, another £10 million is involved, as well as all the other pounds it lifts in levies throughout the country. The knock at the door comes and so much is levied. The IRA knows what people earn and where they work, and that is it.

When I was a Member of the European Parliament, I talked to a constituent who told me that at one election she had three visits from five men, who came to remind her that there was an election on and that she must vote. That woman would not have been voting for them anyway, but she told me, "I saw them coming, I stood at the door with them, they gave me the message and they left." Ten days afterwards they were back again, as they were the day before the election.

Are we going to allow the people of Northern Ireland to suffer in that way? The House must take a strong stand. We have heard some strong words from the Government and from Labour Members, who say that we must deal with terrorism. They need to deal with terrorism now, in the backyard of our country. They must deal with it thoroughly and with all the strength they can muster.

I make a plea to the House, no matter how we vote on this weak motion, which should have mentioned the IRA. We are not putting these people out because they did not take their seats. Nobody believes that. They are being put out because of the happenings, their cruelty and their terrorism. Why not tell the people the truth?

I do not often agree with the right hon. Member for Suffolk, Coastal (Mr. Gummer), but even he admitted that the point I was making is valid. It is valid. Why do we not mention the sins of these people, for which they are to be punished, instead of clothing the issue with this motion? I regret that we are not going to have the two good amendments, to which some of us, along with others, put their name.

Also, we need to remind ourselves that these same people are Members of the Legislative Assembly; they will still get their money. These same people are councillors; they will still get their money. These same people have an MEP; she will get her full money from this House and the privilege given with it.

The Government are not dealing radically with this issue. Let us face up to all the elected representatives who are in this movement and deal with them. Only in that way will they see sense and see that the game is up: no longer will violence or murder and mayhem pay. We are going to take the democratic road to peace for the future for all the people of Ulster.

3.4 pm

Mr. Kevin McNamara (Hull, North) (Lab): This is a difficult motion. It is difficult for some of the reasons put forward by the hon. Member for North Antrim (Rev. Ian Paisley), because it conceals a lot of issues and events that we are talking about. It is difficult also because I am not certain of its value. I do not believe, in the way that the hon. Member for Montgomeryshire (Lembit Öpik) believes, that it will do a great deal of financial harm to Sinn Fein.

The motion is difficult for me for another reason: this is the first time on record that I can think of that I will differ from my hon. Friend the Member for Newry and Armagh (Mr. Mallon), as I shall vote for the Government and against both amendments.

On the question of the Oath, I believe that people who do not accept that we should have a monarchy and people who perhaps challenge the right of this island to govern that part of the island of Ireland in which they live should not be expected to take an oath of loyalty to a Head of State who disagrees with their philosophical and national ideas. I believe that they should have the opportunity of coming here and affirming or affirming

an oath, saying they will carry out their duty to the best of their ability in the interests of their constituents. That should suffice.

For those of us who wish to take an oath of allegiance, that should still be an option, but I believe that nobody should be debarred from the House on the basis of an oath that they are expected to take. We did that in respect of Catholics, Jews, Quakers and others. I do not see why we should do it in respect of people who have a philosophical objection as republicans.

Mr. Trimble: Does the hon. Gentleman accept that the whole point of the Oath is to make a formal statement of acceptance of the current legal and constitutional structure, which the House embodies and within which Members have to work? Does he also accept that refusal to accept it and failure to take an oath—the only way it can be accepted is through the Oath of Allegiance, because, apart from the House and the monarchy, we do not have many institutions that cover the whole country and we do not have a written constitution that embodies that structure—are not just a mere technicality involving the monarchy, but a repudiation of that structure? As such, they ought to be an affront to the hon. Gentleman, just as they are to everybody else.

Mr. McNamara: No, I do not accept that at all. I believe that people can be elected to this place who can accept the state as it exists, but who seek to change that state fundamentally in respect of how the Head of State is chosen. They can do that by taking another form of oath, which does not mean that they are being asked to betray their principles.

I do not believe for one moment that if we had changed the Oath that would necessarily have brought people from Sinn Fein here, but we should not insist on things and say that there are not obstacles to their being here that we can remove.

My next point is that the House should bear it in mind that there has been considerable movement on the part of Sinn Fein and its leadership, despite all the things—I admit—we have seen and know about. They are trying to lead their movement towards a peaceful acceptance. Indeed, we are told by the Government and the Democratic Unionist party that, but for want of a photograph, we would have had that in December. So, there has been movement, although hon. Members, the Government and the Taoiseach are right to point out that, probably at the same time, they were planning the robbery of the Northern bank. However, that robbery would not have affected the basic support of Sinn Fein one iota in the north of Ireland, although it might well have had an effect in the Republic. As the hon. Member for North Antrim pointed out, £10 million has been robbed from bank and post offices and that has not affected Sinn Fein's position.

Sinn Fein's position has been affected by the savage murder of Robert McCartney. That has been the real blow to Sinn Fein and the IRA because it has undermined their position in their community. The event has done far more damage than any that we can do by passing the motion. The effect of the incident has been shown by their reaction to it, which was slow at first, but quickly became greater as they realised the affront that had happened in their community. The fact that they have now deplored the murder, urged people to come forward and placed names before the police ombudsman shows the pressure that the community has put on the leadership of IRA. That, more than anything, will hasten division in the republican movement. People at the head of Sinn Fein will eventually have to make a real and positive decision about that.

Although it was reported little over here, the speech made by Gerry Kelly at the Ard Fheis in Dublin was interesting. He spoke about a need for acceptance of the development of police boards and the need for the disappearance of the IRA as an organisation. He used words and phrases that had not been heard before. It was also interesting that Gerry Adams accepted clearly and without qualification the legitimacy of the Government of the Republic because that represented a breakdown of the old mythology.

Mr. Mallon: My hon. Friend raises an interesting point. I read the speech, but I think that Mr. Adams recognised the institutions, rather than the state.

Mr. McNamara: If one recognises the institutions of the state as legitimate, given that their legitimacy comes from the state and their acceptance by the people of the Republic, it is fair to say, despite the words that Mr. Adams used, that his comments represent an enormous step forward from the old mythology of denying the legitimacy of the Republic. My hon. Friend and I can argue about the words and reach different conclusions, but I thought that the speech was a helpful sign, rather than something negative.

Despite what has happened at the Ard Fheis, we have had a savage murder and the Northern bank robbery. We are in a position in which some Members of the House either knew about those events, or were negligent in not knowing about them, given their positions in the organisations. I have served on the Standards and Privileges Committee, which is both a privilege and an awesome task. The Committee has investigated complaints against normal Members. The Parliamentary Commissioner for Standards examines such cases and the Committee makes a recommendation regarding Members' conduct. In recent times, we have criticised Members for negligence and the House has upheld such findings. They have been suspended and sanctions and penalties have been put on them, but we are unable to do that in the present circumstances.

We have one sanction that we can use to show our displeasure in a positive way. The motion will not affect the Members' pockets because they do not draw salaries, although sadly it might affect the pockets of their staff. However, it will be as powerful a sanction as that made when we have suspended people from the House without their wages or the right to use their offices in the House, although Sinn Fein Members will still have that right.

I regret reaching this situation because I have spent a long time in the House trying to explain how I think the IRA behaves. I have tried to explain its philosophy and why it is treating the present situation as a ceasefire and waiting for the culmination of matters before final decommissioning. However, there is no way in which

[Mr. McNamara]

any sort of mythology of a guerrilla army can justify the savage murder of Robert McCartney, so I support the motion.

Several hon. Members *rose—*

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. May I offer the House some guidance? The Modernisation Committee urges Mr. Speaker to put time limits on debates whenever possible, but it is not helpful if as many as eight hon. Members indicate that they wish to participate in a debate too late after such a decision has been made. The 12-minute limit on the debate is thus clearly inappropriate, given the number of hon. Members who are seeking to catch my eye. If hon. Members will bear that in mind, we will try hard to accommodate everyone.

3.17 pm

Mr. David Trimble (Upper Bann) (UUP): On 18 December 2001, my colleagues and I voted against the motion that gave a privileged position to Sinn Fein Members, so naturally we will vote for the amendments because they would reverse that motion, which is what should happen at the very least. I suppose that we give lukewarm support to the weak and feeble Government motion, so we will reflect that as well.

It is a pity that the Leader of the House has not remained in the Chamber to hear the debate, because it would have been useful for him to do so. If he did not intend to stay in the Chamber, perhaps he should have given the Secretary of State or someone else the responsibility of leading for the Government. I wish to comment on several things that the Leader of the House said. His behaviour was rather similar to that of the right hon. Member for Livingston (Mr. Cook), the then Leader of the House, in 2001. We know from the right hon. Gentleman's memoirs that he had reservations about the 2001 motion, so I wonder whether the current Leader of the House has similar reservations about the motion's failure to be appropriately effective.

The first point about the Leader of the House's speech might seem small, but it is important. He said that Sinn Fein is signed up to the agreement, but strictly speaking that is not true. The Secretary of State for Northern Ireland will know—because he was there—that no one signed an agreement. Votes were cast around the table to determine whether there was sufficient consensus. When the roll call for the vote was called, Sinn Fein abstained, so it cannot be colloquially said that it signed up to the agreement. There was subsequently a Sinn Fein Ard Fheis at which a motion was passed to approve the actions of the leadership, but the party did not sign up to the agreement. That fact is crucial to the way in which one approaches the matter.

My view at the time—it remains my view—was that the republicans were locked into an agreement that they did not like. They did not like it then and they do not like it now. They are locked into the agreement because they are participating in the democratic process. When they were simply engaged in a terrorist campaign, they were not subject to any such constraints. However, once they entered negotiations, they found themselves locked into them.

I was slow to take this view, but it was not until after 1998 that I decided that even though Sinn Fein did not like the fundamentals of the agreement—at that stage I did not think that its members had completely changed and become normal politicians—it was possible to bring pressure to bear on it and drag it towards normal, peaceful and democratic political activity.

I disagree fundamentally with Members on the other side of the House who said that Sinn Fein rejoiced in its victimisation. I accept that its members try to exploit their victimisation, but it is wrong to argue that therefore we should not put pressure on them or subject them to sanctions. They have only moved under pressure, and the events of recent weeks and the activities of the McCartney relatives clearly demonstrate that that is the case. If it were not for the action of those families and the public support for them, republicans would not have done anything. It is only pressure that moves them, and it is only the pressure that my colleagues and I brought to bear that led to decommissioning, and to republicans moving towards a transition. That has been undermined, however, by the fact that the Government have not policed the process correctly.

The agreement sets out some fundamental principles. On 18 December 2001, I said in the House that the motion that we were considering had undermined the agreement by sending republicans the message that they could disregard the obligations imposed on them by the agreement. I said that the Government would bend the rules and reward them—that is partly the fair point made by the hon. Member for Newry and Armagh (Mr. Mallon), who spoke about the way in which people were conducting negotiations outside the structures and principles of the agreement.

Lembit Öpik: Is the right hon. Gentleman aware, as the hon. Member for Newry and Armagh (Mr. Mallon) said, that paragraph 13 of the declaration does not include organised crime? However, it has been frustrating that at every step the paramilitaries have done the minimum necessary to satisfy the Government. Hopefully, today's debate will create a clearer picture for the IRA and the other paramilitaries so that they understand that conditions concerning bombing and shooting are not the only ones that have to be met for the normalisation of the Province.

Mr. Trimble: It is not necessary for the hon. Gentleman to hang his hat on paragraph 13. If one looks at speeches made by the Prime Minister in 1998 one can see that his language is clearly broad enough to include criminality. Individuals who have recently made much of those comments should bear in mind the fact that he said at the time that the criteria and their application would necessarily become more stringent over time. In a transition, it is perfectly natural to expect criteria to be applied more stringently, and six or seven years into that period there is no basis whatever for failing to do so. In 2001, I considered that the motion was a mistake that would undermine the process: it would send republicans the signal that they could get away with it. Likewise, the activities of previous Secretaries of State, with their

rather unpleasant references to internal housekeeping when there was brutality of a not dissimilar nature to the McCartney murder, undermined the process.

The Government's failure to insist rigorously on the basic principles of the agreement is not helping at all, and is likely to reinforce among republicans the view that if they hunker down and wait, after a short and not even decent interval the Government, the Irish Government and others will return to negotiations with them. It will just be a matter of rehashing the usual steps. I suspect that even today, officials are trying to cobble together yet another deal on policing to entice republicans back to the process. To do so, against the background of the republican statements this week, is simply nauseating.

Having made clear my view of the motion, I shall go a little further. Reference has been made to the individuals who were returned to represent certain constituencies and their activities. I am not sure of the exact composition of the IRA army council today—changes are made to it from time to time for the convenience of the organisation—but three Members who were returned to serve in the House are or have in the recent past been members of that body. There is no serious doubt about that. The more significant question is what they have been doing, both now and in the recent past.

I have referred to the report by the Independent Monitoring Commission. The hon. Member for Aylesbury (Mr. Lidington) read out the text, which clearly says that senior members of Sinn Fein who were also senior members of the IRA—there are very few senior Sinn Fein members who are not senior members of the IRA—approved the robberies that were taking place. There is no doubt that some of the individuals involved in the execution of the robbery were very close indeed to the leadership of the republican movement. We do not know, but it is probable that the leadership knew exactly what was happening and thought that they could and would get away with it.

The hon. Member for Hull, North (Mr. McNamara) referred to the Standards and Privileges Committee, and actions that have been taken from time to time to suspend Members, reprimand them and so on. Occasionally, the House has gone further and expelled Members. That has been the case in comparatively recent times. A Member was expelled for telling a lie in Committee. He attributed dishonest motives to other Members when he himself was acting dishonestly. Another Member was expelled when he was convicted of the crime of forgery. He would have been disqualified because of the length of his prison sentence, but the House was not content to wait for that provision to take effect and expelled him. If the persons returned to serve in the House have not taken their seats and if they have been accessories to this crime, as the IMC report hinted, surely we should go further and follow those precedents. It would be proper to expel those persons from the House.

That is the reasoning behind my amendment, and I am glad that it has received the support of other hon. Members. It is entirely reasonable in the present circumstances to see what further information can be obtained about the activities of Members, for that information to be presented to the House and for the House to take the appropriate action.

Earlier, I said that at the time of the agreement republicans were locked into an arrangement that they did not like. I said that we could move them under pressure, and we did so to a significant extent. As a result, the situation in Northern Ireland is now quite different, so I make no apology for the decisions that we made in 1998, 1999 and 2000. It has become clear, however, that persons who were prepared to engage in politics are prepared to do so only up to a certain point. They are not willing to complete the transition and do what the Prime Minister has called for since October 2002. Their recent behaviour and statements give no indication that they are likely to change at all in future. We must therefore reassess the matter more fundamentally, and those who are now buying into the process must be careful not to become too eager.

3.29 pm

John McDonnell (Hayes and Harlington) (Lab): I was one of those miscreants, Mr. Deputy Speaker, who informed your Office during the debate that I would like to speak. I apologise for that, and will speak as briefly as I can. I did so because I was loth to speak in the debate until I had heard what other hon. Members had said. I know that it is unusual to listen to other hon. Members—*[Interruption]*—indeed, it is unprecedented, but I thought that that would be best.

I want to raise three issues. First, the hon. Member for North-East Hertfordshire (Mr. Heald) raised a matter of principle and I respect him for that. It was the straightforward view that if someone is elected to this House and expects to receive the full privileges and income, they should be a full participant. That is a principled position, but there is a contrary argument that some people stand for election on a specific platform with a specific manifesto and tell their electorate that they will stand for election but not take office in the Chamber or swear the Oath. That mandate, whether we like it or not, has been given to a number of Sinn Fein Members by a majority vote, and we must respect the mandate of that electorate. That overrides the issue of whether they are full Members. We must respect the view of the people who elected them by a majority.

I should tell my hon. Friend the Member for Vauxhall (Kate Hoey) that a side issue is taxpayers' money. I accept that, but those who voted for Sinn Fein also pay taxes and may want some of it spent on their Members of Parliament—*[Interruption.]* I do not want to start a separate discussion on income tax and collection in Northern Ireland. A valid issue of principle has been raised, but there is a valid argument to the contrary.

The second, more important issue is whether sanctions should be applied when events affect the standing of individual Members. We heard from the right hon. Member for Upper Bann (Mr. Trimble) and my hon. Friend the Member for Hull, North (Mr. McNamara) about the normal processes by which we apply sanctions against Members. I refer now to the bank robbery, and I shall refer later to the tragedy of Robert McCartney. Under the rule of law, the normal process is that innocence is presumed until someone is found guilty beyond all doubt. In the bank robbery case, if individuals had been brought to trial, found guilty and had a direct involvement with Members of this House, or if Members had been involved, the normal sanctions

[John McDonnell]

would apply and the appropriate Committees of the House would have applied those sanctions. That has not happened.

Too many allegations in the past—for example, spy rings in Stormont and so on—were founded on intelligence that did not prove satisfactory in ensuring a prosecution. There is an argument, whether hon. Members like it or not—

David Burnside (South Antrim) (UUP): Will the hon. Gentleman give way?

John McDonnell: I would rather not take interventions because I am subject to a time sanction, but I am happy to do so on this occasion.

David Burnside: Is the hon. Gentleman aware that in Northern Ireland there has been no investigation into the illegal fund raising or criminal activities of any member of the IRA's army council? Does he realise that in the history of the IRA's campaign no one has ever had the courage to stand up in a court of law and give evidence against those criminals?

John McDonnell: Let me respond by referring specifically to the bank raid. On numerous occasions in the House I have heard hon. Members say that evidence exists that leads conclusively to the fact that certain individuals were involved in the bank robbery, but since the Iraq war I no longer take such information on trust. If there is evidence, it should be brought forward in a court of law. Hon. Members have been arguing about that principle, and terrorism generally, for almost a week. I maintain that a matter of principle is involved in how we adhere to the traditions of this House and British justice.

The Robert McCartney tragedy moves us beyond any specific case that we have debated before. We would expect anyone with information about the murder to come forward and provide that information to the relevant authorities. We would expect any Member of the House to exercise responsibility in urging any witnesses to come forward. We are discussing the application of sanctions against Sinn Fein Members in connection with the Robert McCartney case, but during the past week or so they have been prominent in urging witnesses to come forward and give any information to the Police Ombudsman for Northern Ireland.

There is an argument that witnesses should go directly to the police, but we have third-party reporting in my constituency because there has been a lack of confidence in the Metropolitan police among the black and ethnic minority community, and we have made arrangements, with the agreement of the police, for third-party reporting to other agencies. That has worked successfully. We are discussing sanctions in the Robert McCartney case, but Sinn Fein Members who were elected to the House have acted as we would have expected in terms of urgent co-operation with the relevant authorities in bringing information forward.

The third issue is even more important. The motion today is not significant in its financial consequences; it concerns the way in which the peace process can be moved forward and where we go from here. Will the motion assist in moving the peace process forward to the ultimate conclusion that we want, of peace and justice, or will it impede that aim? I do not believe that it will have a dramatic effect. It might impede the process slightly for a number of reasons that have been given, in that there will be feelings of victimisation and some people may feel that it does not help to increase the dialogue that takes place informally here.

I am concerned that my hon. Friend the Member for North-East Derbyshire (Mr. Barnes) has not had the opportunity to meet Sinn Fein Members here. Some of us have had that opportunity at open meetings. I am also concerned that the hon. Member for Upper Bann—I am sorry, I mean the hon. Member for North Antrim (Rev. Ian Paisley)—has not had the opportunity to meet the Prime Minister regularly. The Prime Minister does not talk to me much either, but I urge him to talk to the hon. Gentleman, because he may be the future First Minister in Northern Ireland.

Rev. Ian Paisley: I want to make it clear that the Prime Minister sees me now—but two years have passed.

John McDonnell: I am so glad that the Prime Minister has made up for past misdemeanours, and that he is not in sackcloth and ashes.

By far the most significant issue is how to move the peace process forward. We should do nothing that will undermine in any way the opportunity for dialogue. During the past 18 months I have been working with a group called the ministry for peace, and we have been considering peace processes throughout the world, including Palestine and Ireland. We have even considered how peace can be secured in Chechnya and elsewhere. One of the most important factors is to maintain dialogue, and to ensure that we use a language that does not impede the peace process.

I pay tribute to the Government for all that they have done in the peace process overall, but before Christmas we had a real opportunity to bring to a conclusion the issue of arms. We could have made a dramatic move forward to secure peace. The talk of sackcloth and ashes and the demands for photographs from one side, and the inability on the other to confront more directly some of the activities of the republican movement, meant that we could not move forward. We now need to discuss how we can move forward.

The McCartney case has made the republican movement address some issues that are overdue. The statement this week about shootings will enable the movement to address those issues, which are from a bygone era and now need to be put aside if we are to make progress towards peace. Therefore, rather than squabble over a motion that will not have much effect, I urge the Government to re-establish the dialogue. I also agree with the hon. Member for Newry and Armagh (Mr. Mallon) about ending the side deals. We need to get people back round the table so that we can look at the full implementation of the Good Friday agreement and secure the peace that all of us in this House want.

3.39 pm

Sir Patrick Cormack (South Staffordshire) (Con): This is essentially a House of Commons matter, and I very much hope that it will be decided by a truly free vote. The hon. Member for Vauxhall (Kate Hoey), in her brave speech, asserted that it would be a free vote. The hon. Member for Montgomeryshire (Lembit Öpik) said the same and I know that it will be a free vote for the official Opposition. I would like confirmation from the Secretary of State for Northern Ireland, when he winds up, that it will be a free vote on the Government side—*[Interruption.]* Well, I treat every vote as a free vote, but that is not the point that I am making. I hope that every Member is able to vote as a Member of this House, because we are voting about Members of this House.

I am sorry that the Secretary of State for Northern Ireland is not in his place. In a short debate such as this, at least one of the Cabinet Ministers taking part should be present throughout. It is an insult to the House that neither of them is in his place at the moment.

My position on this issue is simple. We are considering four Members who have been elected to this House—nobody disputes that—whose conduct has been wholly unbecoming to this House. I voted against the resolution in December 2001, but I saw the Government's logic in proposing it. At that stage, there were high hopes for the peace process—some would say misplaced—on the Government's part. There were high hopes that the Sinn Fein Members would play a constructive part in that peace process, but those hopes have been thoroughly confounded since. Far from playing a constructive part, those four Members have been proved time and again to have not only a tainted past, but a tainted present. They have been involved with acts of criminality and acts of terrorism. Although we talk at present of the difference between the suicide terrorist and the IRA terrorist—there is a difference—we should not forget that those who died in Omagh are just as dead as those who died in the twin towers. Those Members have been complicit in acts of terrorism. They are not worthy to sit in this House.

I wished to be constructive in my opposition to the motion, so I tabled an amendment. It was not selected, and I make no complaint about that, but it would have limited the withdrawal of facilities, with a similar sunset clause to the one in the motion. I prefer the amendment that has been selected and I shall give it my support.

I am glad that the Secretary of State for Northern Ireland is now in his place. I have great respect for him and nobody could even begin to deny his good faith. However, it is bizarre that in a little over an hour's time we will once again debate the Prevention of Terrorism Bill and, as I pointed out to my hon. Friend the Member for North-East Hertfordshire (Mr. Heald) in an intervention earlier, the Government will urge us to allow them to introduce control orders that will be imposed on many people who are probably not terrorists. I do not dispute the Government's good faith or their overriding and paramount concern for public safety, but if they are prepared to do that, is it not paradoxical that, an hour before, they will vote against an amendment that would exclude people who are almost certainly terrorists and Members of this House? That is ludicrous and it makes the Government's stand against terrorism hollow.

I regret that. I have many criticisms, which I have voiced in the Chamber, of the manner in which the Government have handled the Prevention of Terrorism Bill, but at no stage have I impugned their good faith in seeking to do what they believe to be right. None the less, I say to the Government that if that is their response to terrorism in general, here they have terrorism in particular—four Members, three of whom are or have been members of the IRA council, who have been involved in acts of terrorism and who have not washed their hands and divorced themselves from those who continue to be involved in acts of terrorism. That is the point. Here we have people who as recently as yesterday announced their willingness to take the law into their own hands, in the form of that extraordinary statement from the IRA—of which Mr. Gerry Adams is still a member and to which Sinn Fein remains indissolubly linked—that gun law can prevail in the United Kingdom. If nothing else can persuade the Government of the logic of my argument, yesterday's statement should surely do so.

I hope, first, that the Secretary of State will assure us that this is to be a truly free vote for every Member of the House of Commons; and, secondly, that Members of the House of Commons will decide whether they truly want to allow access to all our privileges and facilities to people who refuse properly and adequately to represent their constituents in this place, by making speeches, asking questions and so on.

Mr. McNamara: Will the hon. Gentleman accept from us that we are on a one-line Whip on this House of Commons matter, as we received it last Friday from my right hon. Friend the Chief Whip?

Sir Patrick Cormack: Of course I accept that from the hon. Gentleman, who is in every sense an honourable, although I think frequently misguided, Gentleman. In parenthesis, let me say how sorry I am that we have probably heard the last speech from him and from the hon. Member for Newry and Armagh (Mr. Mallon).

Mr. McNamara *indicated dissent.*

Sir Patrick Cormack: I realise that we probably have about three weeks left in the Session. Both hon. Gentlemen have made a genuinely distinguished contribution to our affairs.

I accept what the hon. Member for Hull, North (Mr. McNamara) says, but I want to hear it from the horse's mouth. We all know that there are one-line Whips and one-line Whips, free votes and free votes; we all know that there is a payroll vote. I want an absolute assertion, which I shall of course accept if it is given, that every member of Her Majesty's Government will have the same right to vote as his or her conscience dictates as any other Member. We are all equal in this place.

I wish to obey your injunction, Mr. Deputy Speaker, so I shall not take my full 12 minutes, even though I have been given an extra minute because of the intervention. I wish simply to stress the point that it is bizarre and ludicrous that we should, on one afternoon, move from

[Sir Patrick Cormack]

the motion to the Prevention of Terrorism Act and treat so differently those whom we have just cause to suspect of terrorist activities.

3.48 pm

Jeremy Corbyn (Islington, North) (Lab): I shall ensure that I finish in time for the winding-up speeches, Mr. Deputy Speaker.

I assure the hon. Member for South Staffordshire (Sir Patrick Cormack) that I do not consider myself part of the payroll vote and that, as far as I am concerned, this is to be an absolutely free vote. If a Minister wishes to make an intervention to confirm the position on the payroll, I shall be happy to accept it.

The hon. Gentleman's final point is important. We are moving from the bizarre to the ridiculous by, in a single afternoon, looking in opposite directions on two extremely important issues. This is described as a House of Commons matter; I prefer to describe it as a democratic matter. The House of Commons is behaving like a golf club in the way it treats its Members.

Where do we get our authority from? Is it from being in the House and from some higher authority above us, or is it from the people who elected us? We must recognise that the Members whose allowances we propose to take away were elected, just like all the rest of us. They have a duty to represent their constituents and during all their election campaigns they made their position clear. In the case of the hon. Member for Belfast, West (Mr. Adams), he has made it clear since 1983 that on election he would not take his seat because he did not believe that the British Parliament should have jurisdiction over that part of Ireland.

Sir Patrick Cormack: Did the hon. Member for Belfast, West (Mr. Adams) also make it clear that he was and continued to be involved in criminal activities?

Jeremy Corbyn: The hon. Gentleman is heading off again on the lack-of-evidence trail. If Members have been involved in criminal activities, they should be prosecuted. If they are not prosecuted, they are innocent until proven guilty, like anybody else when a charge is made against them.

We are being asked to take away the staff and support services that Members need to represent their constituents, and we should think carefully about that because the implications go far wider. In future, if we do not like the political statements made by any Member of the House on any matter at any time—all of us have been unpopular on certain issues at certain times, as I know extremely well—is it right to deny my constituents, the constituents of the hon. Member for South Staffordshire or anybody else's that important right to representation?

When a constituent comes to see me about a problem, I do not ask how they voted or how they intend to vote. I ask them what their problem is and I discuss it, as I imagine every other Member does. If that support is taken away from me or any other Member, that representation is reduced. We should be careful. We are not a golf club and we should not behave like one. We should behave like a Parliament that owes its authority to those who elected us.

The hon. Members for Newry and Armagh (Mr. Mallon) and my hon. Friends the Members for Hull, North (Mr. McNamara) and for Hayes and Harlington (John McDonnell) explained the wider implications extremely well. We have been through some awful times in Northern Ireland. An awful lot of people have died in the most horrific circumstances, the latest being Robert McCartney. Every loss of life and every act of violence is a tragedy. All the sanctions and illiberal Acts that were applied in the 1970s—the prevention of terrorism Acts, the emergency powers Act, all the orders, internment, the broadcasting ban, the travel ban and all the other measures did not take matters forward very much. What started to take matters forward was the courage—it was courage—of the hon. Members for Foyle (Mr. Hume) and for Belfast, West (Mr. Adams), who were prepared to sit down privately together and hammer out some kind of agreement, which eventually led to the 1994 ceasefire and later ceasefires.

I hope that dialogue prevails. That is what the Good Friday agreement, power sharing and the acceptance of the traditions of all communities were about. Those were important steps forward. The decision that we are asked to take today is not the end of life or the end of the whole process, but it is an important signal that the House is closing down that element of participation. As my hon. Friend the hon. Member for Hull, North pointed out, by contesting elections, getting elected and becoming involved in the political process, Sinn Fein has been able to help bring about the ceasefire, exert pressure and provide a great deal of hope for the future.

If those who voted Sinn Fein are told that their votes are not worth as much as the votes in my constituency or any other Member's constituency because we intend to take away their facilities, what message to them is that? Is the message that they should vote for someone else, or is it more likely to drive them away from a political process into a process that none of us wants to see developing?

The House will obviously listen carefully to the Secretary of State and others, but hon. Members should remember that we get our authority from the people, not from above.

David Burnside: If the Scottish National party and the Welsh nationalists were corporately involved in widespread criminality, including murder, smuggling, intimidation and the threat of shooting people in the UK, would it be worthy of debate that they should continue to be treated like other hon. Members?

Jeremy Corbyn: Any actions such as the hon. Gentleman has described are meritorious of legal action, if there is evidence against an individual. Surely we all believe that someone is innocent until proven guilty. If there is a case against people, it should be taken to court and dealt with there.

In this case, the security services have briefed Ministers, who have in turn briefed various hon. Members, and on that basis, we are being asked to make an important decision about hon. Members who have chosen not to take their seats. The security services have

hardly covered themselves in glory in the past few years, and we are sceptical because of that performance. People must be accepted as innocent until a case is made against them.

Returning to my earlier democratic argument, our job is not to deny individuals their representation in this House, but to try to bring about a peace process by political inclusion and political involvement. That is what the peace process and the Good Friday agreement achieved, and I urge all Northern Ireland Members in particular to support the idea of continuing the Good Friday agreement and the institutions that stem from it. Therein lies the road to peace and a prosperous and hopeful future for Northern Ireland. Today's motion is a step in the opposite direction, and I cannot support it.

3.56 pm

Mr. Andrew Robathan (Blaby) (Con): I shall be brief—

Mr. Swayne: And loud.

Mr. Robathan: I shall be loud, too, if my hon. Friend wishes.

My view is that the motion is too little, too late. For the past seven years, the Belfast agreement was a cause for optimism, but I always thought that it was built on sand. The Government's policy now lies in tatters around it, and the Government are starting to backtrack.

It is now painfully clear that Sinn Fein never intended to go along with the Belfast agreement. According to the newspapers, all members of Sinn Fein and of the IRA refer to the Prime Minister as "a prize idiot".

David Burnside: A naive idiot.

Mr. Robathan: That is an even better term. The prisoners are out, the Royal Ulster Constabulary has been scrapped and those people have been allowed into the House of Commons, but for what? The Government have been the IRA's dupe and the IRA's patsy all along.

When the Prime Minister gives Adams and McGuinness tea at Chequers, does he ask them about their crimes? Does he ask them about Jean McConville, Robert Nairac, who was a friend of mine, and the thousands of decent soldiers, policemen, prison officers and civilians who have been murdered during the troubles? I think not.

The Government accept that the IRA and Sinn Fein are inextricably linked. It is a sad fact that these four MPs were elected by people in Northern Ireland. Other crooks have been elected to this House: murderers have been elected; Mosley was elected; Mugabe was elected in Zimbabwe; and, once upon a time, Hitler was elected in Germany. Those four MPs should be held responsible for their actions.

Does the Secretary of State believe that Adams and McGuinness are on the army council? Everybody else does. If they are on the army council, they are not inextricably linked to the IRA; they are the IRA.

Will the Secretary of State instruct the PSNI to investigate the claim that McGuinness made to my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley), that in the early '70s he was responsible for the deaths of more than 10 Catholics, whom he judged to be informers? McGuinness should be held to account for those murders.

Does the Secretary of State believe anything that Adams and McGuinness tell him? Sinn Fein lies and lies and lies again—of course it was not involved in the Northern bank raid. Sinn Fein is the IRA. It contains thugs and murderers, and it is responsible for robbery, protection rackets, drugs, thieving, mutilation and exiles.

I know that the Secretary of State is a decent man, not only because we were at the same Oxford college at the same time, but because he knows that what I am saying is true. The Government have been paying Danegeld for seven years. Danegeld has its benefits to those who pay it, as those who paid it to the Danes found as well, but eventually it comes back to haunt them. There have been fewer murders, but now is the time to address what the IRA has been up to. These people do not recognise this Parliament and should not have access to it.

I note from the list of allowances that Mr. McGuinness and Mr. Adams both claimed more than £18,000 in additional costs allowance, which we all use for a second house. In other words, they are claiming £18,000-odd for staying away from home, which they do not do as they are hardly ever here. I suggest that the House authorities investigate where their second properties are. The press, who are so interested in our allowances, might do the same.

The Government say that they are going to be tough on terrorists. I ask them to be so by barring them from this House until they accept the responsibilities of democratic MPs and live up to the many promises that they made when they took on their roles under the Belfast agreement.

4 pm

Mr. David Lidington (Aylesbury) (Con): We have been dealing with two related questions: first, the parliamentary question of whether there should in effect be two classes of Member; and secondly, whether, if the conduct of Sinn Fein-IRA merits sanctions, the motion tabled by the Government is adequate and proportionate in addressing that.

However we vote this afternoon, the impact on Sinn Fein will not be much beyond the symbolic; we should be under no illusions about that. The hon. Member for Montgomeryshire (Lembit Öpik) said that the withdrawal of the financial allowances would hurt Sinn Fein, but I question whether an organisation that thrives on criminal enterprise will have to tighten its belt very much whichever way we vote.

Lembit Öpik: I agree that anything we may do is marginal, but it will have some limited effect. I believe that the primary impact will be to add to the public relations difficulties that the Sinn Fein organisation has generated for itself largely by its inability to rein in the excesses of the IRA.

Mr. Lidington: I am afraid that the hon. Gentleman is being incredibly naive in believing in this distinction between Sinn Fein and the IRA. Neither the British

[Mr. Lidington]

Government, nor the Irish Government, nor the police on either side of the border are prepared to share that belief with him.

I shall briefly spell out the effect of our amendments. Amendment (a) would make the 12-month suspension of allowances indefinite, while amendment (b) would extend the scope of the motion to cover other parliamentary privileges. Taken together, they would restore the position to that established by Speaker Boothroyd's ruling after the 1997 general election.

Let me come first to the parliamentary argument, which was dealt with particularly by my hon. Friend the Member for South Staffordshire (Sir Patrick Cormack) and the hon. Member for Vauxhall (Kate Hoey). There should not be two classes of Member. We are sent here to represent our constituents—those who voted for us and those who did not alike. As the hon. Member for Vauxhall said, the allowances, offices and staff passes are there to enable us to do our job of representing those constituents—they do not come to us as of right—and the same set of rules should apply to every Member of Parliament.

The hon. Member for Hull, North (Mr. McNamara) acknowledged that Sinn Fein's policy of abstention goes beyond the Oath alone. As the right hon. Member for Upper Bann (Mr. Trimble) observed, that policy amounts to a deliberate and calculated rejection of the existing constitutional and legal order in the United Kingdom.

My hon. Friend the Member for New Forest, West (Mr. Swayne) commented that the Provisional IRA considers itself the legitimate Government of the whole island of Ireland. That is a theological and ideological belief that the hon. Member for Lagan Valley (Mr. Donaldson) illustrated well when he reminded us that Mr. Mitchell McLoughlin recently denied that the abduction and subsequent murder of Mrs. McConville was a crime because, in Sinn Fein-IRA's view, it is for the IRA council to decide what constitutes legality and illegality anywhere on the island of Ireland.

The Government justified the change that they introduced in 2001 on the ground that it would help the political process. Despite the fact that it represented a break from the way in which the House of Commons had traditionally treated all Members alike, in the Government's judgment it was a necessary move to engage republicans more fully in the democratic process and to recognise the transition that the republican movement was making from terrorism to exclusively democratic politics. However, the motion is not an adequate or proportionate response to recent events.

The Police Service of Northern Ireland, the Garda Siochana and the Independent Monitoring Commission all declare that Sinn Fein both knew and approved of not only the Northern bank robbery but a sequence of recent serious crimes. Those comments were made before the savage murder of Mr. Robert McCartney. As the hon. Members for North Antrim (Rev. Ian Paisley) and for Newry and Armagh (Mr. Mallon) pointed out, crime, violence and intimidation are still rife, especially in areas such as south Armagh and parts of Belfast, where paramilitary gangs prey on the people whom they claim to protect.

The action that the Government should take is not what the motion proposes; it is to stop giving Sinn Fein an effective veto over any political progress in Northern Ireland. We cannot wait indefinitely for the republican movement to make the transition. It is time for the Government to move forward with the democratic nationalist and Unionist parties. That is a subject for exploration and debate on another occasion.

The main argument against the Opposition amendments that Members on the Government side of the House, especially the hon. Member for Newry and Armagh, present is that accepting them would allow republicans to pose as martyrs. Given that the hon. Gentleman has made the argument, I respect it and I reflected on it before reaching a judgment on the motion and amendments. Nevertheless, I believe it to be mistaken. Of course republicans will pose as martyrs and victims—it is part of their stock in trade. However, if we tie our hands by refusing to take action for fear that they will pose as martyrs, we end by granting them virtual immunity, however grave their actions or failure to deliver on democratic promises. As the right hon. Member for Upper Bann said, the history of recent years suggests that republicans move only when they are put under pressure—and then, I would add, only at the last practical moment.

Today, despite many years since the agreement during which the Government have bent over backwards to help republicans make the transition to democracy, we remain in a position whereby the Provisional IRA retains its active military structures, with the capacity for terrorism, uses crime to raise money and intimidate nationalist communities, and retains stocks of illegally held guns and explosives. The onus now should be on the republicans to end their involvement in crime, to stand down the IRA as an effective military force, to turn it into an old comrades association, and to decommission the weapons that they ought not to hold and which, given their repeated promises to be committed to exclusively democratic and peaceful politics, they have no reason to keep. It is just not enough to say, as the Government motion does, that we will suspend the allowances for 12 months, and then Parliament will consider the matter again and see whether the republicans' behaviour has improved.

Mr. Peter Robinson (Belfast, East) (DUP): Is there not a parallel in the Government motion leaving the door open for Sinn Fein in the forlorn hope that it might reform itself? While the Government say that Sinn Fein and the IRA are doing wrong, they are still not prepared to say that democracy in Northern Ireland should proceed without them.

Mr. Lidington: The hon. Gentleman is right. Many different models of democratic progress could be explored, which the different democratic parties have put forward to the Government. While, in my view, the idea of a fully inclusive devolved Executive remains desirable, it is clear that that is not practical politics in anything but the longer term, given what has happened over recent months. We must declare in how we vote this evening our belief that it is now up to republicans to demonstrate that they have finally delivered on their oft-promised commitment to democracy. When they have done that, perhaps Parliament will revisit the issue. That

is why I prefer an amendment that insists that the suspension of parliamentary privileges and allowances should be indefinite.

Kate Hoey: Can the hon. Gentleman clarify for me his interpretation, as the Leader of the House was not able to do so, of

"a period of suspension of one year commencing on 1st April 2005"?

Does that mean that, automatically, from 1 April next year, without any debate or discussion, the current arrangements will come back?

Mr. Lidington: My interpretation of the Government's motion is that the resolution of 2001, which gave Sinn Fein Members privileges and allowances, remains in force, but by virtue of the Government motion would be suspended for 12 months, and that those allowances and privileges would therefore automatically be resumed in 12 months unless a new motion were brought forward deliberately to extend the period of suspension.

The Opposition's amendments clearly place the responsibility to act on the republican movement, and that is where the responsibility belongs. I hope that those amendments, which have the support of Members from many parties represented in the House, will command a majority of votes when we divide at the end of the debate.

4.13 pm

The Secretary of State for Northern Ireland (Mr. Paul Murphy): This has been an informed and interesting debate. Obviously, that has resulted in different points of view being expressed.

Before I make my remarks, I want to reply to the hon. Member for South Staffordshire (Sir Patrick Cormack) with regard to the nature of the whipping on this debate. I can do no better than refer to the points made by the then Leader of the House, my right hon. Friend the Member for Livingston (Mr. Cook), in the previous debate:

"it will be on a one-line Whip. If Labour Back Benchers do not share the view I have expressed, they are perfectly entitled to express theirs. As to other members of the Government, I shall move the motion on the Government's behalf and of course I shall, not unreasonably, look to the Government for support."—[*Official Report*, 13 December 2001; Vol. 376, c. 1006.]

Mr. Nigel Dodds (Belfast, North) (DUP): The hon. Member for Montgomeryshire (Lembit Öpik) mentioned in his speech that certain Members of the House had been briefed on a Privy Council basis regarding evidence in relation to the Northern bank robbery. Can the Secretary of State confirm who exactly has been given special briefings on this issue, and whether that will be extended to the leaders of other parties in the House?

Mr. Murphy: The hon. Gentleman may recall from, I think, the statement on the Northern bank robbery some weeks ago that the hon. Member for Montgomeryshire (Lembit Öpik) asked whether the leader of the Liberal Democrats could be given some sort of briefing on the robbery by the Chief Constable. I promised to pass on his request to the Chief Constable, whose decision it must ultimately be.

Mr. Swayne: Was there not any whiff among the security services that an operation of that dimension was in the offing? I understand that the Secretary of State will not be able to answer that question, but were the answer to be "Not much", would he reflect on why that might have been, given the record of the Northern Ireland security services in respect of intelligence, which was formidable?

Mr. Murphy: I will reflect on what the hon. Gentleman has said.

The last thing I wanted was for the debate to take place at all. It is seven years since the signing of the Good Friday agreement, and Northern Ireland Members will recall that only a few months ago we were again very close to an agreement. That would have meant a period between the agreement and the restoration of the Assembly and the Executive during which the IMC would have verified whether criminality had been carried on during those months by the Provisional IRA. But it was not to be.

I agree with the hon. Member for North Antrim (Rev. Ian Paisley), who said that in a sense this debate about support for Members who have chosen not to take their seats masks something very simple. The debate is, of course, about sanctions, about penalties and about effectively imposing a fine on Sinn Fein—but what it is really about is what has happened over the past few weeks in relation to the criminality associated with the Provisional IRA, and the way in which events described by Member after Member this afternoon have to all intents and purposes torpedoed the political process that we have seen in recent months. The hon. Gentleman spoke of the sins of those who had committed those acts. Indeed, this three-hour debate is, or at least should be, about those sins, and its title is inadequate to describe what we are dealing with today.

The hon. Members for South Staffordshire and for Aylesbury (Mr. Lidington), my hon. Friend the Member for Hull, North (Mr. McNamara), the hon. Members for North-East Hertfordshire (Mr. Heald) and for Montgomeryshire (Lembit Öpik) and, of course, the right hon. Member for Upper Bann (Mr. Trimble) all referred to recent events—in particular the Northern bank robbery, which was mentioned just now by the hon. Member for Belfast, North (Mr. Dodds), and the murder of Robert McCartney. In the last couple of days there has also been the IRA's statement. All of those things have contributed to why we are having this debate.

David Burnside: The Secretary of State is making a very good case in describing the criminality that continues in the Provisional IRA. I believe that he is going to the United States in the next few days. When he announces to the American Congress, President and people that the sanction against the IRA is taking away

[David Burnside]

their allowances in the Palace of Westminster, what reaction does he think he will get, in the context of the fight against international terrorism?

Mr. Murphy: I shall come to that shortly, but the IMC said that whatever we did here in the House of Commons, and whatever I had to do about allowances for the Northern Ireland Assembly, it would all be deeply inadequate to address the issue with which we are dealing today. There are differences between Members, but they all agree that we must address the criminality that lies behind the events of the past few weeks which is poisoning the political process. We can take away the allowances of the Members whom we are discussing—fine them, in other words. It has been said today that if we take half a million pounds from Sinn Fein it will not matter, but I think it will demonstrate the profound disagreement in the House of Commons with what has happened.

If we extend that to other aspects such as access to the House of Commons, there is a disagreement among us about whether we should do that as well. The disagreement is not about a question of principle—whether there should be sanctions—but about the balance that we need to strike. On the one hand we penalise the party, but on the other hand we do not want to penalise the people who voted for certain people in certain constituencies. There are genuine disagreements about that matter, but in both cases the argument is inadequate to address the issue of criminality, which has brought down the political processes and talks over the last number of weeks.

Sir Patrick Cormack: Before he finishes, will the Secretary of State address the paradox that I mentioned earlier—that we are going to slap control orders on people who are probably not terrorists, while allowing terrorists in our midst?

Mr. Murphy: The issue is not about control orders or sanctions. It is about how we deal effectively with the process in Northern Ireland that has resulted in the criminal activity that we have seen over the last number of weeks. It is about how we ensure that Sinn Fein goes back into the talks, having rid itself of all that the IRA has done over the last number of weeks. There must be a split between criminality on the one hand and the proper political process on the other.

Mr. Robathan: I thank the Secretary of State for his customary courtesy, which is what I would expect from an old Orielensis. He has spoken about the criminality of the last few weeks, but is it not a fact that the IRA has been deep in criminality throughout its existence and throughout the time of the Belfast agreement? Does he remember that, under the terms of the document on decommissioning published in April 1998, all weapons were meant to be decommissioned within two years of the referendums? They are now about five years late.

Mr. Murphy: I must say to the hon. Gentleman that no one thought for one second that criminality had ended. The joint declaration document that the two Governments published some time ago made reference to criminal activity. What everyone thought in 1998 was that there would be a period of transition during which such criminality would wither away, eventually leading to a period of normal politics in Northern Ireland. The problem over the last number of years, and particularly over the last number of months when the events that we are discussing took place, is that that has not happened. It has not happened quickly enough and it has not happened in respect of quantity, either. The type of criminality that we have seen in Northern Ireland—it has been associated with the Provisional IRA and the equivalent loyalist paramilitary groups—has not gone away. That is the issue that the House has to consider today. Whether we vote for the amendments or for the Government motion, we are expressing the deep and profound disapproval of the House of Commons for what has happened to the political and peace process in Northern Ireland.

Lembit Öpik: Does the Secretary of State agree that Sinn Fein should take note of the fact that those who have sought and sustained a constructive dialogue nevertheless find themselves with no alternative but to support the sanctions? That is a consequence of the strains that the IRA's actions have now placed on the process. Sinn Fein really must reflect—I am sure that it will—on our debate and start visibly to put its house in order before relationships based on good will are strained even further.

Mr. Murphy: That is absolutely right. The hon. Member for Aylesbury was also absolutely right when he said that the onus in this process is now entirely on Sinn Fein to prove to the people and the political leaders of Northern Ireland, to the House of Commons and to both Governments that it is truly going down the non-violent, democratic political road that lay at the heart of the Good Friday agreement. The criminal activities that we have seen over the last number of months clearly violate the principles of that agreement and everything that anyone involved in the talks leading up to it expected. My hon. Friend the Member for Newry and Armagh (Mr. Mallon) and the right hon. Member for Upper Bann will remember, as they were so involved in the talks leading up to the agreement, that everything was based on the principle of non-violence and the democratic process. Robbing banks, murdering people, so-called punishment beatings and racketeering are all completely unacceptable when more than 2 million people in Ireland, north and south, voted for a peaceful future in 1998. Regardless of whether they agree with the Good Friday agreement, all Members of the House believe that that is the right thing to do.

Mr. Brian Wilson (Cunninghame, North) (Lab): Does my right hon. Friend also acknowledge that the willingness to accept Sinn Fein according to the terms that it uses to present itself has undermined and undercut genuinely democratic political organisations in Northern Ireland? Sinn Fein—or Sinn Fein-IRA, whatever it calls itself—has been involved in serious criminality in the past. Should not the Government be

more transparent about what they know, so as to protect and support the genuinely democratic political parties in the north of Ireland?

Mr. Murphy: I thank my hon. Friend for that. Those who know about Irish history know that the genuinely republican people who set up the Irish Republic, and those who consider themselves to be of a republican persuasion, would be genuinely and sincerely alarmed at the present level of criminality in the IRA. That has nothing to do with persuading people to vote for either the republican or nationalist cause. Regardless of whether they have a Unionist or nationalist background, people in Northern Ireland must accept the principles underlying the new policing arrangements and criminal justice system there. Those arrangements were voted for by the people of Ireland, north and south.

Last week, the Catholic archbishop of Armagh said that Catholics should assume their full civic responsibilities for an agreed and representative system of law and order in Northern Ireland.

Rev. Martin Smyth (Belfast, South) (UUP): I thank the Secretary of State for giving way, and I apologise to the House that other business meant that I could not be present for the whole debate. I agree with what the archbishop said, but will the right hon. Gentleman acknowledge that it was De Valera who clamped down harshly on Sinn Fein in the republic, and that some of us will have to do the same in the UK? When he considers the views of those who voted for the party, will he bear it in mind that Sinn Fein-IRA executed four Members of this House? What sort of politicians are Sinn Fein Members? There is a great difference between the British way of life and what they want to impose on Northern Ireland.

Mr. Murphy: I am grateful to the hon. Gentleman for making those points, and many hon. Members in this debate have said that the consequences of the murder of Robert McCartney, and the subsequent campaign by his sisters, have been more profound than anything that has happened in recent weeks. People in republican communities—in that case, in the Short Strand area—have risen up to disagree with and disown the terrorist intimidation that they have had to put up with over so many years. That is more significant than any other development. Obviously, the McCartney family's very courageous stance is to be applauded, but it shows that genuinely republican people in Northern Ireland who voted for Sinn Fein over the past seven years have become completely fed up with the sort of intimidation recently evident in the Short Strand area. That response is more telling than anything that the Government might propose.

The events of recent weeks are hugely disappointing in the context of what has happened over the past few years. They have clearly got in the way of progress in the political process. I do not agree with the hon. Member for Blaby (Mr. Robathan), but I do agree with my hon. Friend the Member for Hull, North, who said that, despite the recent difficulties, everyone in Belfast or any other community in Northern Ireland understands that it is a different world now, compared with seven years ago.

Progress has been made, and peace achieved, because politicians from all parties have worked together to make Northern Ireland a much better place in which to live and work. We do not have the killings or bombings that we used to have, and we should be grateful for that. However, that does not mean for one second that the criminality issue must not be addressed, because it has to be. Until that criminality issue is addressed, I fear that the peace process in Northern Ireland will be jeopardised in the days and the weeks ahead.

I urge my hon. Friends—indeed, all Members of the House—to support the Government's motion today.

Question put, That the amendment be made:—

The House divided: Ayes 170, Noes 358.

Division No. 129] **[4.29 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Amess, David
Ancram, rh Michael
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brazier, Julian
Browning, Mrs Angela
Burns, Simon
Burnside, David
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
May, rh Mrs Theresa

Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Pugh, Dr. John
Redwood, rh John
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Ayes:
Mr. John Randall and Mr. Mark Prisk

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allan, Richard
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Bell, Sir Stuart
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bottomley, Peter *(Worthing W)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Breed, Colin
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Burden, Richard
Burnett, John
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cabom, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Carmichael, Alistair
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Chidgey, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corbyn, Jeremy
Cotter, Brian
Cousins, Jim
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Edward *(Kingston)*
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Dunwoody, Mrs Gwyneth
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gerrard, Neil
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Harvey, Nick
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Holmes, Paul
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Keetch, Paul
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony

MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Öpik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Stunell, Andrew
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tyler, Paul *(N Cornwall)*
Tynan, Bill *(Hamilton S)*
Walley, Ms Joan
Ward, Claire
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Willis, Phil
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Ms Bridget Prentice and Mr. Tom Watson

Question accordingly negatived.

Amendment proposed: (b), in line 5, leave out from "effect" to end.—*[Mr. Lidington.]*

Question put, That the amendment be made:—

The House divided: Ayes 171, Noes 357.

Division No. 130] **[4.46 pm**

AYES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Browning, Mrs Angela
Burnett, John
Burns, Simon
Burnside, David
Burstow, Paul
Butterfill, Sir John
Cameron, David
Campbell, Gregory *(E Lond'y)*
Campbell, rh Sir Menzies *(NE Fife)*
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Cormack, Sir Patrick
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dodds, Nigel
Donaldson, Jeffrey M.
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Flight, Howard
Flook, Adrian
Forth, rh Eric
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
Gibb, Nick *(Bognor Regis)*
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hamilton, David *(Midlothian)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
Luke, Iain *(Dundee E)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
O'Brien, Stephen *(Eddisbury)*
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paisley, Rev. Ian
Paterson, Owen
Picking, Anne
Pickles, Eric
Portillo, rh Michael
Pugh, Dr. John
Redwood, rh John

Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Robinson, Mrs Iris *(Strangford)*
Robinson, Peter *(Belfast E)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sayeed, Jonathan
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Smyth, Rev. Martin *(Belfast S)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Trend, Michael
Trimble, rh David
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Ayes:
Mr. John Randall and Mr. Mark Prisk

NOES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Baker, Norman
Banks, Tony
Barnes, Harry
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Bell, Sir Stuart
Benn, rh Hilary
Bennett, Andrew
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bottomley, Peter *(Worthing W)*
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bruce, Malcolm
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Chidgey, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Corbyn, Jeremy
Cotter, Brian
Cousins, Jim
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Follett, Barbara
Foster, rh Derek
Foster, Don *(Bath)*
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
George, Andrew *(St. Ives)*
Gerrard, Neil
Gibson, Dr. Ian
Gill, Parmjit Singh
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Green, Matthew *(Ludlow)*
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Hopkins, Kelvin
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Glenda *(Hampstead & Highgate)*
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Lynne *(Selly Oak)*
Jones, Martyn *(Clwyd S)*
Jones, Nigel *(Cheltenham)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Keetch, Paul
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Charles *(Ross Skye & Inverness)*
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
Kilfoyle, Peter
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
McDonnell, John
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
McNamara, Kevin
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marsden, Gordon *(Blackpool S)*
Marshall-Andrews, Robert
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun

Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
Oaten, Mark *(Winchester)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Öpik, Lembit
Organ, Diana
Osborne, Sandra *(Ayr)*
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Gordon *(Pendle)*
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, Alan *(Argyll & Bute)*
Reid, rh Dr. John *(Hamilton N & Bellsh'll)*
Rendel, David
Robertson, John *(Glasgow Anniesland)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Sarwar, Mohammad
Savidge, Malcolm
Sawford, Phil
Sedgemore, Brian
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Short, rh Clare
Simon, Siôn *(B'ham Erdington)*
Simpson, Alan *(Nottingham S)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, rh Chris *(Islington S & Finsbury)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Stunell, Andrew
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dan *(Stockton S)*
Taylor, David *(NW Leics)*
Taylor, Matthew *(Truro)*
Teather, Sarah
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Tonge, Dr. Jenny
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Dr. Desmond *(Brighton Kemptown)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Wood, Mike *(Batley)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Noes:
Mr. Tom Watson and Ms Bridget Prentice

Question accordingly negatived.

Main Question put and agreed to.

Resolved,

That for a period of suspension of one year commencing on 1st April 2005 the Resolution of the House of 18th December 2001 relating to Members who have chosen not to take their seats and thus do not qualify to participate in proceedings in Parliament shall not have effect in so far as it provides for their claiming support for their costs under the provisions of the Resolutions of this House relating to Members' Allowances, Insurance etc., and the allowances relating to travel within the United Kingdom for Members, their families and staff.

Angus Robertson (Moray) (SNP): On a point of order, Mr. Deputy Speaker. You are well aware of the importance of RAF Kinloss and RAF Lossiemouth to my constituency and my previous difficulties in being properly informed about statements by the Ministry of Defence. Today, journalists have raised with me the impending announcement of the future stationing of Nimrod MRA4 aircraft at Kinloss. I have been told what the scope and time scale of the decision are supposed to have been, but, despite six calls to the Ministry of Defence, I have not received written confirmation about the details of the announcement, although I was promised it within seconds at 1.14 this afternoon. At 4.10 pm, I received a faxed letter with no details about the Nimrods but a hand-written addendum from the Minister of State saying that there would be an announcement tomorrow.

On the related matter of job losses, the Ministry today issued a written statement on how many posts are set to go as part of the end-to-end logistics review. Part of the statement was provided to the House, but not the tables with the numbers, which were forwarded by the MOD three hours late. The details had to be faxed to me by a newspaper that had received them before me. That information confirms that almost 1,000 posts are to be relocated or lost from bases in my constituency.

How many points of order will it take for the Ministry of Defence properly to inform Parliament and parliamentarians about key issues relating to thousands of jobs? It is a scandalous abuse of Parliament that the service community and the media have been so cynically manipulated. What can you do, Mr. Deputy Speaker, to protect Parliament and parliamentarians so that announcements are made properly in this House?

Sir Menzies Campbell (North-East Fife) (LD): Further to that point of order, Mr. Deputy Speaker. The table to which the hon. Gentleman referred reveals that 160 jobs will go at RAF Leuchars, which is in my constituency. Has any member of the Ministry of Defence team suggested making an oral statement to the House? Is it not right that, for the proper protection of those we represent, such announcements should be made in the House so that Ministers can be made to answer for them to those Members of Parliament whose constituents' interests are directly affected?

Mr. Oliver Heald (North-East Hertfordshire) (Con): Further to that point of order, Mr. Deputy Speaker. It seems likely that we are about to suspend our proceedings while we await further messages from the other place about the Prevention of Terrorism Bill. Instead of suspending, what better opportunity is there for a Minister to come to the Chamber to make a proper statement so that we all know exactly what is happening about these important issues? That point was raised

[Mr. Oliver Heald]

with the Leader of the House at business questions today. He said that he would take it up, so perhaps he can tell us exactly what he has done and exactly what is happening.

Mr. Eric Forth (Bromley and Chislehurst) (Con): Further to that point of order, Mr. Deputy Speaker. Should it not be your judgment that the House continue, could Ministers request an early resumption, ahead of the Lords messages, so that these matters can be properly dealt with? We have the ideal parliamentary opportunity to do so and it would be a pity if a petty procedural point got in the way of Ministers accounting to us for their actions.

Mr. Paul Tyler (North Cornwall) (LD): Further to that point of order, Mr. Deputy Speaker. You will recall—I think you were in the Chair at the time—that I raised this matter with the Leader of the House. He promised to take urgent action to ensure that the Secretary of State for Defence was told of the concerns of hon. Members on both sides of the House about constituency matters of great importance to us and our constituents being announced in a written statement with no details when a briefing was given to the local media, but not to Members of Parliament. As the Leader of the House is in his place and as the House is sitting, may we have a statement from a Defence Minister?

Mr. Deputy Speaker (Sir Alan Haselhurst): I am grateful to the hon. Member for Moray (Angus Robertson) for giving me notice that he intended to raise this point of order. Mr. Speaker has said on several occasions how concerned he is by cases in which the media are informed of official decisions relating to a Member's constituency before the House and Members are notified. It is also important, in Mr. Speaker's view, that such information should be provided in a timely, accurate and complete manner. I will of course draw the hon. Member's remarks to Mr. Speaker's attention.

In response to the further points of order that have been made, the House will know that the Chair cannot command the presence of a Minister. Whatever opportunities may exist have to be determined in another way. I hope that it has been noted that there is widespread concern that such incidents are unfortunately becoming less rare and that Members are rightly concerned, as is Mr. Speaker on their behalf. Members come first as far as important and sensitive information about their constituencies is concerned, and such information should be dealt with in a proper manner.

The Leader of the House of Commons (Mr. Peter Hain): Further to that point of order, Mr. Deputy Speaker. I am well aware of the concerns of the House, which were expressed at business questions and have been vigorously reiterated this evening. My right hon. Friend the Secretary of State for Defence has been made aware of those concerns and will be made even more aware by the points that have been raised.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): Further to that point of order, Mr. Deputy Speaker. I am glad that the Leader of the House intervened at this point. Several references have been made to the possibility of a statement being made tomorrow, but the House is not sitting tomorrow, although it may continue to sit today for some time. Therefore, there will be no opportunity for a statement to be made and for Mr. Speaker's advice to be obeyed. That surely adds to the pressure for a Defence Minister to come to the House at some point this evening to meet the reasonable requests of Members.

Sir Patrick Cormack (South Staffordshire) (Con): Further to that point of order, Mr. Deputy Speaker. Can you confirm that Thursday can last until Sunday if necessary?

Mr. Deputy Speaker: I can, with joy, confirm that to the hon. Gentleman. That is a parliamentary fact. The Leader of the House has heard what right hon. and hon. Members have had to say on this matter and the Chair cannot go further than that.

Miss Anne McIntosh (Vale of York) (Con): Further to that point of order, Mr. Deputy Speaker. I have just been given a copy of the table and it shows substantial changes for RAF Leeming in the Vale of York. The House now has an opportunity to discuss those changes, which will cause enormous concern across north Yorkshire, and it is astounding that we cannot do so.

Mr. Deputy Speaker: I am obviously concerned that the hon. Lady's constituency will also be affected, but the general point has been well made. It must be left now to the Government to decide how to respond.

5.8 pm

Sitting suspended.

6 pm

On resuming—

BUSINESS OF THE HOUSE

Motion made, and Question put forthwith, pursuant to Standing Order No. 15 (Exempted business),

That, at this day's sitting, consideration of any Lords Messages that may be received may be proceeded with, though opposed, until any hour.—*[Ms Bridget Prentice.]*

Question agreed to.

Prevention of Terrorism Bill

Lords reasons for insisting on certain of their amendments to which the Commons have disagreed, considered.

Mr. Deputy Speaker (Sir Michael Lord): I must inform the House that a message has been brought from the Lords as follows. The Lords insist on certain of their amendments to the Prevention of Terrorism Bill to which the Commons have disagreed, for which insistence they assign their reasons. They agree to certain Commons amendments to certain Lords amendments and disagree to certain other Commons amendments to Lords amendments, for which disagreement they assign their reasons. They do not insist on certain other amendments to which the Commons have disagreed but do propose amendments in lieu thereof, and they do not insist on their remaining amendments to which the Commons have disagreed. Copies of Lords reasons and amendments are available in the Vote Office, as are the Government's proposals relating to the message. All Government proposals will be debated together.

Lords reason: 1D

The Secretary of State for the Home Department (Mr. Charles Clarke): I beg to move, That this House insists on its amendments 1A and 1B to Lords amendment No.1, insists on its disagreement to Lords amendments Nos. 12, 13, 15, 17, 22, 28 and 37 and insists on its amendments 37A to 37O, disagrees to Lords amendments 37Q to 37T proposed in lieu of Lords amendment No. 8, and proposes amendments (a) to (f) to the words restored to the Bill by its insistence on its disagreement to Lords amendment No. 17.

Mr. Deputy Speaker: With this it will be convenient to discuss Lords reasons 12A, 13A, 15A, 17G, 22A, 27B, 28A, 31B, Government motion to insist &c. and Government amendments (a) and (b), Lords reason 33D and Government motion to disagree &c., Lords reasons 37P to 37T, 38A, 39A, 40A, 42D, 42E and Government motion to insist &c.

Mr. Clarke: As you indicated, Mr. Deputy Speaker, we are debating all the amendments together, and I intend very briefly to go through the Government's position on each of the issues that has been addressed.

I turn first to Lords reasons 38A, 39A, 40A, etc. The effect of the Lords motion is that the Lords have insisted on their amendment to the schedule that provides for the Lord Chief Justice to make the rules and to require rules of court to be compatible with article 6 of the European convention on human rights and have proposed a different procedure for the making of first rules. We do not accept that that set of proposals is sensible. First, the Lord Chief Justice does not make rules of court. Secondly, the rules must be compatible with article 6 in any event. Thirdly, we have changed the procedure to allow affirmative resolutions to approve the rules. I therefore ask the House to insist on its disagreement to Lords amendments Nos. 38, 39 and 40, insist on its amendments Nos. 42A and 42B, agree to its amendment No. 42C, agree to Lords amendment No. 42D and disagree with Lords amendment No. 42E proposed in lieu.

Secondly, I address Lords reason 1D, which refers to the Secretary of State making non-derogating orders and to the standard of proof. The effect of the Lords' motion is that they have rejected our amendments in relation to the making and judicial supervision of non-derogating control orders and to standards of proof. They are insisting on their own amendments in relation to those matters. We had a very long debate on those issues last night. The will of the House was expressed very clearly indeed. I do not propose to accept the amendments proposed, since I believe that a reduction in the standard of proof would lead to the likelihood that certain dangerous individuals who otherwise would be brought under control through control orders would not be so controlled. That is the advice that I have had from the police and the security services. I therefore conclude that the Lords amendments are not an improvement.

My amendments indicated very considerable movement by the Government to address the concerns expressed in both Houses. For that reason, I ask the House to insist on its amendments Nos. 1A and 1B to Lords amendment No. 1, insist on its disagreement to Lords amendments Nos. 8, 9, 12, 13, 15, 17, 22, 28 and 37, and insist on its amendments Nos. 37A to 37O, to disagree to Lords amendments 37Q to 37T proposed in lieu of Lords amendment No. 8, and propose the additional amendments listed in my name on the marshalled list.

I believe that the hon. Member for Beaconsfield (Mr. Grieve), in responding to this discussion, should answer a key question when considering these amendments. Will he confirm that his policy neglects the advice of the police and security services and would mean that control orders would not be placed on certain individuals whom the police and security services consider a threat?

Mr. Mark Oaten (Winchester) (LD): Will the Home Secretary acknowledge that it is difficult for Opposition parties to answer that question unless we can be shown the evidence on which the assumption is based? Will he make available the evidence that is being given to him by intelligence sources?

Mr. Clarke: I will make available in general terms—[HON. MEMBERS: "Oh"]—it is a very important distinction—the evidence for the basis of the case that we make. Indeed, I did that only last week in a general case to explain why we were concerned about the issues. I will not confirm that I will make available in particular terms the particular situation relating to particular individuals, because it is precisely in those particular circumstances that national security issues are at risk. However, I can say to the hon. Gentleman that I am ready to acknowledge, as he asks, that, on the procedures for which he has been pressing and that my noble Friend the Attorney-General has set out in relation to Committees of the House, it is important to

[Mr. Clarke]

be clear that they allow the special advocate to understand the case in the round. I shall comment on that in more detail later in my remarks.

Mr. Dominic Grieve (Beaconsfield) (Con): Both the Home Secretary and the Prime Minister have repeatedly said that the security services require the control orders. Without going into individual cases, it ought to be perfectly possible for the Government to place before the House, as they have done in the past, the views of the security services—both security services—so that the House can know whether that is correct. As the Home Secretary will appreciate, ever since the events surrounding the Iraq war it has been difficult to take anything that the Government say on trust.

Mr. Clarke: I am very sorry indeed that the hon. Gentleman should seek to cast doubt on the security services—[HON. MEMBERS: "No, you did."] No, that is precisely what he sought to do. I have always acknowledged, from my statement on 26 January and throughout the various debates, that the issue of weapons of mass destruction in Iraq has caused concern and has led to issues of trust that need to be addressed—

Sir Patrick Cormack (South Staffordshire) (Con): Will the Home Secretary give way?

Mr. William Cash (Stone) (Con): Will the Home Secretary give way?

Mr. Clarke: No, I am not giving way.

There are issues of trust in relation to both the Government and security and intelligence information. That is a fair point to make in discussion. However, because the doubt has been raised in the way the hon. Member for Beaconsfield (Mr. Grieve) raised it, I argue—it is an important argument—that it cannot be asserted simply on the basis of that doubt that all evaluations by all the security services of any threat to come should be cast aside, because they should not be.

Mr. Grieve: Will the Home Secretary give way?

Mr. Clarke: I shall give way once more and then I want to make progress.

Mr. Grieve: Let us bring the discussion to this particular topic. The Home Secretary knows that, last week, the Prime Minister claimed that there were hundreds of potential terrorists abroad in this country. Within 24 hours, there had been a leak from the security services saying that that was nonsense and that the figure was between 10 and 20. Clearly, we cannot verify whether that leak was accurate, but the Home Secretary might reflect that it casts some doubt on whether we should accept either his word or that of the Prime Minister on anything.

Mr. Clarke: First, the hon. Gentleman is not talking about leaks and all that side of things. The figures that he quotes are actually set out in the financial memorandum and the regulatory impact assessment that we put before the House when we published the measure. They are entirely public documents and one would think that a competent Opposition would have studied them carefully before considering the situation—*[Interruption.]*

Mr. Tam Dalyell (Linlithgow) (Lab): How come the Home Secretary has been unable to persuade Paul Condon of all this?

Mr. Clarke: The main reason for that is an important one, which relates to a discussion that we held earlier. The events of 9/11 and those that followed were particularly significant. Paul Condon resigned as Metropolitan Police Commissioner before that time—*[Interruption.]* Yes, he did. The House should consider equally the remarks of Sir John Stevens, Lord Stevens, on that question. He was commissioner at that time and had to deal with those issues. The House should also consider the position of the current commissioner. Today, at a briefing for the crime reporters association—

Sir Patrick Cormack: Will the Home Secretary give way?

Mr. Cash: Will the Home Secretary give way?

Mr. Clarke: I am not giving way, as I have already made clear.

The question to the Metropolitan Police Commissioner was:

"Do you have a feeling that the legislation"—

on the prevention of terrorism—

"is being prepared so rapidly by the Government because of concerns over the general election?"

That was putting the Opposition's allegations directly to the commissioner. He answered:

"I cannot say that, but I can say very clearly that the Government is in a position that on Monday if this legislation is not passed these men must be released from Belmarsh".

That was the commissioner speaking. He continued:

"I think that will be a grave threat to the national security, I can certainly say that."

The evidence from the former Metropolitan Police Commissioner, who had the job of dealing with the post-9/11 situation, and the current Metropolitan Police Commissioner, is absolutely clear on this question.

Several hon. Members *rose*—

Mr. Clarke: No, I shall not give way. I am going to make progress.

Mr. Deputy Speaker: Order. I think the Home Secretary is indicating that he is not giving way at this juncture.

Mr. Clarke: Thank you, Mr. Deputy Speaker.

I now turn to Lords reasons 27B, 31B and 32B, dealing with Privy Council review and annual reviewer, and Lords amendment No. 33D, dealing with the sunset clause. The Government's motion—

Several hon. Members *rose—*

Mr. Clarke: I shall not give way.

The Government's motion states that the House insists on its disagreement with Lords amendments Nos. 27, 31 and 32 and proposes amendments in lieu in relation to the scope of the independent annual review. The effect of the two amendments tabled in my name is to extend the scope of the independent annual review of the Act so that the review covers the whole Act, rather than just sections 1 to 6 on operation of control orders, as now.

Under these amendments, the appeal provisions will come within the scope of the review, as will the arrangements for reviewing the Act once passed. I think this proposal goes towards dealing with some concerns that have been expressed on both sides of the House and also by my noble Friend Baroness Hayman in the other place, about the way in which these issues are to be considered when the legislation is taken forward.

As I said yesterday, the Bill already provides a number of provisions for substantial and considered review of this system of legislation. They are, first, the quarterly reports that I, as Secretary of State, make to Parliament on the use of the powers to make control orders and, secondly, an independent reviewer—now, I suggest, of the whole operation of the Act—making an annual report, which is laid before Parliament. I confirm what I have said before: I will ask the independent reviewer to look specifically at the continuing need for the provisions in this Bill in the light of any new counter-terrorist legislation.

I propose—I emphasise this new proposition now—to widen the remit to the whole Act, not simply the control order powers and the offence provisions.

My proposal of last night was for the annual renewal of the Act with a vote in both Houses of Parliament to look at that situation. The proposal in the Bill enables the House to vote annually on the need to continue the capacity to make derogating control orders, if at some future stage we decide to derogate. I gave a commitment to my hon. Friend the Member for Ealing, Acton and Shepherd's Bush (Mr. Soley) yesterday to have discussion across all parties after the election about the best way of taking this legislation forward. Of course, the opportunity for new legislation in the next Session gives us another opportunity to review these provisions.

I can confirm—again responding to Baroness Hayman—that we will ensure that the proposed legislation both has proper pre-legislative scrutiny and will be introduced as early as possible in the next Session.

I believe it is important, coming back to the attitude of the Conservative party, that the hon. Member for Beaconsfield state whether, in any post-election discussion of the type that we have discussed in the House, the Conservatives will accept control orders as a means of giving the security services the powers they need to deal with these threats. I also think that it is incumbent on him, on behalf of the official Opposition, to confirm that his election manifesto will include the pledge to repeal control orders, if that is indeed his position. The House deserves an answer to that question.

On the basis of these proposals, we do not feel that we need a further Privy Council review or an additional review committee, and it is total nonsense to remove the annual review of the Act. To be quite frank, the amendment passed in the other place is an offence against the excellent current reviewer, Lord Carlile of Berriew, and the work he is doing in carrying that through. To suggest he is not doing good work in this matter was a serious mistake by the Lords, in my opinion. I am determined that we insist on our disagreement with the amendments so as to maintain the existence of the independent reviewer. *[Interruption.]* I suggest that colleagues look at what he said in the debate in the House of Lords. He did not agree with himself being abolished in the way suggested by this particular proposal—not surprisingly, because he has done a pretty good independent, non-politically partisan job, to which we should all pay respect and tribute. That is why I am determined that we insist on our disagreement with the Lords amendments and thus maintain the existence of the independent reviewer.

I hope that the House will insist on its disagreement to Lords amendments Nos. 27, 31 and 32 and that it will accept the Government amendments in lieu. I also hope that the House will disagree with Lords amendment No. 33D and agree to amendments Nos. 33A to 33C.

6.15 pm

When the hon. Member for Beaconsfield responds, I hope that he will set out what leads him to believe that a magic solution will be found by the end of March next year that will allow agreement to be reached on all these things. Even more, I hope that we will hear whether he accepts that his proposal to end control orders in November—or even at the end of March 2006—would encourage terrorists to locate in Britain, because I believe that that would be the effect of his actions. That is why I commend both our amendments and the statement of the Commissioner of Police of the Metropolis to the House and hope that hon. Members will support our amendments this evening.

Mr. Grieve: I am sorry to hear the Home Secretary's tone this evening. It was characterised by his assertion a few moments ago that due to some activity of the House or the Opposition, individuals would be released from Belmarsh next week. Nothing could be further from the truth. The release will happen whether the Government get the Bill or not. It would not need to happen if the Government renewed their part 4 powers, but as it was said in court today, their response to the bail applications made under part 4 of the Anti-terrorism, Crime and Security Act 2001 has been shambolic, so they have got themselves into their present difficulties.

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): Will my hon. Friend remind the House that the

[Mr. Douglas Hogg]

Home Secretary has already told us that he does not propose to use control orders to hold those people in custody?

Mr. Grieve: Indeed, and those people will not even be subject to home detention. The statement made by the Home Secretary started with a complete inaccuracy.

The first thing that shines through from the Lords amendments is that Members of the other place have tried to achieve a consensus in a conciliatory fashion. How else can one interpret the amendment tabled by Baroness Hayman proposing a sunset clause extending to 12 months? We were happy to accept that amendment as a gesture to the Government, even though, I might add, it is unnecessary if they are being sincere and wish to get on with further legislation.

Mr. Andrew Mackay (Bracknell) (Con): Did my hon. Friend note that the Home Secretary walked through the Division Lobby earlier today to vote for a sunset clause to help Sinn Fein-IRA Members? Is it not ironic that he rejects a reasonable sunset clause to help civil liberties, but supports a sunset clause that aids and abets terrorists?

Mr. Grieve: I agree entirely with my right hon. Friend.

Mr. Peter Luff (Mid-Worcestershire) (Con): On the subject of sincerity, has my hon. Friend had the chance to study the words of the Home Secretary that I showed him during the suspension? They read:

"Our strategy should therefore be to insist that the bill does not diminish the liberty of the subject but amplifies it; that the true liberty of the subject consists in the freedom to walk the streets unmolested . . . and that far from circumscribing the liberty of the subject this will enlarge it . . . Paradox works well and mists up the windows, which is handy. 'The loss of liberty is the price we pay for freedom' type thing."

My hon. Friend will realise that they are the words of the fictitious Home Secretary in Alan Bennett's excellent play "The History Boys". They were intended as satire, but now sound eerily and worryingly prophetic.

Mr. Grieve: Indeed. Government Members yesterday suggested that the need for security was so great that any infringement of liberty might be tolerated. We disagree profoundly with the Government on that point.

The situation regarding the sunset clause is quite clear. The Government know from the comments of many of their Back Benchers, including those whom they persuaded to support them yesterday, that the Bill is without doubt a major infringement of civil liberties and is poorly drafted. The hon. and learned Member for Redcar (Vera Baird) made that comment, even though, in her loyalty, she came back to support the Government. The Home Secretary should therefore accept that the legislation should have a finite limit. Without such a limit, I have no confidence that the Government will ever review the measure properly. We will simply be asked to rubber-stamp its renewal, and there will be no creative thinking about how we resolve our present dilemma and maintain civil liberties while fighting terrorism adequately.

Huw Irranca-Davies (Ogmore) (Lab): Once again, the Opposition have made much of the opinions of people who have formerly held eminent positions. Does the hon. Gentleman accept that his proposals fly in face of the contemporary opinions of the security services and the police? If his measures are accepted, they will fly in the face of that advice and jeopardise the citizens of the United Kingdom.

Mr. Grieve: The hon. Gentleman's generalised comments are not very helpful, as we need to look at specific points. Is he suggesting that the security services have said that a sunset clause defeats the object of the Bill? It plainly does not, and it is nonsense to make that assertion.

Mr. John Redwood (Wokingham) (Con): Is my hon. Friend, like me, worried not only about the attack on civil liberties but about the fact that the Bill does not guarantee the security of the British people? The Government know that there are hundreds of terrorists out there, but we now know that not a single one will be charged or locked up.

Mr. Grieve: My right hon. Friend makes a good point. That is a serious problem, and it is one reason why we tabled a provision on the director of public prosecutions, as there should be proper consultation to ensure that wherever possible prosecution is pursued. That is another area that the Government have dismissed entirely.

Huw Irranca-Davies: The hon. Gentleman is generous in giving way again. To pursue his point about the security services and the police, they are asking for control orders. What is the Opposition's policy on control orders? If they have no intention of using them, will they include such a statement in their manifesto?

Mr. Grieve: The hon. Gentleman is not listening to the debate. However much I dislike the prospect, it is within the Government's power to obtain control orders within a few hours. What is preventing them from doing so is the purest petulance. The Government have insisted that there should be a distinction between derogated and non-derogated orders.

Mr. Frank Field (Birkenhead) (Lab): Does the hon. Gentleman accept that there is a huge divide in the House on a number of issues, but that the crucial issue is the sunset clause? There may be only one Government Member who believes that the measures fall short of the threat but, having listened to the Home Secretary, I accept completely that the threat is of a nature that we have not faced before. I am therefore worried about whether the measures proposed by the hon. Gentleman are adequate to deal with the threat. Without a sunset clause, we can never go back to the drawing board to consider measures that are adequate to the challenge. I am worried that a review in 12 months' time will merely

provide approval, not a basic analysis of what is required, given the challenge that the Home Secretary said we face.

Mr. Grieve: I agree entirely with the right hon. Gentleman's sensible comments. If the Government accepted the sunset clause in the spirit in which it is intended, the House could start to make real progress. The reluctance of the Home Secretary and the Prime Minister to accept a sunset clause on an issue of huge importance to civil liberties does them no credit whatsoever.

Mr. Field: Is the hon. Gentleman saying that if the Government accepted the sunset clause, the official Opposition would drop all their objections to the remaining measures, knowing that we could return to the drawing board after the election?

Mr. Grieve: The Government should go further and I shall explain why. I simply do not understand why they chose to make an issue of the distinction between derogating and non-derogating orders. During the debate last week, the hon. and learned Member for Redcar made an exceptionally good speech in which she explained why the distinction between derogating and non-derogating orders should be removed. She also highlighted why judicial review proceedings are inadequate for non-derogating orders. Her comments then were absolutely correct and I accept that she accepted less than that yesterday out of loyalty. I have yet to understand the rationale behind the Home Secretary's insistence that the distinction must be maintained.

The answer to the question asked by the right hon. Member for Birkenhead (Mr. Field) is that we insist that the Government move on the issue.

Vera Baird (Redcar) (Lab): The hon. Gentleman knows very well that when I referred to judicial review I was addressing the question of an appeal on an unsatisfactory basis. I have been substantially reassured because the judge will now come first in non-derogating control orders. I hope that the hon. Gentleman will not misrepresent what I said a week ago.

The hon. Gentleman seems to be suggesting that a sunset clause is a precondition for conversations between parties about future legislation. That is utter rubbish and the public should understand that. Conversations have been offered here and now by the Home Secretary, irrespective of the sunset clause, and he has promised new legislation next year. The Opposition have every opportunity to contribute to better future legislation on this matter. The sunset clause is a silly, political tactic.

Mr. Grieve: The hon. and learned Lady is naïve if she thinks that in the absence of a sunset clause we will get any joy from this Government on a proper review of this legislation with its draconian clauses and consequences.

I have here the comments made by the hon. and learned Lady on 28 February and they could not be more crystal clear in their condemnation of a review system as opposed to one where the judge makes the initial decision. I invite her to read her words.

Mr. A. J. Beith (Berwick-upon-Tweed) (LD): As someone who was, in the words of the hon. and learned Member for Redcar (Vera Baird), given the opportunity to contribute to legislation in the Newton committee, I remind the House that the only sunset depended on the committee's report being debated. When the all-party committee produced a set of alternative proposals, the Home Office did not have to consider adopting them because the legislation continued. Only the sunsetting of the legislation by the House of Lords led to the Government taking up the committee's proposals.

Mr. Grieve: Yes, indeed. Baroness Hayman was a member of that committee, which may explain why she places so little faith in the Home Secretary's assurances. I am bound to say to the hon. and learned Member for Redcar that she should not place much faith in those assurances.

Chris Bryant (Rhondda) (Lab): Will the hon. Gentleman give way?

Mr. Grieve: No. I want to bring my comments to a conclusion.

The Government have also objected to all the other proposals made in the other place to improve the Bill. I do not understand the Government's continuing insistence on reasonable suspicion rather than the balance of probabilities. There is no justification for that stance particularly as, again, it offers a different test from that in derogating orders.

Vera Baird: Will the hon. Gentleman give way?

Mr. Grieve: No. I am sorry, but I must make progress.

There can be no logical reason for that distinction. The Government's refusal to have a full Privy Council review is extraordinary. If the Government want the Bill, they can have it. It can be on the statute book later tonight, but a little reasonableness would be helpful. We have been subjected over the past week to vitriol, bullying and, now, petulance. The petulance extends so far that No. 10 appears to be briefing that there will be a general election on this issue unless the Opposition give way.

This is an issue of conscience, and should be so for every Member of this House. Nothing will induce me to allow the Bill to pass in its present form and every hon. Member should consider carefully the duty they owe to their constituents in respect of ensuring that liberty is maintained in this country. In particular, the Government's refusal to accept the sunset clause highlights the fact that they are untrustworthy on this legislation, and the Home Secretary has done nothing to dispel that distrust this evening. I ask the House to support the Lords amendments and to enable this matter to come to a rapid conclusion.

6.30 pm

Mr. Deputy Speaker: I call Mr. Marshall-Andrews.

Chris Ruane (Vale of Clwyd) (Lab): Oh, good!

Mr. Robert Marshall-Andrews (Medway) (Lab): We have another half an hour, and I will not speak for very long, because other Members may wish to speak, including the hon. Member for Vale of Clwyd (Chris Ruane)—I am sure that he has a serious and interesting contribution to make.

My point concerns review by the judiciary of derogating and non-derogating clauses. I take the view that the House was seriously misled yesterday and when we debated the matter before. This is a central issue. The Government make a distinction between derogating and non-derogating issues; I do not accept that distinction, but the Government make it. In respect of derogating issues—house arrest—the Government provide that the court will have full powers to look at the facts and to come to its own conclusions. So far, so good. I would reluctantly accept that, if it were the case for all the orders.

Non-derogating orders are not mere chaff in the system. They will involve people's right to work, to associate and to move, and their being tagged and electronically monitored. They are as close to the pass laws in South Africa as it is possible to get, and they are a serious matter. The question that the House must ask is whether there will be proper judicial review of those proceedings. The House has been told on several occasions that there will be, because the court will be allowed to consider the orders, but it may do so only on the basis of judicial review. The basis of judicial review does not allow a court to reopen the case and look at the facts on which the order was made. It is worth repeating that point time and again. Assurances to the House, whether from Front or Back Benchers, and from people who should know better, are simply wrong. The House must take that on board.

Vera Baird: Will my hon. and learned Friend give way?

Mr. Marshall-Andrews: There is no distinction to be made—[Hon. Members: "Give way."] After my next few sentences, I shall give way.

There is no distinction to be made between whether such an order gets to a judge on appeal or as of right. The same process will be applied—namely, that the judge will apply the constrictions of judicial review. That is what my hon. and learned Friend the Member for Redcar (Vera Baird) objected to initially—realistically and properly—and I supported her. She now supports the change that has been made to the Bill, but it is precisely the same test, of judicial review. The House should understand that no judge will be able to look at the facts of the matter. It is essential to take that on board when hon. Members vote on whether the non-derogating orders should be accepted as they stand.

Vera Baird: Is my hon. and learned Friend giving way?

Hon. Members: Yes.

Mr. Deputy Speaker: Order. Let us clarify the situation. Is the hon. and learned Gentleman giving way?

Mr. Marshall-Andrews: Yes, Mr. Deputy Speaker.

Mr. Deputy Speaker: The hon. and learned Gentleman has not yet completed his remarks. I call Vera Baird.

Vera Baird: Thank you, Mr. Deputy Speaker.

My hon. and learned Friend knows well that if a judge is asked at the outset to consider whether there are reasonable grounds on which one can, as Home Secretary, suspect that a person is engaged in terrorism, the only possible way to reach a judgment is for the judge to look at the evidence and form a view. My hon. and learned Friend must not mislead the House about that.

Mr. Marshall-Andrews: That intervention would be valid were that the test, but it is not. As my hon. and learned Friend well knows, the test is whether the judge feels, not that the decision was wrong based on the facts, but that it was obviously flawed—not that the decision is wrong, or that the judge disagrees with it, but that it was obviously flawed. That is the test of judicial review.

I am not entirely sure what "obviously" means in the present circumstances. Can a judge say, "Well, I thought the decision wasn't obviously flawed. Having looked at the background, I think it was flawed, but initially it was not obviously flawed"? What is a judge to make of the provision? I have not the remotest idea. It is bad to pass a statute that affects the liberties of our citizens based on such an amount of doubt. I simply ask hon. Members to take that on board when making their decision on this particular issue.

Mr. Win Griffiths (Bridgend) (Lab): I have already admitted that I am not a lawyer, but I have looked at clause 7, which states:

> "The function of the court on an appeal . . . is to determine whether any of the following decisions of the Secretary of State was flawed—
>
> (a) his decision that the requirements of section 1(1)(a) and (b) were satisfied for the making of the order".

Clause 1, which will become section 1, empowers the Secretary of State to make an order

> "if he . . . has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity".

It seems to me that the judge cannot decide whether the Secretary of State's decision was flawed without knowing the basis on which the Secretary of State made that decision.

Mr. Marshall-Andrews: Precisely. *[Laughter.]* I hope that hon. Members realise that this is not a flippant

point but a serious one. Of course the judge must look at the reasons. Having done so, a judge may think that he would not have acted in the same way, or that what the Secretary of State did was wrong, or that his decision was wrong. Nevertheless, what he must conclude is that the decision was obviously flawed, and he must do so applying the principles of judicial review. Judicial review comes from the prerogative writs—ancient writs in this country—which were always and deliberately set out on the basis that judges should not question decisions taken by the Executive—quite right, too. Hear, hear; I agree—they should not. That is the basis of judicial review. That is its whole life and mainspring in the legal system.

Mr. Edward Garnier (Harborough) (Con): I congratulate the hon. and learned Gentleman on trying to explain to people who will not have read the Bill before they vote for it precisely what they will be doing. Judicial review involves looking at the process, not at the substance of a decision. What hon. Members will do blindly, if they do not listen to him, is pretend that the review is a proper form of appeal. It is not. Please, will he continue to say what he has to say with greater force and clarity?

Mr. Marshall-Andrews: I am not sure that I shall accept that invitation, generous though it was. I make no apologies for being a lawyer. There are charlatans in my profession, as there are in every profession. Equally, we can number in my profession some of the finest politicians, alive and dead. They have made their contribution in their time, and it has often been in the field of civil liberty—precisely the subject that we are discussing. It is in that spirit that I make this contribution.

I do not wish the House to be misled into passing legislation and believing that it is giving to judges a power that the Bill manifestly and obviously does not give to them, will never give to them and should not give to them, under judicial review, because to extend judicial review is, by definition, to diminish the power of the House and its Ministers. That is why judicial review exists, and why it is so heavily circumscribed. To suggest that we are giving judges the power to strike down Ministers by judicial review is—I am sorry—casuistry, and should be treated as such.

Vera Baird *rose—*

Mr. Marshall-Andrews: No, I have already given way. [HON. MEMBERS: "Go on!"] As I am encouraged by those surrounding me, of course I will give way.

Vera Baird: I am glad that my hon. and learned Friend accepted that he was outnumbered. There must be a real danger that the public watching us now think that we are two QCs arguing about how many angels one can get on the head of a pin. For the avoidance of doubt, and since my name has been used and, I think, been used slightly badly, may I make it plain that a test whereby a judge of the High Court will consider, on all the evidence, whether there is reasonable cause to suspect that a person is engaged in terrorism is a satisfactory test, as far as I am concerned.

Mr. Marshall-Andrews: So my hon. and learned Friend has said. Of course we are talking about law. The Bill makes law. It is impossible to avoid that. It is making immensely bad law, and that is why we must talk about it. I have said what I said, and shot my bolt on the issue, and I hope that some hon. Members, at least, will take on board what I say in the spirit in which I am saying it.

I come to the sunset clause; the time has now been extended to a year. What we are giving birth to here, if we give birth to it at all, is a very malformed animal indeed. In saying that, I enjoy the support not only of people who have fought the Bill throughout, but of people like my hon. and learned Friend the Member for Redcar and many commentators who believe that the Bill is seriously malformed. The Bill cannot be resuscitated and cured, by definition. What we need is a rebirth. We need a new Bill and we need it quickly. The period of a year, which has been proposed in another place by a noble Lord of my party, is worthy of support. One year is enough. We need to bring back in a year not this old malformed Bill, resurfaced and rehatched, but a new Bill to deal with the problems of terrorism, which are undoubtedly real.

Mr. David Heath (Somerton and Frome) (LD): It is a great misfortune that again we have such an abbreviated debate on this important Bill.

I should like to think that the Home Secretary and others in the Chamber recognise the high level of agreement between parties, between Benches and between Houses. We all agree that there is a serious threat of terrorism. We all agree that there is a need to take appropriate measures to combat it. Most of us agree that, regrettably, control orders are probably part of the apparatus that is required. We have been prepared to accept that there needs to be an emergency process that enables the Secretary of State to apply for those control orders, even on the grounds of reasonable suspicion. Those in another place who have considered the Bill have done an extremely good job of tabling amendments that work and make the Bill better.

The Home Secretary should have no doubts about whether he will have his Bill, because he has it already. The Bill is workable, and it is for him to take it. It is not good enough to suggest that either a recalcitrant upper House or an obstructive Opposition in this Chamber is stopping him having what he needs in order to combat terrorism effectively.

6.45 pm

Which extraordinary suggestions from the other place does the Home Secretary propose to remove this evening? He proposes to remove the power of the Lord Chief Justice, rather than the Lord Chancellor, to make rules of court. A few weeks ago, we considered the abolition of the post of Lord Chancellor, and it is absurd to suggest that as a matter of principle the Lord Chancellor must make rules of court rather than the Lord Chief Justice.

[Mr. David Heath]

The Home Secretary has asked us to reject the contention that article 6 of the European convention on human rights should be addressed on the face of the Bill. That is ridiculous, but he insists that he will not budge. He could help the House this evening by making it explicit that the process will not accept evidence gained by torture under other jurisdictions, but he has not made that expressly plain.

Mr. Charles Clarke: I have given that exact assurance in this House, and to the Joint Committee on Human Rights and the Home Affairs Committee.

Mr. Heath: I am grateful to the Home Secretary.

I am also grateful to the Home Secretary for accepting Lords amendment No. 42D, which is extremely important because it sets out the rules by which possibly exculpatory evidence could be disclosed to defendants or their representatives. Although that mechanism would be imperfect in normal criminal proceedings, it is a great improvement.

Mr. Clarke: May I take the opportunity to confirm that that is the case, and that we are ready to examine further ways to improve the process involving special advocates?

Mr. Heath: We are making significant progress in that area, and more progress remains to be made.

It is extraordinary that the Home Secretary persists with the artificial distinction between derogating and non-derogating orders. Indeed, many Labour Members have said that there should no difference in legal process between those two types of order.

Chris Bryant: Will the hon. Gentleman give way?

Mr. Heath: No, we do not have time. The hon. Gentleman voted for the timetable motion, which prevents debate. [HON. MEMBERS: "Hear, hear."]

There is no logical reason for a separate judicial process between derogating and non-derogating orders, and I still hope that the Home Secretary will agree that matter with us.

On the standard of proof, we have a significant disagreement, and the Home Secretary has not yet established to my satisfaction why the balance of probabilities is an inappropriate test to decide whether someone should lose their liberty. I believe that that test is appropriate, but he has told me that the security services require that the test should be based on reasonable suspicion rather than the balance of probabilities. That simple assertion is not enough, and I invite him to provide us with evidence that will allow us to understand why he believes that the balance of probabilities is not the appropriate standard of proof.

The Home Secretary has asked us to remove the reference to the Director of Public Prosecutions—which, incidentally, is in the wrong part of the Bill—and argues that the matter should be put before a chief of police. However, we have argued for years that the prosecuting authorities rather than the police should decide whether to prosecute. Why is he taking that retrograde step, and why on earth should that be a sticking point?

The Home Secretary has asked us to remove the provisions for a Privy Council annual review. Notwithstanding the concerns about the future employment of my noble Friend Lord Carlile—I hope that Lord Carlile or someone else will have the opportunity to continue as an independent reviewer—the Privy Council is a useful mechanism for examining the performance of the legislation in action.

The position on the sunset clause is the biggest absurdity of all. We have a Labour peer—Baroness Hayman, previously a Member of this House—putting forward the eminently sensible suggestion of a sunset clause, to come into effect after a year, for this legislation, which is acknowledged on all sides to be temporary, emergency and not entirely well considered.

Chris Bryant: That is not acceptable.

Mr. Heath: The hon. Gentleman says from a sedentary position—I am happy to read him into the record, as he is so desperate to get into it—that that is not acceptable. So what is not acceptable? We are told that it is unacceptable for the legislation to cease to have effect after a year, but acceptable for the House to reject it after a year as a renewal. We are told that it is not acceptable for the House to improve the Bill, but acceptable for it to reject the Bill. In any case, we are told by Baroness Scotland that by that time we will have new and better legislation, because, as she virtually admitted to the other House, this legislation is defective and we can do better—in other words, there is no need to worry about the renewal because something else would already be on the statute book. Yet if there is no need to worry about renewal, why is there any need to worry about a sunset clause? There is no logic in that position. It is unacceptable for the Government to hide behind it as a pretext that that is a bar to their having their legislation.

To say that to accept a sunset clause is to send a signal to the terrorist is the worst argument that I have ever heard. That is to say that al-Qaeda operatives all over the world are waiting to hear whether we are going to have a sunset clause or a renewal facility on 31 March next year, and if we make the right decision they will be satisfied and put their bombs away.

This is an absurdity. The Government have it within their power to have their legislation tonight—they will have it within an hour or two if they take the necessary steps. They have moved a very long way in several areas; we are grateful for that. They have a couple more steps to go, and then they will have their legislation. But if they do not take those steps—if they believe that the sunset clause is the sticking point that prevents them from having their legislation—not only will they look absurd, but we can only conclude that they did not actually want this Bill in the first place.

Vera Baird: So that nobody is misled by anybody on either side of this House, let me clearly set out my understanding of the position. The test in the Bill is very plain—are there reasonable grounds to suspect that the person is engaged in terrorism? The only way of assessing that is to look at the evidence and evaluate it.

The judge must act as the gatekeeper for the Home Secretary in evaluating the evidence and concluding whether his proposal is within a range of reasonable responses to that evidence. If he finds that it is outside the range of reasonable responses, he will quash it and it will never get off the ground.

There is an additional element that my hon. and learned Friend the Member for Medway (Mr. Marshall-Andrews)—and he is my friend—missed out. Since the prerogative writs of the 17th century, the element of proportionality has come in as another important test that is, again, based on the evidence. That came in with the Human Rights Act 1998. What changed my mind was the putting of the judge first and requiring him to be responsible for these decisions—to gate-keep. I am satisfied that the judges will develop an excellent jurisprudence because of that responsibility, which will ensure the maximum amount of fairness for the individuals involved.

Mr. Marshall-Andrews *rose—*

Vera Baird: I want to move on because I have less time than my hon. and learned Friend took.

The Tories and the Liberal Democrats must not pretend that a sunset clause is the key to negotiations for new legislation because my right hon. Friend the Home Secretary has made it clear that he will introduce a new Bill.

Let me deal with the burden of proof, because it rears its head high.

Clare Short (Birmingham, Ladywood) (Lab): Will my hon. and learned Friend give way?

Vera Baird: I am sorry but I will not. [HON. MEMBERS: "Give way."] I do not have time—*[Interruption.]*

Mr. Deputy Speaker: Order. The hon. and learned Lady is not giving way.

Vera Baird: I, too, know when I am outnumbered.

Clare Short: In a previous speech, my hon. and learned Friend said that the Bill was cobbled together, flawed and worrying. Surely the point of a sunset clause is that we have something, and also more time to consider the matter and reach greater consensus. Is that not a good idea?

Vera Baird: I do not think that I used the words that my right hon. Friend attributed to me, but I know what she means. No one is 100 per cent. satisfied that the measure is perfect, but my right hon. Friend the Home Secretary said that he will introduce a new Bill next year, in any event. Surely we ought to—*[Interruption.]*

May I deal with the burden of proof? All hon. Members appear to believe that that is important.

Mr. Marshall-Andrews: Will my hon. and learned Friend give way?

Vera Baird: I have only three minutes and my hon. and learned Friend has already taken up a good deal of time.

It is my clear view that hon. Members are misguided in concentrating on the burden of proof. The distinction between reasonable cause to suspect that someone is involved in terrorism and it's being more probable than not is not worth dying in a ditch for. Hon. Members should concentrate on firming up the admirable concessions that the Home Secretary made yesterday on giving defendants a better deal by reorganising the special advocacy system so that they are likely to get to know more about their case.

Differences in the burden of proof pale into insignificance next to the concessions that my right hon. Friend has made. If hon. Members are interested in justice for defendants, they should concentrate on those concessions so that they can be reduced to paper to ensure that the special advocate system will be examined and that defendants get a better deal. That is truly the right way forward. It was clear in yesterday's debate that, if Conservative Members take a realistic approach to justice for defendants, they will find my right hon. Friend helpful. He plainly suggested that yesterday. I therefore conclude that that is the obvious route to take. If Conservative Members do not take it, they must simply be playing politics because there is a clear way in which to improve the Bill now.

Mr. Kenneth Clarke (Rushcliffe) (Con): I spoke about judicial review yesterday and I agree with the speech that the hon. and learned Member for Medway (Mr. Marshall-Andrews) made earlier and with the speech that the hon. and learned Member for Redcar (Vera Baird) made on the same subject previously. Anyone who believes that a case has been made in which the merits of the issue are put in the hands of the judge has been misled.

With respect, I do not agree with the hon. and learned Member for Redcar that the difference between reasonable suspicion and the balance of probabilities is purely academic. No other part of the law is treated in that way. There will be cases in which there are plenty of grounds for suspicion but one feels that the man is probably innocent. If the Bill is allowed to proceed, someone in that position will be subject to all its rigours.

Let me consider briefly the advice of the Security Service—the new point on which the Home Secretary placed particular stress. Surely he could share a little more of the Security Service advice on the burden of proof and on the sunset clause. The only argument that I have heard advanced about the burden of proof is that the Security Service insists on it. I find that unlikely. If that is Security Service advice, it must have peculiar lawyers. I am sure that we shall revert to the point later and I should like the Home Secretary to let us know whether the Security Service says that we should have a balance of probabilities, not reasonable suspicion.

Vera Baird: Will the right hon. and learned Gentleman give way?

Mr. Clarke: No—I apologise.

On the sunset clause, is the Security Service saying that it is not acceptable for us to give ourselves 12 months in which to produce a new Bill, and do the Government believe that they have to press on with it for that reason?

[Mr. Clarke]

The Downing street spokesman on behalf of the Prime Minister gave the genuine reason this afternoon. He totally prejudged this evening's proceedings. Downing street has instructed the Home Office to come along with all those reasons. The spokesman said that to amend the Bill further would send the wrong message to the terrorists and the police and security services, and that that applied not just to the sunset clause but to the burden of proof. The hon. Member for Somerton and Frome (Mr. Heath) exposed to ridicule brilliantly, I think, the idea that this is a message to terrorists. Everybody in the House is prepared to accept that there will be a fairly draconian Bill to protect the public if—

It being one hour after the commencement of proceedings, MR. DEPUTY SPEAKER *put forthwith the Question already proposed from the Chair, pursuant to Order [9 March].*

Question put,

The House divided: Ayes 320, Noes 226.

Division No. 131] **[7 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*

Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Gillian Merron and Paul Clark

NOES

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Dunwoody, Mrs Gwyneth
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Godsiff, Roger
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Killoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Meacher, rh Michael
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prentice, Gordon *(Pendle)*
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Randel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John

Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Wiggin, Bill
Wilkinson, John
Willetts, David
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and
Mr. John Randall

Question accordingly agreed to.

MR. DEPUTY SPEAKER *then proceeded to put the remaining Questions required to be put at that hour.*

Lords amendments: 27B, 31B and 32B

Motion made, and Question put,

That this House insists on its disagreement to Lords Amendments 27, 31 and 32 but proposes the following amendments in lieu: (a), in page 12, line 45, leave out "sections 1 to 6" and insert "this Act".

(b), in page 13, line 3, leave out "those sections" and insert "this Act".—*[Ms Blears.]*

The House proceeded to a Division.

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. The hon. Member for Hackney, North and Stoke Newington (Ms Abbott) should not be using a mobile phone in the House; she should really know that by now.

The House having divided: Ayes 327, Noes 212.

Division No. 132] **[7.13 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cooper, Yvette
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gerrard, Neil
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*

Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(CMwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Gillian Merron and Paul Clark

NOES

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bennett, Andrew
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paisley, Rev. Ian
Paterson, Owen

Pickles, Eric
Portillo, rh Michael
Prentice, Gordon *(Pendle)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Dr. Richard *(Wyre F)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Mr. Alan Reid and
Mr. Mark Prisk

Question accordingly agreed to.

Lords amendments Nos. 27B, 31B and 32B disagreed to.

Amendments in lieu agreed to.

Lords amendment: No.33D

Motion made, and Question put,

That this House disagrees with the Lords in the said amendment and proposes amendments Nos. 33A to 33C in lieu.—*[Ms Blears.]*

The House divided: Ayes 324, Noes 217.

Division No. 133] **[7.25 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cable, Dr. Vincent
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Godsiff, Roger
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony

Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes: Gillian Merron and Paul Clark

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Dunwoody, Mrs Gwyneth
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*

NOES

Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin

Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Mr. John Randall and Mr. Alan Reid

Question accordingly agreed to.

Lords amendment 33D disagreed to.

Amendments 33A to 33C agreed to.

Lords Reasons: 38A, 39A, 40A, 42D and 42E.

Motion made, and Question put,

That this House insists on its disagreement to Lords Nos. 38, 39 and 40, insists on its amendments Nos. 42A and 42B, does not insist on its amendment No. 42C, agrees to Lords No. 42D and disagrees with Lords No. 42E.—*[Ms Blears.]*

The House divided: Ayes 323, Noes 219.

Division No. 134] **[7.37 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Brown, Russell *(Dumfries)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gerrard, Neil
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hodge, rh Margaret
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Hughes, Kevin *(Doncaster N)*
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin

Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prentice, Gordon *(Pendle)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Steinberg, Gerry
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Gillian Merron and Paul Clark

NOES

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Dunwoody, Mrs Gwyneth
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Fox, Dr. Liam
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gibson, Dr. Ian
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui

Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Meacher, rh Michael
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paisley, Rev. Ian
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Trend, Michael
Trimble, rh David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*

Tellers for the Noes:
Richard Younger-Ross and Mr. Mark Prisk

Question accordingly agreed to.

Committee appointed to draw up Reasons to be assigned to the Lords for disagreeing to their amendment No. 42E: Ms Hazel Blears, Mr. Dominic Grieve, Mr. David Heath, Mr. John Heppell and Kali Mountford; Ms Hazel Blears to be the Chairman of the Committee; Three to be the quorum of the Committee.—*[Mr. Heppell.]*

To withdraw immediately.

Reasons for disagreeing to certain Lords amendments reported, and agreed to; to be communicated to the Lords.

Mr. Deputy Speaker: The sitting is suspended. Shortly before the sitting resumes, I shall cause the Division bell to be sounded.

7.50 pm

Sitting suspended.

1.20 am

On resuming—

Mr. Deputy Speaker (Sir Alan Haselhurst): I must inform the House that a message has been brought from the Lords as follows. The Lords insist on certain of their amendments to the Prevention of Terrorism Bill to which the Commons have insisted on their disagreement, for which insistence they assign their reasons. They insist on certain of their amendments to which the Commons have disagreed, for which insistence they assign their reasons. They disagree to the amendments proposed by the Commons in lieu of the Lords amendments, for which disagreement they assign their reasons. They do not insist on their remaining amendments to which the Commons have disagreed, and they agree to the remaining Commons amendments on which the Commons had insisted. Copies of the Lords reasons are available in the Vote Office, as are the Government's propositions relating to the message. All Government proposals will be debated together.

Lords reason: 1D

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): I beg to move, That this House insists on its amendments 1A and 1B to Lords amendment No. 1, insists on its disagreement to Lords amendments Nos. 12, 13, 15, 17, 22, 28 and 37 and insists on its amendments 37A to 37C and 37E to 37O, does not insist on its amendment 37D, insists on its disagreement to Lords amendments 37Q to 37T proposed in lieu of Lords amendment No. 8 and insists on its amendments 17H to 17M to the words restored to the Bill by its insistence on its disagreement to Lords amendment No. 17 and proposes amendment (a) in lieu.

Mr. Deputy Speaker: With this we will discuss Lords reasons 8A, 12B, 13B, 15B, 17N, 22B, 27E, 28B, 31C, 32C, Government motion to insist &c., Government amendment (a), Lords reason 33E, Government motion to insist &c., Government amendments (a) and (b) and Lords reason 37U.

Ms Blears: The first amendment relates to the making and judicial supervision of control orders, including the standard of proof. The effect of my amendment is to require an inter partes directions hearing to be held within seven days of the court granting the Secretary of State permission to issue—or, as the case may be, confirming—his non-derogating control order. The purpose of my amendment is to provide yet another safeguard in the procedure to ensure that the individual concerned will be involved fully in the proceedings at the earliest possible stage. So, there would now be three stages: an application for permission from the Secretary of State; a prima facie ex parte hearing followed by an inter partes directions hearing to see how the matter might be disposed of; and then a further inter partes full hearing. My amendment would therefore provide for an additional safeguard of further intervention into that process. That would give all parties an early opportunity

to consider how best to deal with questions of evidence, disclosure and the appointment of a special advocate if required.

As well as that amendment, we want to insist on our previous position with regard to the standard of proof. There are a couple of additional points that I want to make to the House concerning standard of proof, because it is a very important matter. I want to make it clear that these are preventive orders, not punishment, which is important to the standard of proof issue; that we are talking about an assessment of intelligence rather than necessary evidence of proof of fact; and that we are talking about a risk assessment process. I want to draw to the House's attention the statement of Lord Justice Laws when he was considering the A case in the Special Immigration Appeals Commission. I do not think that this quote has been used before. He said:

"the nature of the subject matter is such that it will, as I have indicated very often, usually be impossible to prove past facts which make the case that X is a terrorist. Accordingly, a requirement of proof will frustrate the policy and objects of the powers . . . the target of the policy includes those who belong to loose, amorphous organised groups."

Mr. Grieve *rose—*

Ms Blears: I just want to finish this point. Both SIAC and the Court of Appeal accepted reasonable suspicion as the right level of proof in those cases. It is very important to make that point.

Mr. Grieve: I have to say to the hon. Lady that far from not having heard that quote before, it has been bandied around almost ad nauseam. If that is her objection, she could argue that the derogating orders that she is making, which will be made on the balance of probabilities, should not in fact be made on the balance of probabilities at all. Why does she accept that derogating orders should be made on the balance of probabilities, yet persist in this frankly cussed refusal to have the balance of probabilities on non-derogating orders?

Ms Blears: Even at this early hour of the morning, I am attempting to be moderate and measured, and I hope that the debate will be conducted in that fashion. As we have made clear on several previous occasions, we have accepted the balance of probabilities for derogating orders because deprivation of liberty is a severe sanction. However, we do not accept it for non-derogating orders because there is a distinction between restrictions on liberty and deprivation of liberty. That is a clear position.

The orders, as well as being preventive, not punitive, are about anticipating and disrupting terrorism. They are an assessment of risk, and I genuinely believe that hon. Members are trying to constrain a preventive framework in a traditional criminal justice system, which is about proof of events after the fact, evidence and an adversarial mechanism. I believe that hon. Members have not taken seriously the fact that we are trying to anticipate and prevent rather than simply prove things after the event, which happens in the traditional criminal justice system.

Mr. Kenneth Clarke: Will the Minister answer the question that I asked the Home Secretary last time we debated the matter? He suggested that the decision was made on the advice of the Security Service. Is the Security Service advising that we have that burden of proof rather than the balance of probabilities in the case of non-derogating orders? Can she give us an insight into that aspect of Security Service advice that we are said to be ignoring?

Ms Blears: Yes. The Security Service is concerned—[HON. MEMBERS: "No."] Let me answer—*[Interruption.]*

1.30 am

Mr. Deputy Speaker: Order. We are considering serious matters and our proceedings on them are best conducted without sound effects. We want to hear whoever has the Floor. I call Ms Blears.

Ms Blears: I am making it clear—

Peter Bottomley (Worthing, West) (Con): On a point of order, Mr. Deputy Speaker. You rightly said that we must listen to the person who is speaking, but the person who should answer the question of my right hon. and learned Friend the Member for Rushcliffe (Mr. Clarke) is the Home Secretary. Will he please speak and give us the answer?

Mr. Deputy Speaker: I must say to the hon. Gentleman that I have called the Minister and she has the Floor.

Ms Blears: I am happy to confirm that our advice from the Security Service is that, if we use balance of probabilities, we will not be able to secure orders on some of the people about whom it has significant concerns.

Mr. Garnier: The Minister tried to distinguish between a total deprivation of liberty—house detention—and a restriction on liberty, that is, a non-derogating order. Does she not understand that the Human Rights Act 1998, which the Government introduced, makes it clear that any such conduct could amount to a penalty under that legislation? *[Interruption.]* The Minister may snigger, but we are considering human rights and it makes no difference whether the Government are depriving a citizen of all his liberties or merely some. It still constitutes a penalty. Surely the higher not the lower standard of proof should apply.

Ms Blears: The hon. and learned Gentleman is experienced enough in the law to know that article 5 of the European convention on human rights makes a distinction between restrictions on and deprivation of liberty. We have proceeded on that basis.

Sir Menzies Campbell (North-East Fife) (LD): Will the Minister give way?

Ms Blears: I should like to move on to—[HON. MEMBERS: "Give way."] I shall give way.

Sir Menzies Campbell: I am most grateful to the Minister for giving way at this early hour, as she rightly described it.

[Sir Menzies Campbell]

I have listened on several occasions when she and the Home Secretary have tried to draw a distinction between derogating and non-derogating orders. Does she not agree that the consequences of derogating and non-derogating orders are penal? The only difference is a matter of degree. If it is a matter of principle that the standard of proof for derogating orders should be balance of probabilities, why is it not a similar matter of principle for non-derogating orders?

Ms Blears: No, I think that I have said on several occasions that these orders are not punishments, they are about prevention. I have also explained that there is a proper reason for the distinction between the two orders set out in article 5.

I now wish to move to the second area of concern of the Lords and my amendments in relation to having an independent reviewer rather than a committee of Privy Councillors. My further amendment shortens the period in which the first report of the independent reviewer must be submitted to nine months, and provides explicitly in the Bill for his report to include the implications for the operation of the Act of any proposal made by the Secretary of State for changing the law relating to terrorism. That has two effects. First, it would ensure that the renewal debates that we will hold in the House will be informed by the report on the operation of the whole Act by the independent reviewer. On that basis, our debates will be more informed. Secondly, it would include in the Bill the Home Secretary's commitment that the independent reviewer should consider specifically in his report the implications for the operation of this Act, once passed, of any new proposals or legislation on counter-terrorism.

We have already said that we will bring forward proposals and have pre-legislative scrutiny. We now want to make sure that the independent reviewer can consider that as part of his review by including that explicitly in the Bill. We want to ensure that his report is done within nine months, so that when we come to the annual renewal after 12 months we have a proper, informed debate in full knowledge of his review.

Mr. John Gummer (Suffolk, Coastal) (Con): If, as the hon. Lady rightly says, it is necessary for us to have this detailed report and be absolutely sure that the legislation is working properly, why does she not feel at the same time that the House could be assured that it would have new legislation that took all that into account? Why does she not therefore give way by making sure that we have a sunset clause?

Ms Blears: I am afraid that the sunset clause would not ensure that.

My third amendment would ensure that in relation to our annual renewal, the Secretary of State would be required to consult the independent reviewer of the Act before making an order to renew the powers to make control orders for up to a further year. *[Interruption.]*

We believe that the provisions we are putting into the Bill to review the operation of the Act are right and appropriate, but my amendment requires the Secretary of State to consult the independent reviewer of the Act before making his order to renew the powers. We think that this—*[Interruption.]*

Mr. Deputy Speaker: Order. I am sorry to interrupt the hon. Lady. The House must come to order. We need to hear this debate.

Ms Blears: We think that this is a sensible idea. At that point, we will have the benefit of the independent reviewer's report, and we will have any recommendations that he wants to make on the way in which the Act is operating when we consider whether we will renew those control order powers. I propose to reinforce that position by making it a specific requirement on the Secretary of State to consult him before making the renewal order.

Mr. Cash: Will the hon. Lady give way?

Ms Blears: I am not giving way to the hon. Gentleman.

We now have a series of checks and balances in the Bill. We have a three-monthly report by the Home Secretary to Parliament about the measures taken. We have an annual renewal of the legislation. If we have derogated, we have an annual renewal of that derogation. We have an independent review, and as part of that the operation of the whole Act can be considered, including the appeal provisions. We have promised new legislation next Session, with pre-legislative scrutiny.

Mr. Beith: Before the hon. Lady completes this detail, will she confirm that when asked in the other place, the Lord Chancellor said that the Security Service had not advised the Government that it would be wrong to have a sunset clause in the Bill?

Ms Blears: Yes, I can confirm that. *[Interruption.]* I can also confirm that we think that the checks and balances in the Bill, with the independent reviewer, are sufficient and in fact better to achieve our purposes.

Mr. Cash: Will the hon. Lady give way?

Ms Blears: I am not giving way.

We have said that we will produce further legislation to establish whether we can try to prosecute more people in the circumstances that we are discussing, but there are a small number of people whom we cannot prosecute through our traditional criminal justice system because of the danger to human sources, and the danger involved in revealing sensitive intelligence techniques. If there is a small number of people whom we cannot prosecute, we must have a system that enables us to control their activities so that we protect the safety of the country. I think that it is pretty clear now—

Mr. Cash: On a point of order, Mr. Deputy Speaker. In our earlier proceedings, the Home Secretary gave me an explicit assurance that habeas corpus would apply in these circumstances. Is it not something which—

Mr. Deputy Speaker: Order. I think that the hon. Gentleman realises that that is not a point of order for the Chair, but an attempt to pursue the debate.

Ms Blears: I was trying to emphasise—although I do not think I need to do so—the importance and severity of the measures that we are considering. Let us suppose, for example, that we have intelligence about someone who is a real and serious threat, and that the information we hold might require us to reveal human agents or sensitive intelligence techniques. There is a real danger for us there. The question for us tonight is this: in those circumstances, what do we do? If we cannot prosecute, we must have a framework that enables us to control people.

We have a real choice: either we have control orders, or we allow people whom we cannot prosecute to walk free. Opposition Members have not come up with any suggestions. We need to know whether they support the idea of control orders. I think the answer is very clear: I think that the hon. Member for Beaconsfield (Mr. Grieve), in particular, opposes control orders in principle, and if we do not have control orders we face the very real prospect of—

Mr. Oliver Letwin (West Dorset) (Con): On a point of order, Mr. Deputy Speaker. I believe that I heard Ministers confirm that the security services had not given advice on the sunset clause. According to Wednesday's *Hansard*, the Prime Minister said:

"we are not prepared to accept . . . the sunset clause . . . it would be contrary to the strong advice given to us".—[*Official Report*, 9 March 2005; Vol. 431, c. 1510.]

Have you received any indication from the Prime Minister, Mr. Deputy Speaker, of an inclination on his part to come to the House and explain that statement?

Mr. Deputy Speaker: I have had no such notice, and that continues to be a matter for debate.

Ms Blears: It is the advice of the security services that they want us to have control orders. Let me say this to Opposition Members. If there are people who are a real and serious threat to this country and we cannot prosecute them because that would mean revealing sensitive and dangerous intelligence, what do we do with them? At this stage, we have no indication that Opposition Members are prepared to support control orders that will protect our national security. I think that it is vital that we secure this legislation tonight and establish a framework enabling us to strike the right balance between national security and individual liberty.

These are real matters. This is not an academic debate—we are faced with real problems.

Sir Robert Smith (West Aberdeenshire and Kincardine) (LD): The hon. Lady says that she wants the control orders. If she were willing to accept the amendments from the other place, she would have the control orders.

Ms Blears: I want to make sure that the system of control orders is practical, that it works, that it has the proper effect and that it has the support of the security services. On that basis, I ask the House to support our amendments and to reject the Lords reason.

Prevention of Terrorism Bill

Lords reasons for insisting on certain of their amendments to which the Commons have disagreed, further considered.

1.39 am

Mr. Grieve: Once again, Mr. Deputy Speaker, we have an example of how the Government lack any frankness in their dealings with the House. The question that my right hon. Friend the Member for West Dorset (Mr. Letwin) asked about what the Prime Minister said classically illustrates how the Government gloss the truth to suit their convenience. Instead of coming to the House, asking frankly for measures deemed necessary and engaging in proper debate, the Government spend their entire time fast-tracking the process, putting out spin, deceiving the public and then asking us to rubber-stamp their activities.

Let us examine the three issues of contention that now appear to remain. First, the Minister for Crime Reduction, Policing and Community Safety has told the House that she cannot accept that the distinction between derogating and non-derogating measures should disappear and she proposes instead a most deliciously complicated further tier of bureaucracy in an attempt to avoid the issue. Let me tell the Minister that as a recipe for further legal challenges, it would take some beating. I ask myself why the Government are going to such absurd lengths to avoid doing the sensible thing that the other place has asked for—treating derogating and non-derogating orders identically.

If what the Minister says is right, the derogating orders that the Secretary of State is keeping as an "important reserve power" that he may have to use in extremis, are, on her own analysis, completely valueless. I simply do not understand why the Minister keeps on refusing to do the simple and straightforward thing—indeed, the very thing that the Government originally gave the impression to the other place that they were going to do, which is to treat derogating and non-derogating orders identically. There is no explanation for that other than the Government's absolute determination not to be seen to be amenable to reason. If that is an example of the Government's common sense that they want to convey to the public, it takes some beating. There is no justification for the distinction.

Let me remind the Minister what the hon. and learned Member for Redcar (Vera Baird) said about non-derogating orders:

> "I do not wish to labour the point, but the penalties that can befall someone under clause 1 are extraordinarily intrusive and can transform a person's life. They include obvious interferences with freedom of movement, family life and freedom of association. Someone may be ordered not to speak to any member of his family and he may be told to move house, stop doing his business or job or to change his job. He has to agree in certain circumstances to tell people in advance what his movements will be".

She went on to say:

> "That is a very serious interference with liberty."—[*Official Report*, 28 February 2005; Vol. 431, c. 744.]

She was correct and the Minister is wrong. I am sorry that the Minister has suborned the hon. and learned Lady. We stand on the basis—

Vera Baird: Do I look suborned, Mr. Deputy Speaker? The hon. Gentleman has to remember that if these powers, which can be intrusive exactly as I said, cross over into an intrusion on article 5, they will never be granted because the judge is now at the front. It would be an unlawful order and the judge would not grant it. Checkmate on that one, I think.

Mr. Grieve: That is a fascinating comment, but it is not what the hon. and learned Lady said last week. She cannot escape her own analysis, which was absolutely correct and which the Government would have done well to heed. If the Government would see sense and treat derogating and non-derogating orders identically, they would be doing justice to the people subject to the orders. They would also solve their current problem and go a long way to resolving all the issues before the House tonight.

I turn now to whether a review should be prepared by an independent reviewer or a group of Privy Councillors. It is obvious that a proper and full review by Privy Councillors would be better than one by a single, independent reviewer. The latter would merely be a document handed to the Government, while the former would be a major document handed to Parliament for consideration. Furthermore, under the regime proposed by the other place, the reviews would take place at regular intervals and enable the House to monitor events.

Mr. Charles Clarke: *indicated dissent.*

Mr. Grieve: Does the Home Secretary wish to intervene?

1.45 am

Mr. Clarke: I should be happy to. The hon. Gentleman has completely failed to note that the independent reviewer will report to Parliament, not the Government, and that Parliament would debate his review. The amendment before the House means that when the renewal order is considered every year, it will be based on the independent review given to Parliament. That review will not be some Government thing on the side, as Parliament will examine it. As always, he simply does not understand what he is talking about.

Mr. Grieve: I understand that the last Privy Council report, chaired by Lord Newton, was ignored by the Government. I suspect that the Government do not want a Privy Councillors' report because they know that they will not be able to ignore it a second time. That is why I think that the House should demand it. There is no reason for not having such a report. The Government's insistence on their position is another example of them dancing on the head of a pin for no good reason. The House should reject that stand.

Finally, we come to the sunset clause, about which there is a fundamental difference between Opposition and Government. This Bill must be tolerated, but it is

very badly drafted—and I might add that the hon. and learned Member for Redcar thinks that as well, as do many other Labour Members.

The Bill was passed in haste, without consultation or normal Committee and Report stages. This morning, we have had about nine minutes to consider important Government amendments. The Bill should die soon, and be replaced with something new that is passed in ordinary form. That is totally different from what the Minister proposes. The mechanisms that she proposes will mean that the legislation can be renewed again and again. It is not good enough to suggest that the two approaches are equivalent.

If the Government were honest, they would say, like the Prime Minister, that the Bill is for the medium term and that the country will have to bear it for the next 10 or 20 years, if this Government remain in office. Alternatively, the Government should accept the sunset clause. The sunset clause is a thoroughly sensible measure that would ensure that the House does its duty before 12 months are out. The Government should look at the alternatives to a measure that the Minister knows undermines civil liberties.

Mr. Clarke *indicated dissent.*

Mr. Grieve: I give way to the Home Secretary, so that he can explain what he was mumbling.

Mr. Clarke: I am grateful for this opportunity, as I had not intended to intervene. I have a simple question for the hon. Gentleman, who is sitting next to the Leader of the Opposition. Given his view of this matter, will the right hon. and learned Gentleman commit his party to repealing this legislation in his election manifesto?

Mr. Grieve: The Home Secretary knows that we consider this legislation poorly drafted and bad, so the first thing that we will do when we get into office is to find a means of replacing it with something that allows the security—*[Interruption.]* Look, the Minister and his predecessor have spent the last 12 months with their heads buried in the sand in respect of the recommendations of Lord Newton. There are alternatives and they need to be considered, but the Government have not given the slightest indication of even engaging in that process. There is the question of prosecuting. There is the question of using intercept evidence. There is a question, if nothing else, if I may say to the Home Secretary, about putting in the things that at the moment he refuses to have in this legislation. The sooner we can get rid of control orders and this type of measure, the better. *[Interruption.]* Yes—the sooner we can get rid of measures such as control orders, the better for this country.

Mr. Tom Harris (Glasgow, Cathcart) (Lab) *rose—*

Huw Irranca-Davies *rose—*

Mr. Grieve: But as I said to the Minister—I said it two weeks ago and I say it again—*[Interruption.]*

Mr. Deputy Speaker (Sir Alan Haselhurst): Order. I am sorry to interrupt the hon. Gentleman. The House must come to order. We must hear both sides of the argument clearly.

Mr. Grieve: As I have said before to the Home Secretary, we are prepared to accept that control orders may in the short term be necessary, but at the moment we do not have the input from the security services that the Minister has, which is why we have spent the last week trying to improve the orders to remove those aspects that we consider intolerable. The Minister has not been willing to engage in that process, and I greatly regret that. He is showing no signs of doing so tonight.

Huw Irranca-Davies: On control orders specifically, the very fact that the security services and the police forces are asking for this measure seems to suggest that, however imperfect, we are trying to deliver a vehicle that is fit for purpose. What the hon. Gentleman is suggesting is that in nine months we scrap the vehicle entirely, as opposed to looking at it, revising it and renewing it. I suggest to him that the Government have at this stage of the morning bent over backwards to try and comply with some moderate way forward on this and he is now setting his face against it, and on Monday morning we may well have terrorists walking the streets of this country.

Mr. Grieve The alleged terrorists are going to be walking the streets tomorrow morning, irrespective of whether this legislation is passed or not and that is a measure of the Government's failure to address this issue over the last 12 months.

It is a straightforward issue. If the Government believed that civil liberties were important in this country they would consent to a sunset clause, if only to come back in 12 months' time and explain why, reluctantly, they had to continue with these measures. The fact that they will not taints the entire way in which they have approached this matter. I am left with the unpleasant sensation that the Government—*[Interruption.]* It is unpleasant, because I would much rather have had the Government persuade me of the necessity of these measures. I am left with the unpleasant sensation that the Government have been playing the cheapest form of politics with this matter, and we on this side of the House will vote to uphold the Lords amendments.

Mr. Heath: In my experience it is very rare that we have a rational debate at this time in the morning, and I think that the experience of the last few minutes has proved that point. It is unfortunate that yet again we are having to face an abbreviated debate on a matter of huge importance, and that we seem to be making so little progress in what ought to be a substantial debate on how we can improve the Bill.

The Minister says that no one has come up with any other proposal to meet her requirements. May I invite her to read Lords amendments Nos. 1, 8 and 12—Lords amendments ad nauseam that do the job that she has asked Parliament to do, which is to provide an adequate response to the agreed threat of terrorism and an adequate response to the needs that the security services and the police have identified? They provide her with the control orders that she has asked for, and they provide a court procedure that is adequate to meet the needs and the balance that the Home Secretary has suggested is the essential part of balancing the threat with the commensurate judicial procedures. All those things are in place, and she and her right hon. Friend have rejected them, so we are left debating the same topics, time and again.

[Mr. Heath]

We have made some movement—I accept that, and the Minister knows that I have welcomed it—but we are left with these clear distinctions between our positions. Let us be absolutely clear what they are. First, we have the arbitrary distinction between derogating and non-derogating orders, which the Government perversely insist on, despite the advice of not only those in another place who have looked at this and who have a very clear view that there is no such arbitrary distinction, but Labour Members sitting behind her now who have indicated their complete dissatisfaction with that arbitrary distinction. So there is no distinction, yet we have a different judicial process.

Mr. David Watts (St. Helens, North) (Lab): Can the hon. Gentleman tell us whether any of the Lords or lawyers that we are talking about will be held accountable for any terrorist threat?

Mr. Heath: I can tell the hon. Gentleman that every Member of this House and every Member of the other House will be held responsible if we get this law wrong. If he believes that any Member of this House or any Member of the other House does not hold that as their prime responsibility, he is very mistaken, and I challenge him to find anyone who does not. The fact is that if we get it wrong, and if we produce bad law that creates resentment among many communities in this country, we are creating the circumstances in which terrorism breeds and increasing the dangers to the people of this country. That is what he needs to remember.

Kevin Brennan (Cardiff, West) (Lab): On the sunset clause, Baroness Hayman, who moved the 12-month clause, has said in another place that, as the elected House has rejected it, the unelected House should now give way. Does the hon. Gentleman and his party agree with that?

Mr. Heath: I do not know whether the hon. Gentleman has understood the fact that we are elected. This is the elected House, and we reject the view of the Ministers.

Kevin Brennan *rose—*

Mr. Heath: We reject the view of the Government that there should be no end to the suspension of habeas corpus and the substantial departure from our traditional laws.

Kevin Brennan: Just to clarify this for the hon. Gentleman, Baroness Hayman, who moved the 12-month sunset clause, has said that the unelected House should give way at this point to the views of the elected House. *[Interruption.]* That is what she said. Does he agree that that should be the case and that the elected House should have its way—yes or no?

Mr. Heath: The hon. Gentleman should be very careful with this. He is quoting in aid a Labour Member of the other House who made a perfectly sensible proposition that was agreed by 250 peers and disagreed to by but 100 peers. That view has been reinforced by the most recent vote of the House of Lords, and she abstained. I believe she was right.

2 am

I say again to Ministers that I welcome the small amount of movement this evening. Let us get back to the serious content of the amendments. I welcome what the Minister said about the independent reviewer, who will have a crucial role to play in the process. As she knows, we would like a Privy Council Committee in addition to the independent reviewer, because we believe that that could do a better job of deriving the legislation we need to fight terrorism effectively. It has been admitted from the Dispatch Box in another place that this measure is not adequate, that we need new laws to fight terrorism properly, and that that will be the first responsibility of an incoming Government, of whatever persuasion, after the general election. It is an essential and urgent task. That makes it even more bizarre that the Government are prepared to accept this inadequate legislation—described clearly as inadequate from the Dispatch Box in another place and implied by Ministers in this place, as well—and that there is no proposal to make that legislation come to the end of its natural life next year so that it can be replaced by better legislation.

Let us look at amendment (a), which the Minister did not greatly amplify—*[Interruption.]* All those Members who jeer and say that they will always reject a sunset clause should note that 33A begins:

> "Except so far as otherwise provided under this section, sections 1 to 6 expire at the end of the period of 12 months beginning with the day on which this Act is passed."

The House has gone quiet. That is a Government amendment saying that the Act will expire. The proposed new clause goes on to qualify that provision in ways that I find unacceptable, because they do not actually do the job. But let us not pretend that there is a great divide of principle between the Government and the Opposition on what happens to terrorism legislation. The Government have given the game away.

I close with this point. Earlier, my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) referred to the frank, and hardly surprising, comment made by the Lord Chancellor in another place. He was asked directly whether the security services had recommended that the Bill should have no sunset clause, and he said "No"—in frank contradistinction to what the Prime Minister said on Wednesday at the Dispatch Box in Prime Minister's questions. It was nonsense when the Prime Minister said it then. The Lord Chancellor has let the cat out of the bag. There is no argument that we should not have the clause. We should. That is why it is right that the amendments should go back to another place—*[Interruption.]* The Minister is shaking her head. Perhaps we should have an answer. Will she tell us? Have the security services recommended that or not?

Hon. Members: Answer.

Ms Blears: I have already made it clear—*[Interruption.]* Yes. The security services have told us that they want control orders. They have not said that they want a sunset clause—*[Interruption.]* I say to the

House that the Government are proposing the legislation. We are trying to make sure that it does what the security services want us to do, which is to provide control orders that will protect the national security of this country. That is what the Government are trying to do. We are not saying that every clause we propose is demanded by the security services, but I am saying that the security services want us to have control orders. That is why I was asking the hon. Member for Beaconsfield (Mr. Grieve) whether the Conservatives support control orders.

Mr. Heald: On a point of order, Mr. Deputy Speaker. As page 74 of "Erskine May" makes clear,

"it is of paramount importance that ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity".

In the light of what has occurred, when the Prime Minister gave a clear account that the security services had said that it was against the sunset clause, yet we now know from the Minister that that is not the case, clearly the Prime Minister must come here and apologise to the House. He must correct the information—*[Interruption.]*

Mr. Deputy Speaker: Order. The hon. Gentleman will know that the Chair has no power to command the presence of any particular Minister at any particular time. I suggest to the House that these are matters of judgment, which will continue to be—*[Interruption.]* Order. They will continue to be at the centre of debate. These are matters for the House to decide.

Mr. Heath: The House can draw a very clear moral from this: never believe a thing that the Prime Minister says he is told by the security services. We have too much experience of this now.

The Government are entitled to have their legislation to fight terrorism, but they must have the right legislation. That is what all of us who are sensibly engaged in this debate are determined to achieve by the end of this evening or tomorrow. I believe that another place will have another go at this. Eventually, the Government will see sense and we will have that sensible legislation.

Mr. George Foulkes (Carrick, Cumnock and Doon Valley) (Lab/Co-op): I want to make one point. The hon. Member for Somerton and Frome (Mr. Heath) seemed deliberately to misunderstand the points made in interventions by my hon. Friends. Earlier, the hon. Member for Beaconsfield (Mr. Grieve) spoke about a serious interference in liberty. I went through to hear the debate in the other place and the—*[Interruption.]*

Mr. Deputy Speaker: Order. I say to the House that levity has its place, but probably not at six minutes past 2 in the morning.

Hon. Members: Elevation!

Mr. Foulkes: What we are seeing from Opposition Members is the effect of the grape, rather than anything else. I remind the House—*[Interruption.]*

Mr. Deputy Speaker: Order. I do not think that the right hon. Gentleman's remark helped the situation. Let us get back to the central issue of the debate. I say to the House, let every right hon. and hon. Member be heard properly.

Mr. Foulkes: I am grateful to you, Mr. Deputy Speaker.

The hon. Member for Beaconsfield spoke about a serious interference in liberty. This is a serious matter. As I said, I went through to hear the Lord Chancellor, and I want to make just one point. The Lord Chancellor pointed out to the other place that it had asked the Government to make five changes in the Bill. The Government had accepted four of those five changes—80 per cent. of what the House of Lords asked us for. The Lord Chancellor went on to say, "Accept the primacy of the House of Commons." For a third time, the House of Lords rejected the primacy of the House of Commons. That is not a serious interference in liberty; it is a serious interference in democracy.

Mr. Gummer: Earlier in our debates, the Home Secretary made a perfectly reasonable plea, which was that in these serious matters of counter-terrorism, the Government have a right to ask for the trust of the House of Commons in trying to come to their conclusions. That is why I say to the Home Secretary that it is with the heart of that trust that we are concerned tonight. The sunset clause is so important because we cannot trust the people who are asking for our trust.

I merely say to the Home Secretary that for him to pray in aid the security services, and for it then to be proved that the security services have not asked for one of the key things that he implied they had asked for, and that the Prime Minister said they had asked for, is to remove the trust of this House.

Mr. Charles Clarke: I have in front of me the *Hansard* report of the references that are being discussed. The Prime Minister said:

"I am afraid that we"—

meaning the Government—

"are not prepared to accept either the amendment on the sunset clause or the other amendment voted for by the House of Lords, and which the Conservatives in the House of Lords backed, to change the burden of proof. That would not be wise; it would be contrary to the strong advice given to us by our security services and our police, and I am simply not prepared to do it."—[*Official Report*, 9 March 2005; Vol. 431, c. 1510.]

That is what he said. The security services and the police have advised us categorically and clearly, as they should do, on measures. They have advised us quite explicitly that we should not change the burden of proof for non-derogating control orders. The reason why they have given that advice is very simply because they know, as do we, that there are certain people who are dangerous to the country, but could not be controlled if such a situation existed.

Mr. Michael Howard (Folkestone and Hythe) (Con): On a point of order, Mr. Deputy Speaker. The House is this morning debating matters of the most fundamental importance to our country. They relate to the protection of our country from the threat of terrorism, and the

[Mr. Michael Howard]

fundamental liberties of the people of this country. It is essential for the future confidence in this House, and the political system as a whole, that these debates take place on the basis of the truth.

On Wednesday, in answer to a question from me, the Prime Minister said that it would not be wise to accept either the amendment on the sunset clause, or the other amendment to which the Home Secretary referred, because that would be

"contrary to the strong advice given to us by our security services and our police".—[*Official Report*, 9 March 2005; Vol. 431, c. 1510.]

It is now crystal clear that that is not the case. Is it not essential, in the interests of the body politic of this country, that the Prime Minister now come to the House to withdraw a statement that the Minister for Crime Reduction, Policing and Community Safety this morning, and the Lord Chancellor earlier, said was not an accurate statement of the position?

Mr. Deputy Speaker: I have given the Leader of the Opposition some latitude to put that on the record. However, I must say to the right hon. and learned Gentleman that the Chair has no power to command a Minister to attend the House—*[Interruption.]* Order. I do not need the advice of hon. Gentlemen. The Chair cannot intervene to cause a Minister to appear. The right hon. and learned Gentleman has made his point, but there is nothing that the Chair can do to advance it.

Mr. Charles Clarke: Further to that point of order, Mr. Speaker. Is it in order to ask the right hon. and learned Member for Folkestone and Hythe (Mr. Howard) to read out verbatim the statement to which he referred, in every respect, and in particular to ask him to read out the Prime Minister's observation that the suggestion of a change to the burden of proof was not recommended by the security services in such a way? Let the right hon. and learned Gentleman read out the whole *Hansard* quotation.

Mr. Deputy Speaker: We are now clearly moving from a point of order on to a point of debate, but I am mindful that we are still attempting to listen to the contribution of the right hon. Member for Suffolk, Coastal (Mr. Gummer). I think that we would do better to return to the mainstream of the debate.

2.15 am

Mr. Gummer: In column 1510, the word "either" refers to both those issues—that cannot be gainsaid. However, even if there were a slip of the tongue and that was not quite what the Prime Minister meant, if he respected the seriousness of the issue he would be here to listen to our debate and defend the way in which he had expressed himself. The problem is that on previous occasions the Prime Minister has appeared not to tell exactly the truth in certain circumstances.

Hon. Members: Withdraw!

Mr. Deputy Speaker: Order. I think that there is a more felicitous way in which the right hon. Gentleman could try to make his point.

Mr. Gummer: I regret my infelicity and I withdraw any indication that the Prime Minister meant to say something that was untrue. I shall use more felicitous phrasing: there are many people both outside and inside the House who have misunderstood what the Prime Minister said, including the Home Secretary.

Mr. Charles Clarke: On a point of order, Mr. Deputy Speaker. I am grateful to you both for clarification and for seeking a withdrawal of the comment by the right hon. Member for Suffolk, Coastal (Mr. Gummer). I hope you agree that it is important to the House that he withdraw unequivocally the suggestion that the Prime Minister made that interpretation.

Mr. Deputy Speaker: No one should accuse any right hon. or hon. Member of untruthfulness or deceit. The right hon. Member for Suffolk, Coastal (Mr. Gummer) has withdrawn any suggestion that he was making such an allegation. What is at issue is a matter of judgment—there is no question but that it is a matter of contention, and is not something on which the Chair can rule.

Mr. Gummer: When a misunderstanding of such importance has occurred—indeed, it has clearly arisen on both sides of the House—it must be put right. That becomes more necessary the graver the issue. That is why I want to answer a comment made by the right hon. Member for Carrick, Cumnock and Doon Valley (Mr. Foulkes). Everybody in the House is trying to do a very difficult thing and protect the nation against terrorism while at the same time upholding human rights so that terrorism does not grow among individuals who have legitimate grounds for believing that their human rights may have been invaded.

It is legitimate for us to disagree about how to deal with these things, and it is therefore proper for the Government to make sure that if their judgments turn out to be wrong, we have a ready opportunity to put that right. That is why the sunset clause is so important. It gives the House an honourable opportunity: if what is done for all sorts of reasons in haste and with many misunderstandings—I am not making any allegations—turns out to be less than the best, we will assuredly and without peradventure have a chance to get it right. People who accuse Conservative Members of being anything other than staunchly opposed to terrorism are wrong. We are so strongly opposed to terrorism that we want the best legislation that we can get, we want to make it work and we want a Prime Minister who can be trusted not to be misunderstood by his own Home Secretary.

Mr. Garnier: This debate would have been better informed if we had had longer to debate the serious issues before us—

Mr. Deputy Speaker: Order. I can only say to the hon. and learned Gentleman that I am sorry that the debate had to end on a climactic note.

It being one hour after commencement of proceedings, MR. DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [9 March].*

The House divided: Ayes 298, Noes 216.

Division No. 135] **[2.20 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Oliver, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Ward, Claire
Watson, Tom

Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*

Tellers for the Ayes:
Margaret Moran and
James Purnell

NOES

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Meacher, rh Michael
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Bob Russell and
Mr. Peter Atkinson

Question accordingly agreed to.

Mr. Howard: On a point of order, Mr. Deputy Speaker. The Home Secretary invited us to read the passage from *Hansard* that led to the previous exchanges. This is what the Prime Minister said—*[Interruption.]*

Mr. Deputy Speaker (Sir Michael Lord): Order. *[Interruption.]* Order. I will hear this point of order.

Mr. Howard: The Prime Minister said:

"I am afraid that we are not prepared to accept either the amendment on the sunset clause or the other amendment voted for by the House of Lords, and which the Conservatives in the House of Lords backed, to change the burden of proof."

He said "either" and "or". He continued:

"That would not be wise; it would be contrary to the strong advice given to us by our security services and our police, and I am simply not prepared to do it."

That was clearly referring to both the amendments.

There is another quotation—*[Interruption.]*

Mr. Deputy Speaker: Order. The right hon. and learned Gentleman must be very clear—*[Interruption.]* Order. This is a very serious matter. The right hon. and learned Gentleman must be very clear about making a point of order that the Chair can deal with.

Mr. Howard: I have to lay the foundations for it. There is another quotation from *Hansard*. At column 1511, the Prime Minister said:

"We have made concessions that we think are reasonable; we will not make those that are against the direct advice that we are receiving."—[*Official Report*, 9 March 2005; Vol. 431, c. 1510-11.]

The Prime Minister is in the precincts—he voted in the previous Division. Is there any precedent for a Prime Minister who is present in the precincts of this Palace, and against whom such accusations have been made, to fail to have the courage to come to the Dispatch Box—*[Interruption.]*

Mr. Deputy Speaker: Order. I understand the right hon. and learned Gentleman's point of order but it only adds to a point of order that has already been made this evening. Everybody in the Chamber, and those outside, will have heard the point of order. The Chair has no responsibility for bringing Ministers or Prime Ministers—*[Interruption.]* Order. I repeat that the Chair has no responsibility for bringing Ministers or Prime Ministers to the House. The right hon. and learned Gentleman's point is on the record and the House must make its own judgment about it.

Mr. Charles Kennedy (Ross, Skye and Inverness, West) (LD): On a point of order, Mr. Deputy Speaker. Given your ruling of a moment ago and the definite ambiguity, to say the least, that exists, would it be in order for you to request that the Prime Minister or the Government place the available evidence in the Library, so that an objective judgment can be formed since, clearly, the Prime Minister is not coming to the House to explain?

Mr. Deputy Speaker: I can only repeat what I have already said. The Chair does not have responsibility for those matters and cannot insist on them. The Chamber will have heard the right hon. Gentleman's points, and those inside and outside it will have to make their judgment about what has happened this evening.

Ms Blears: On a point of order, Mr. Deputy Speaker. I want to make it clear to the House—*[Interruption.]* It is an important matter for the record of the House. The words that the Leader of the Opposition read out are followed by several statements by the Prime Minister. He said:

"The point of principle is on the control orders and the burden of proof."—[*Official Report*, 9 March 2005; Vol. 431, c. 1511.]

He goes on to say—*[Interruption.]*

Mr. Deputy Speaker: Order. [HON. MEMBERS: "Where is he?"] Order. I am reluctant to stop the Minister in mid-flow but all those matters—

Ms Blears *rose*—

Mr. Deputy Speaker: Order. All those matters are becoming a continuation—*[Interruption.]* Order. There are serious matters before the House and it behoves us to behave properly when we discuss issues of such gravity. All that is happening now is an extension of the previous debate. *[Interruption.]* Order. I do not intend to take any more points of order from either side of the House. I shall move to the next Division.

Mr. Deputy Speaker then proceeded to put the remaining Questions required to be put at that hour, pursuant to Order [9 March].

Lords amendments: 27, 31 and 32.

Motion made, and Question put,

That this House insists on its disagreement with the Lords in their amendments Nos. 27, 31 and 32 and on its amendments Nos. 27C and 27D in lieu and proposes amendment (a) in lieu.—*[Ms Blears.]*

The House divided: Ayes 310, Noes 207.

Division No. 136] **[2.39 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*

David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
James Purnell and Margaret Moran

NOES

Abbott, Ms Diane
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William

Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Colline, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Mr. Mark Prisk and
Mr. Alan Reid

Question accordingly agreed to.

Ms Blears: On a point of order, Mr. Deputy Speaker. I just want to make it clear that when the Prime Minister was responding—*[Interruption.]*

Mr. Deputy Speaker: Order. I said earlier that we are debating a very serious matter. I have already heard two points of order from the Opposition side of the House—*[Interruption.]* Order. The Minister wishes to make a point of order and must be heard.

Ms Blears: Thank you, Mr. Deputy Speaker.

I simply want to make it clear that when the Prime Minister was responding to the issue about the sunset clause, he said:

"I do not agree with the sunset clause, for this simple"—

[Interruption.]

Mr. Deputy Speaker: Order. I do not want to repeat myself—*[Interruption.]* Order. The House must listen to the Minister.

Ms Blears: The Prime Minister said:

"I do not agree with the sunset clause, for this simple reason: it is important that we send a clear signal now that this legislation is on the statute book and will remain on the statute book."—[*Official Report*, 9 March 2005; Vol. 431, c. 1511.]

He made no reference to the advice of the Security Service. *[Interruption.]*

Mr. Deputy Speaker: Order. I think that the House—*[Interruption.]* No, I am not taking any more points of order. It would be a good idea if we moved on to the next Division.

Lords amendment: 33D

Motion made, and Question put,

That this House disagrees with Lords amendment No. 33D and insists on its amendment No. 33C in lieu, does not insist on its amendments Nos. 33A and 33B and proposes amendments (a) and (b) in lieu.—*[Ms Blears.]*

The House divided: Ayes 307, Noes 212.

Division No. 137] **[2.55 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera

Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benn, rh Hilary
Benton, Joe *(Bootle)*
Berry, Roger
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Ennis, Jeff *(Barnsley E)*
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Illsley, Eric
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Morgan, Julie
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Rooney, Terry
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Singh, Marsha
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil

Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Margaret Moran and Gillian Merron

NOES

Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beggs, Roy *(E Antrim)*
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Forth, rh Eric
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howard, rh Michael
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kilfoyle, Peter
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Angus *(Moray)*
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Wiggin, Bill
Wilkinson, John
Willetts, David
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Wood, Mike *(Batley)*
Yeo, Tim *(S Suffolk)*
Younger-Ross, Richard

Tellers for the Noes:
Mr. Roger Williams and Mr. Crispin Blunt

Question accordingly agreed to.

3.6 am

Sitting suspended.

8 am

On resuming—

Mr. Deputy Speaker (Sir Michael Lord): I must inform the House that a message has been brought from the Lords as follows. The Lords insist on their amendments to the Prevention of Terrorism Bill to which the Commons have insisted on their disagreement. They insist on their disagreement to the amendments proposed by the Commons on which the Commons had insisted, and they disagree to the amendments proposed by the Commons in lieu for which insistences and disagreements they assign their reasons. Copies of the Lords reasons are available in the Vote Office, as are the Government's propositions relating to the message. All Government proposals are being debated together.

Lords reasons: 1F and 37W.

Mr. Charles Clarke: I beg to move, That this House insists on its amendments 1A and 1B to Lords

[Mr. Charles Clarke]

amendment No. 1, insists on its disagreement to Lords amendments Nos. 12, 13, 15, 17, 22, 28 and 37 and insists on its amendments Nos. 37A to 37C and 37E to 37O, does not insist on its amendment No. 37V, insists on its disagreement to Lords amendments Nos. 37Q to 37T proposed in lieu of Lords amendment No. 8 and insists on its amendments Nos. 17H to 17M to the words restored to the Bill by its insistence on its disagreement to Lords amendment No. 17 and proposes amendment (a) in lieu.

Mr. Deputy Speaker: With this we will discuss Lords reasons 8B, 12C, 13C, 15C, 17P, 22C, 27F, 28C, 31D, 32D and Government motion to insist &c. and Government amendment (a), and Lords reason 33H and Government motion to insist &c. and Government amendments (a) and (b) and Lords reason 37W.

Mr. Clarke: It is perhaps appropriate that we hope to complete the passage of the Bill today, on the first anniversary of the tragic Madrid bombing. That is a sad reminder of the reality with which all Members of this House and the other place must deal when considering these matters.

I am proposing three amendments to the Bill. The question of the making of non-derogating control orders, the burden of proof and the judicial supervision of non-derogating control orders relates to Lords reason 1F. My amendment provides that when the Secretary of State applies to the court for permission to make a non-derogating control order, he or she must supply the court with a copy of the order that he or she proposes to make.

We have been having a debate on the question of the Privy Council review versus an independent reviewer, which relates to Lords reasons 27F, 31D and 32D. My amendment provides that the independent annual reviewer must comment on the extent of the Secretary of State's use of the urgency procedure in relation to the making of non-derogating control orders in his report. That is an effort to meet the concerns expressed on my side of the House about the use of the urgency procedure and to ensure that that matter is properly in the public domain.

The third amendment that I propose deals with the question of annual renewal versus a sunset clause, which is covered by Lords reason 33H. My amendment would require the Secretary of State to consult the director general of the Security Service before making the annual renewal order.

Mr. Cash: Will the Secretary of State give way?

Mr. Clarke: No, I will not.

Mr. Cash *rose—*

Hon. Members: Give way.

Mr. Deputy Speaker: Order. The Home Secretary has indicated that he is not going to give way at the moment.

Mr. Clarke: I am afraid that I am eerily familiar with the point that the hon. Gentleman wishes to make. Indeed, he made it to me in the Lobby only a few minutes ago. I think that I would like the debate to proceed on the issues before the House rather than his specific questions.

The story of the night both here and in the other House is that of a series of constructive moves made by this House. I shall list only the issues raised overnight—not the ones raised previously. We have proposed using the affirmative procedure in respect of the rules of court. We have proposed providing a wider role for the independent reviewer so that he or she can look at the whole Act. We have taken steps to ensure that the independent reviewer's report will be available so that the annual renewal debate on the Act can be proper and informed. We wish to include in the Bill the requirement for the Secretary of State to ask the independent reviewer to comment specifically on the implications for the Act of any future legislation on terrorism.

We have proposed putting a specific requirement on the Secretary of State to consult the independent reviewer before laying an order to renew the control order powers each year. We have proposed measures to include additional protection for the subjects of non-derogating control orders in the Bill and specifically to enshrine existing procedures to ensure that exculpatory material will be disclosed to the court and the special advocate in all cases, and also to the subject of the order, unless that is contrary to the public interest. We have moved amendments to allow the disclosure of unused material unless that is contrary to the public interest.

I have read that long list of the constructive moves made by the Government and the House to try to meet concerns expressed throughout the whole House and in the other place because it shows that we want to find constructive solutions. I contrast the approach of the Government and the Commons to the zero movement—that is literally the case—of the Conservatives and the Liberal Democrats who control the other place. In 12 hours, there have been two rounds of consideration, but there has not been any movement at all. There have been two separate sessions in the Lords with zero response. Theirs is a stick-in-the mud response in which they have dug their heels into the sand and prevented the elected House from carrying out its proposals.

The country needs a Bill that prevents terrorism and protects our people. Our constituents, who elect us to the House, need that protection, and that is why we are addressing the issue in this way. I believe that it is time for the Conservatives and the Liberal Democrats in the other place to respect the considered views of the elected Chamber. I urge the House to support the amendments and I urge Conservative and Liberal Democrat Members in the other place to give us their support.

Mr. Grieve: I am sorry that the night has not brought the Home Secretary good counsel. I rather hoped that when we reassembled this morning a greater degree of clarity and common sense would prevail. Instead, we have had a repetition of the same old mantras. The Home Secretary said that he is making a major concession, but it appears that that means giving a copy of the order to the person concerned. He knows that the distinction that he continues to try to make between derogating and non-derogating orders is wrong and absurd. The logical conclusion of his argument is that derogating orders are valueless, as was explained by the Minister for Crime Reduction, Policing and

Community Safety last night. There is no reason why non-derogating orders should not be subject to the same protection as derogating orders. Having had his moment of clarity, it is extraordinary that the Home Secretary is still unable and unwilling to give a logical explanation of why he will not concede that point, which we believe is of great importance.

The liberty of the individual must be protected, miscarriages of justice must be prevented, and if this anti-terrorism legislation is to work and command public approval in all communities in this country it must be seen to be transparently fair. It is extraordinary that the Home Secretary is prepared to tolerate a system in which there is inherent and manifest unfairness. The explanations that he has offered to justify it are frankly gobbledygook. We are told that there is a major concession on Privy Council review—there is not. The extent of the urgent procedure may be looked at by the independent reviewer, but there has been no attempt by the Home Secretary to engage with the value and merits of a full Privy Council review.

Finally, there is the issue of the sunset clause. The Home Secretary does not seem to have grasped the significance of the sunset clause to Parliament as a whole. This legislation is unusual and draconian, and it would be wrong to put something on the statute book that has the capacity to become permanent. There is no reason why the sunset clause should not be included in the Bill, and the mechanisms that the Home Secretary is giving himself to renew the legislation by order are fundamentally flawed and wrong. If the Home Secretary thinks that there will be movement in the other place on that point, he is profoundly mistaken, because it is of such importance.

Simon Hughes (Southwark, North and Bermondsey) (LD): Does the hon. Gentleman remember that when the Government last came to us, in 2001, with emergency powers to deal with terrorism, there was tension between the two Houses and a deadline to meet? However, a resolution was achieved because two principles were accepted by the Government—first, that there should be due process throughout, and secondly, that there should be a sunset clause. When the Government accepted those proposals, there was movement and both Houses came to an agreement.

Mr. Grieve: I could not agree more. I am a great believer in sunset clauses generally, because there is much stale legislation on the statute book. This legislation requires a sunset clause. It is ridiculous that we should consider allowing legislation passed in such haste to remain on the statute book for an indeterminate period.

Mr. Charles Clarke: If the hon. Gentleman likes sunset clauses so much, will he propose his own personal sunset clause by answering the question I asked him last night? Will he put in his manifesto his intention to repeal the legislation before us?

Mr. Grieve: The Home Secretary is suffering from severe cognitive dysfunction. I explained our position to him last night, and I am sorry if he cannot now remember it. I can only assume that his general anger and frustration got the better of him and he was not listening to a word I said. That is why I appear to be repeating myself, and I shall try to avoid doing that.

The Home Secretary said that no concessions had been made in the other place. That was not my impression. When the debate started, we wanted a sunset clause of eight months—and there were strong reasons for that. A concession was made and on a very sensible Labour amendment, we accepted a sunset clause of 12 months. So it is wrong for the Home Secretary to say that no attempt has been made to reach agreement. I am here, if the Home Secretary wants to talk to me—any time he likes—as are all my hon. Friends.

Fundamental issues remain to be addressed, but the Home Secretary has not even attempted to do so.

Mr. Gummer: Will my hon. Friend explain to the Home Secretary that the sunset clause gives the House of Commons the power to control the legislation? The House of Lords is in fact enabling this House to protect its own future in controlling this legislation.

Mr. Grieve: Yes, indeed. Much was said yesterday about the primacy of this Chamber, but this is a parliamentary matter, for the whole of Parliament. If we do not allow the other place to carry out its functions, and ignore what it says, we end up with bad legislation.

Mr. Hogg: Does my hon. Friend also agree that a sunset clause would enable the House of Commons, for the first time in this debate, to add in a Committee stage to examine the detail of each and every clause, which hitherto we have not been able to do?

Mr. Grieve: Of course it would, and it is a scandal that we were prevented from doing so. There was no reason why we could not have done so. We have sat through the night now and we could have sat through the night last week, but the Government would not allow us to do so. We might then have had a better chance of achieving consensus.

The Government have consistently denied this House any opportunity to reach consensus, which makes a complete mockery of our procedures.

Mr. Dennis Skinner (Bolsover) (Lab): If the Tories are so keen on sunset clauses, and in view of the fact that I was here during the 18 years when they were in power, can the hon. Gentleman tell me why no sunset clauses were included in the rail and coal privatisations? Why did the Single European Act and the Maastricht treaty not include sunset clauses? I could go on for another 20 minutes. The truth is that the Tory Opposition are using unelected Members in the other place to overturn the will of hon. Members in this House, who are directly elected by our constituents.

8.15 am

Mr. Grieve: The hon. Gentleman's latter comments were on message, but I suspect that his initial remarks were off message, as far as Labour Members are concerned. First, those laws are good laws. *[Interruption.]* The Labour Government adopted them

[Mr. Grieve]

and did not reverse them. If those laws are so bad, why have the Government not taken the opportunity to deal with them? Secondly, those laws do not touch on the liberty of the subject, which this Bill does, and they were not timetabled with knives, which this Government have used ruthlessly.

Mr. Kevin McNamara (Hull, North) (Lab): I am grateful to the hon. Gentleman for giving way, because of what he has said about the liberty of the subject. Some of us divided this House in 1971 on internment without trial, because we felt that incarceration without trial was wrong. The Tory party pushed the measure through and maintained it throughout its time in government. Why should we not be suspicious about this apparent Damascene conversion?

Mr. Grieve: First, the hon. Member for Bolsover (Mr. Skinner) did not mention that legislation. Secondly, the hon. Member for Hull, North (Mr. McNamara) took a principled stand on that matter, which the passage of time has probably proved to have been entirely correct. The House would do well to reflect on his example.

Clare Short (Birmingham, Ladywood) (Lab): This view may not be fashionable on these Benches, but these proceedings are bringing this House into disrepute. In the other place, the party majorities reflect voting across the country, and the exaggerated majority in this House undermines the House's democratic authority.

Mr. Grieve: The right hon. Lady is right, which is why it is so foolish for hon. Members to recite mantras about the primacy of this House. Parliament is supposed to operate with the participation of both Chambers. The upper House reflects the fact that some aspects of this Chamber are not purely democratic. The system can work and should work, if only the Home Secretary and the Government would listen.

Lembit Öpik (Montgomeryshire) (LD): On many occasions during the past eight years, the Government have reasonably introduced legislation relating to terrorism in Northern Ireland that explicitly includes sunset clauses, and we renew such legislation every year on the basis of a debate. Does he agree that there is no principle preventing the Government from introducing a sunset clause on this occasion? Out of bloody mindedness, they refuse to apply a consistent policy, as they have done on Northern Ireland matters.

Mr. Grieve: The hon. Gentleman is right. One of the oddest features of the process has been the Government's complete unwillingness to engage in real dialogue with the Opposition parties.

Mr. Charles Clarke *indicated dissent.*

Mr. Grieve: That is the truth. The Government came up with an idea and presented the Opposition parties with a fait accompli. They then said, "Take it or leave it." There was no discussion in January, when the Government could have held a creative conversation to try to achieve common ground. They did not do so, which is regrettable, because I do not think that we would be here today if that had happened.

Mr. Tom Harris: There is an important point of principle here, as the hon. Gentleman rightly says. This elected House of Commons has repeatedly, over the past day and the past week, made its position clear on some fundamental points, and the unelected Chamber has, on similar terms, made its point of view very clear. Can the hon. Gentleman confirm that it is his position and that of the Conservative party that where the elected House of Commons and the unelected House of Lords disagree, the view of the Commons should prevail?

Mr. Grieve: The upper House has engaged itself as a revising Chamber, and it has put forward suggestions for improving the legislation—that is exactly what it should be doing. It is now being subjected to a battle of attrition by the Government to try to whittle down the overwhelming view expressed there, not only by Conservative and Liberal Democrat peers but by Cross Benchers and even some of the Government's own peers. That is the extent of the problem that the Government face, and until they start to listen, they will continue to have a problem. All that I can say to the Home Secretary is that I hope that during the passage of the morning he may come to have a little more sense, because he can have this Bill and the protections that it offers, and at the same time, civil liberties can be protected; at the moment, they are not. The House should support the Lords amendments.

Rob Marris (Wolverhampton, South-West) (Lab): At first, one could characterise this Bill as a nasty little Bill because we live in a nasty little world. I abstained on Second and Third Reading because I wanted the Home Secretary to make concessions. To my mind, he has done so, and I have been happy to vote with the Government when the Bill has recently been before the House.

There are currently three sticking points. The first sticking point is the sunset clause. The hon. Member for Beaconsfield (Mr. Grieve) tells us that a sunset clause is necessary because otherwise the Bill, when enacted, could go on and on. He seems to forget the fundamental constitutional principle that one Parliament cannot bind another, that we will have a general election within the next 18 months, because constitutionally we must, and that any subsequent Parliament can look at this legislation again.

The second sticking point is the question of Privy Councillors conducting the review. I remind hon. Members that myriad independent reviews in the past were not carried out by Privy Councillors, and they were in no way the lapdogs of Government. If we think back to the previous Government, we had the Scarman inquiry, and the Scott inquiry into Matrix Churchill. Just because a review is carried out by an independent person does not mean that the inquiry is a stitch-up from the beginning.

The third sticking point involves non-derogating control orders and the burden of proof. I can see why the Conservatives argue for that principle, but it has not been a principle in the past and is not a principle in many parts of our criminal law. If someone is remanded in custody, that is because there is a reasonable suspicion that they have committed an offence. They can be remanded in custody for weeks. Under the previous Government, as some Members may recall, there was the case of Mr. Osman, who fought extradition from

this country because there was a reasonable suspicion that he had carried out criminal activities abroad. He was incarcerated in this country for years under the previous Government—it did not seem to be a principle to the Conservatives then.

Most hon. Members have been with a constituent, as I have, and discussed an issue that appears to be have been resolved in the conversation, when the constituent says, "And another thing," so one has a discussion about that—but then the constituent says, "And another thing." That characterises the Opposition's position. The Liberal Democrats and the Conservatives have made no concessions, yet the Government have made them as part of the debate in the Chamber and in the other place, and I respect my Government for that. I shall continue voting with them because I do not wish to be in a position whereby the House of Lords dictates to us and does not engage in proper concessions. Such engagement is the way in which a mature society should resolve those issues.

Mr. Heath: I welcome the tone, if not all the content, of the hon. Gentleman's speech. It is time we regained that sense of seriousness which, I am afraid, has not characterised some of our debates in the past few hours.

We must remember the context of the debate. The Home Secretary was right to remind us at the beginning of his remarks that today is the anniversary of an appalling terrorist atrocity in Madrid. We are all trying to ensure that such an atrocity cannot happen in the United Kingdom.

Claire Ward (Watford) (Lab): You're not.

Mr. Heath: I find that remark deeply offensive. We are trying to find the best way of stopping terrorists and dealing with them effectively.

Mrs. Lorna Fitzsimons (Rochdale) (Lab): Will the hon. Gentleman give way?

Mr. Heath: No. *[Interruption.]* I will not take an intervention. *[Interruption.]*

Mr. Deputy Speaker: Order. The hon. Gentleman has indicated that he is not giving way at the moment. The House should come to order, remember that we are discussing serious matters and listen to the hon. Gentleman who has the Floor.

Mr. Heath: I am most grateful, Mr. Deputy Speaker, because, as I said at the outset, it is important that we remember exactly what we are about. We are trying to find—I hope through consensus—the best way of protecting the citizens of this country and ensuring that they are subject to fair laws. I respect many of the comments that the hon. Member for Wolverhampton, South-West (Rob Marris) made, but it is wrong to say that no attempt has been made to find that consensus.

We have understood the Home Secretary's arguments and accepted that, although control orders are deeply unpleasant, they will be part of the architecture of fighting terrorism in this country. We have accepted, because it was appropriate, that the emergency arrangements were a necessary part of the construction of those control orders. We have sought to find any number of ways of constructing an appropriate legal framework in which those control orders could be made. The other place has played a significant part in that dialogue and we have made progress. The House should accept that.

Volume is no substitute for content, and we should examine what the House of Lords says. It does not state that it wishes to oppose the Government's proposals. Far from it—it wants to work with the Government. It insists on its amendment, which we propose to delete today, on a matter that is deeply significant not only to people from abroad whom we might not like the look of, but to British citizens and the way in which they will be treated in our courts. It is important to read the Lords reasons. Reason 1F states:

> "Because the Lords remain of the view that reasonable suspicion is too low a test; that the authority to conduct a prosecution should be the Director of Public Prosecutions and not the chief of the relevant police force; and that all control orders should be subject to the same procedure before the courts."

There are many right hon. and hon. Members on the Labour Benches who agree with all those propositions. I see some of them nodding now.

Kevin Brennan: What is the opinion of the hon. Gentleman, as a Liberal Democrat—I emphasise the word "democrat"—as to whose view should prevail if there is ultimately an honest disagreement between this House and the unelected House?

8.30 am

Mr. Heath: We are engaging—[HON. MEMBERS: "Answer."] I am answering the question. We are engaged in a process of dialogue that I hope will result in justice for the people of this country. The honest answer is that, ultimately, the House of Commons must of course be the prime House. I have no quarrel about that, and nor would any of my noble Friends at the other end of the Corridor. I return to what they are saying: it is not that the House must not have the anti-terrorism proposals that the Home Secretary has put forward—but there is a perfectly proper argument that reasonable suspicion is too low a test. We heard the right hon. and learned Member for Rushcliffe (Mr. Clarke), in an earlier speech, saying that we do not even accept that for a parking ticket for British citizens, yet we are prepared to accept it for deprivation of liberty. I take that seriously, and I hope that Members on the other side of the Chamber take it seriously. They would have done so in previous years and previous debates, so I hope that they still do.

The second component is that the prosecution should be conducted by the Director of Public Prosecutions. The Home Secretary has acknowledged that principle. He has chosen, for reasons that are not entirely clear, to say that he wishes to consult the chief of police rather than the person who is charged with making a prosecution—the Director of Public Prosecutions. I do not understand that. I do not understand the matter of principle involved in that. I would have thought that it is all a matter of proper dialogue and negotiation.

[Mr. Heath]

The third point relates to the common procedure for these orders. Again, we have heard cogent speeches from well-respected Government Members saying that there should be exactly that, so let us not pretend that there is a matter of principle between the two sides of the House on that point.

Rob Marris: The hon. Gentleman, in his usual way, is putting cogent arguments to the House. He is setting out concessions, to which I have adverted, made by the Government and the Home Secretary. I may have misunderstood him, but I have not understood him to be putting forward any concessions made by his party during the debating process of the last two weeks. He is setting out principles of his party, and I respect that. What concessions has his party made during this debating process?

Mr. Heath: Because the hon. Gentleman asks the question in a sensible way, I will do my best to answer. A whole series of amendments have come forward from the Home Secretary that have not returned to this House. He may have noticed that we are now down to three propositions as the areas of differentiation. Initially, we were very concerned, as I said, about the whole concept of control orders. We have accepted that. We were concerned about reasonable suspicion for an emergency control, as a matter of principle. We have accepted that there are conditions in which that will be the appropriate test. Clearly, therefore, we are making progress in those areas.

Chris Bryant: Will the hon. Gentleman give way?

Mr. Heath: The hon. Gentleman has been pestering me for two days, so yes.

Chris Bryant: I am very grateful to the hon. Gentleman. He has been making the point that all control orders should be treated precisely the same, which is a principle to which their lordships are still holding. Does not he accept that many in the House believe that it is wholly different to impose a control order that deprives someone of their liberty by putting them under house arrest and to impose one that merely says that somebody is not allowed to work in a nuclear establishment or that they will have their passport removed?

Mr. Heath: Let me take the hon. Gentleman's point at face value. What is proposed in these control orders is a whole spectrum of controls, ranging from minimal matters to serious restrictions on the liberties of the individual. There is no sharp dividing line. At one end there is what has been described as home arrest; at the other there is merely reporting to a police station, or something of that sort. Between the two, there are what can only be construed as serious deprivations of liberty, which could fall short of a derogation. I think it entirely reasonable to have a common judicial process.

Mr. Hogg: Would the hon. Gentleman care to remind the hon. Member for Rhondda (Chris Bryant) that non-derogating orders are capable of wholly destroying the lives and livelihoods of the people with whom they interfere—and, moreover, the lives and livelihoods of their friends and families? They are extremely draconian measures.

Mr. Heath: The right hon. and learned Gentleman is right. They can be. The problem is that there is such a range of potential—I was going to say penalties, but we cannot really call them penalties, because they are not penalties for a crime committed; they are penalties imposed in the anticipation of a crime.

Mr. Adrian Bailey (West Bromwich, West) (Lab/Co-op): Will the hon. Gentleman give way?

Mr. Heath: No. I think I have given way enough.

I must tell the hon. Member for Rhondda this: it cannot be described as a minor deprivation when someone cannot work, cannot leave a particular area, cannot consort with friends, cannot telephone anyone and cannot use the internet. All those orders are on the palette available to the Home Secretary. It cannot be said that all of them are inconsequential matters for the individual, and that the orders should continue for as long as the Home Secretary may determine. I am sorry, but I do not believe that those are inconsequential matters.

Chris Bryant: Will the hon. Gentleman give way?

Mr. Heath: I will, for the very last time, let the hon. Gentleman explore his point.

Chris Bryant: I am grateful, because this is one of the first times that we have explored the issue since yesterday. Surely the point is that any control order that contravened article 5 would automatically be a derogating power, and consequently would be struck down by the judges.

Mr. Heath: I understand that point, but the fact that we have a spectrum enabling a series of non-derogating controls to become derogating controls, and therefore be subject to annulment, emphasises my argument for a common judicial process. There is a perfectly sensible debate that we could have. We should not be characterised as obstructive Members of another House trying to deprive the Government of their Bill.

Mr. Garnier: Will the hon. Gentleman give way?

Mr. Heath: Not now. Others want to speak.

Two matters of process are before the House, and one matter of principle. The matter of principle is what I have just been talking about, and on that I still believe that we can reach an accommodation. The two matters of process are the Privy Council review of the legislation—which I think is a sensible outcome and one to be desired, particularly given the Government's new amendment to provide an independent reviewer—and the sunset clause.

The sunset clause is a matter of practicality: it is a protection against the continuation of what is, in anyone's book, a hastily constructed and dangerously draconian measure. It is an emergency measure, which has not been properly considered by the House of

Commons or anyone outside it. I believe that it is sensible to provide a sunset clause enabling the new Parliament, however it may be formed, to discuss the legislation, with an appropriate amount of time.

If the Secretary of State wants to return to us with a different date for the sunset clause, we shall listen to what he has to say. As I pointed out yesterday, he has already provided for a proto-sunset clause in his amendments. There is a pretence that there is a huge difference between the two Houses—an impasse—but it is an impasse in the mind of the Prime Minister. It is the Prime Minister who cannot countenance the fact that we could reach an accommodation.

I return to the point with which I started. These matters are too serious for us to engage in knockabout across the Chamber, which I think does nothing for the reputation of the House. It is time we sat round the table and arrived at a consensus so that we can get these measures on the statute book. Why? Because it is the anniversary of a major atrocity in a European city and because we have been told that there are dangerous terrorists who need to be locked up for the protection of our citizens, but are now walking freely the streets of Britain. Those are the reasons why we need the legislation to go through in a form acceptable to this and the other House. It is time we sat down and ensured that that happens.

Mr. John Denham (Southampton, Itchen) (Lab): When I became a Minister in 1997, a wise older politician said to me, "John, before you take a major decision, just remember how it will look at the public inquiry into the subsequent disaster." Some of us fear that, in the years to come, there may be a public inquiry into how al-Qaeda were able to mount the attack that they succeeded in getting away with, despite the best efforts of our security services. I have to say that if a video were shown of the proceedings of this and the other House, it would not reflect well on the efforts being made to protect this country from terrorism.

I say that because a Bill about terrorism has now been elevated into what has the signs of being a serious constitutional crisis, which should not have been allowed to happen. Mistakes have been made on all sides and people have become very heated, but we now need to take stock of where we are today.

During my time in Parliament, disagreements between this House and the other place have occurred over many pieces of legislation. It has often taken place against the pressure of time at the end of a Session. I have never known a situation, however, in which a way through could not be found. In each of those cases, there were real differences—differences in the sense that two reasonable people could hold a different point of view—but a way through was found. In every single case, the way through was found in support of the position of the democratically elected Chamber of Parliament.

If we reflect on where we are with the Bill, it is clear that there are real differences in the sense that two reasonable people could take a different point of view, but those real differences are not sufficient to justify the constitutional crisis into which we are now falling.

There are two major points. The first is the argument about the level of proof. It is a simple fact that Opposition Members who were in their places to do so, voted regularly for the prevention of terrorism Acts, which gave the Secretary of State the power to determine where British citizens should live. He had that power not after going to a judge, not on reasonable suspicion, not on any legal test or procedure, but simply because the man who is now the Leader of the Opposition said, "You are not living there, sunshine, and that is an end to it—no argument." The party that voted for that cannot sensibly now say that the argument about the level of proof is sufficient to provoke a constitutional crisis. It makes no sense.

Clare Short: Earlier, my hon. Friend the Member for Hull, North (Mr. McNamara) reminded the House about internment. This Bill proposes a form of internment, albeit with different gradations. People will be detained not for what they do but for what they might do. That, fundamentally, is what internment is, and everyone agrees that it led to massive recruitment to the IRA. Given that the definition of terrorism has such a low threshold, it is my serious view that by proceeding in this way we will incite more people to anger and make it more likely that they will support terrorist organisations. Therefore, I think that the revising House needs to restrain this House from making such a major error, especially as our procedures have been found so wanting.

8.45 am

Mr. Denham: I resigned from my ministerial position before the war because I thought that that was the right thing to do. I shall take no lessons from my right hon. Friend about terrorism.

It is of course possible for two people to have a reasonable difference of opinion as to whether the Bill is right, but I repeat that the Opposition never thought it necessary to have any judicial process or legal constraint before restricting the rights of British citizens. The House has considered the Bill and has reached the view—it is the same as mine—that the current legal test is satisfactory and adequate, as it must be scrutinised by a judge, who must agree that the evidence justifies the nature of the restriction order.

Jeremy Corbyn (Islington, North) (Lab): Will my right hon. Friend give way?

Mr. Denham: No. This House has resolved its opinion; the question is whether it will be overturned in another place by those who have not been elected.

Mr. Grieve: The right hon. Gentleman must agree that there is a great difference, in nature and quality, between saying to someone, "You shall stay in Northern Ireland and not enter mainland Great Britain," and, "You shall stay in a particular location and not communicate with members of your family or use the internet or a telephone." The orders proposed in the Bill have a great deal more in the way of paraphernalia but, leaving that to one side, does he agree that the difference that I have set out means that, when it comes to those orders, there is a strong argument that the test of reasonable suspicion is inadequate? He presents himself as a voice of reason; I hope that he accepts that there is, at least, a difference.

Mr. Denham: Interventions sometimes read well in *Hansard*, and sometimes they do not. I think that the

[Mr. Denham]

hon. Gentleman will find that that one does not. However, I am glad that he got to his feet, as he has just justified the fact that the previous Conservative Government introduced an order that restricted the freedom of British citizens but which had no legal process or test, and no examination of evidence.

I quite accept that some control orders would be less intrusive than the exclusion orders. Some would be more intrusive, but this Bill contains a test. It provides for judicial process and a test of evidence. The Opposition never wanted that.

We have established that the principle in respect of evidence has never concerned the Opposition. Reasonable people can take different views, and that is fair enough, but this House has considered the evidence question and come to a view.

The second substantial issue that I want to raise is that of the sunset clause.

Jeremy Corbyn: Will my right hon. Friend give way?

Mr. Denham: No. Two reasonable people can disagree about introducing a sunset clause into the Bill or providing for annual renewal, but the fundamental issue is whether we in this House, and the other place, should have the democratic ability, every year, to get rid of this legislation if we do not like it. That has been established as a result of the changes made to the Bill, and it is not the basis for a constitutional crisis between this House and the other place.

Mr. Beith: I would like to take the right hon. Gentleman's mind back to the debates on the annual renewal of the prevention of terrorism Act, which are essentially the mechanism that the Government have so far agreed for a reconsideration of that Act year by year. The dilemma that faced the Labour party year after year was whether to oppose the renewal, in the face of the argument that Labour would prove soft on terrorism if it did, because it was a take-it-or-leave it situation. Does he realise that that will be the situation under this Bill unless we have a mechanism whereby the Bill lapses and must be replaced by new and better legislation?

Mr. Denham: Of course the process of annual renewal can be limited; it was under the prevention of terrorism Act. It is a genuine and reasonable difference of opinion that one can have about a sunset clause as opposed to annual renewal. Is that a basis, however, for saying that the differences are so great that this House and its democratic majority should be overruled by an unelected Chamber? I do not think that it is.

My point is this: this Chamber has improved this legislation considerably since its introduction by my right hon. Friend the Home Secretary. As very often in the House, decisions in another place have had an impact and have been taken into account. Equally, the legislation has been changed by the actions of Members here—let us be honest, partly by those Members who did not vote for it on this side who might have been expected to, and partly by a number of Members who did vote for the Government but perhaps have made it clear that we wanted to see changes made. This Chamber has improved the Bill. We have now reached a situation where there are differences of opinion between the House and another place, but none that justify the House now conceding to the other place.

We may well be fighting an election in a few weeks' time. [HON. MEMBERS: "Really?"] So I am given to understand from the newspapers. The truth is that if the House is forced to give in by the other place, the election of every single Member of the House will be diminished as a result. The process will be diminished. Those on the other side who are organising in the House of Lords to achieve that should be mindful of the consequences.

Mr. Cash: The Bill achieves neither objective: neither the security of the nation nor the liberty of the subject. The first duty of all judges is to maintain habeas corpus. In the preceding question that I put to the Home Secretary and to his Minister, I referred to something that I put to the Home Secretary with regard to habeas corpus:

> "Will he state unequivocally now that there will be no interference with the right of habeas corpus"?

He answered:

> "I am advised that I can give the assurance that the hon. Gentleman is looking for: the proposals that I have established will not interfere with habeas corpus."—[*Official Report*, 28 February 2005; Vol. 431, c. 692.]

It does—that in itself is a reason why the Bill should not proceed.

Mr. Garnier: Has my hon. Friend analysed the Home Secretary's amendment (a), which is supposed to give us comfort because it provides judicial oversight? Has he noticed that the Home Secretary gives himself permission to make control orders, which can be overseen by the court only in very limited circumstances? It has to be demonstrated that the Minister's decision was obviously flawed. What happens if the decision was flawed but not obviously so? The Home Secretary's powers are left unattacked.

Mr. Cash: My hon. and learned Friend is completely right. He demonstrates the fact that the Bill itself is fundamentally flawed. That is why the Bill must be subjected to a sunset clause, but in subjecting it to a sunset clause we shall then have an opportunity, during the time that this is available, to consider the proper basis—*[Interruption.]*

Mr. Deputy Speaker: Order. Conversations are breaking out in the House. I cannot hear the hon. Gentleman who is addressing the House. *[Interruption.]* Order.

Mr. Cash: The plain fact is that the Bill is fundamentally flawed on all the principles on which it is being proposed. It does not secure the nation. It is liable to create further trouble and dissention among those whom we are seeking to control—the terrorists. It denies the liberty of the subject—habeas corpus—but the Home Secretary refuses to accept that, although he originally said that it would contain habeas corpus. He would not give way to me—as you noticed, Mr. Deputy Speaker—because he knew that I would raise that point. All that he could do was come up with a cheap jibe.

The plain fact is that the Home Secretary knows that the Bill must be subjected to a sunset clause, but I ask the House to consider the central problem with the Bill: it is dependent on the application of the European convention on human rights. [HON. MEMBERS: "Hurray!"] Hon. Members opposite may have their moment, but the reason why the Bill cannot work is that there is an internal tension, which the Home Secretary knows, between complying with the European convention on human rights on the one hand and trying to ensure the security of the nation on the other.

Mr. Hogg: Does my hon. Friend agree that another central flaw with the Bill is that, ultimately, it does not secure a fair hearing for the person who will be affected by the control order?

Mr. Cash: I entirely agree with right hon. and learned Friend. He is absolutely right. Indeed, I introduced a Bill two days ago to provide precisely this: if it were enacted, we would provide that a writ of habeas corpus and a fair trial in accordance with due process and the rule of law should be available to every person. The Bill achieves neither the security of the nation nor the liberty of the subject. It should be subjected to a sunset clause. Furthermore, during that period, we should also make certain that the legislation makes sense and disapply the nonsense of the European convention on human rights in respect of this legislation.

Mr. Win Griffiths: More than a week ago, I was able to move an amendment to the Bill that—if Opposition Members had been as zealous as they have been in the arguments that they have put forward in today's debates—might have given us a different outcome, but they did not appear to be serious about the issues at stake. Fortunately, my right hon. Friend the Home Secretary took on board the issue about which I asked for a vote in the House—that he should apply to court for an order to be implemented.

Mr. Garnier: The hon. Gentleman may be well based in his point, but has he looked at amendment (a) to see what limited powers the court has to review the Home Secretary's orders? He should just read it, and find out for himself how limited are the powers of the court and how massive are the powers that the Home Secretary is giving to himself.

Mr. Griffiths: I have sat through all the debates on the Bill. We have discussed judicial review and there seem to be large differences as to how it would work. My view is that under the Human Rights Act, which many of the hon. and learned Gentleman's hon. Friends seem to despise—despite the fact that it protects the rights of individuals—there would be every opportunity for a defendant to have his case put fairly in the circumstances provided for by the Bill.

With the scope that the Bill gives for this place and the other House to vote down all the legislation on the orders, there is sufficient safeguard, with the other amendments tabled by my right hon. Friend the Home Secretary, for the Bill to be accepted. No one on the Opposition Benches has mentioned tonight—or rather this morning—that my right hon. Friend is already committed to bringing all parties around the table to try to develop new terrorism legislation that may enable much of the Bill to fall in future. Let us put that to the test. Let us vote the Bill through this evening. Let the other House listen to our view.

Peter Bottomley: If there were a free vote, who thinks that Members on the Labour Benches would vote for the sunset clause? Stand up. Come on, stand up. No one is standing up. Not a single one. If the Conservatives were putting that forward, who thinks—

It being one hour after the commencement of proceedings, MR. DEPUTY SPEAKER *put the Question already proposed from the Chair, pursuant to Order [9 March].*

The House divided: Ayes 301, Noes 211.

Division No. 138] **[9 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*

Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Ms Bridget Prentice and Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh

Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Skinner, Dennis
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. David Ruffley and Bob Russell

Question accordingly agreed to.

MR. DEPUTY SPEAKER *then proceeded to put the remaining Questions required to be put at that hour.*

Lords reasons: 27F, 31D and 32E.

Motion made, and Question put, That this House insists on its disagreement with the Lords in their amendments Nos. 27, 31, and 32 and on its amendments Nos. 27C and 27D in lieu, does not insist on its amendment No. 32D and proposes amendment (a) in lieu.—*[Ms Blears.]*

The House divided: Ayes 307, Noes 203.

Division No. 139] **[9.13 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*

Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Iranca-Davies, Huw
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Ms Bridget Prentice and Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*

Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. David Ruffley and
Mr. Roger Williams

Question accordingly agreed to.

Lords amendments Nos. 27, 31 and 32 disagreed to.

Amendment (a) agreed to.

Lords reason: No. 33H.

Motion made, and Question put, That this House disagrees with Lords Amendment 33D and insists on its Amendments 33C and 33G in lieu, does not insist on its Amendment 33F and proposes Amendments (a) and (b) in lieu.—*[Ms Blears.]*

The House divided: Ayes 307, Noes 216.

Division No. 140] **[9.25 am**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Berry, Roger
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Burnham, Andy
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clark, Paul *(Gillingham)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cranston, Ross
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cryer, John *(Hornchurch)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Curtis-Thomas, Mrs Claire
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davies, rh Denzil *(Llanelli)*
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Dowd, Jim *(Lewisham W)*
Eagle, Angela *(Wallasey)*
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Farrelly, Paul
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(Merthyr Tydfil & Rhymney)*
Healey, John
Henderson, Doug *(Newcastle N)*
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hood, Jimmy *(Clydesdale)*
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa

Joyce, Eric *(Falkirk W)*
Kaufman, rh Sir Gerald
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morley, Elliot
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Roche, Mrs Barbara
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Sheerman, Barry
Sheridan, Jim
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, Anthony D. *(Gt Yarmouth)*
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Ms Bridget Prentice and Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Ancram, rh Michael
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Atkinson, Peter *(Hexham)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Collins, Tim
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Dalyell, Tam
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Drew, David *(Stroud)*
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, rh Frank *(Birkenhead)*
Field, Mark *(Cities of London & Westminster)*
Fisher, Mark
Flight, Howard
Flook, Adrian
Follett, Barbara
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Lynne *(Selly Oak)*
Jones, Nigel *(Cheltenham)*

Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Lansley, Andrew
Laws, David *(Yeovil)*
Leigh, Edward
Letwin, rh Oliver
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Opik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Shorn, rh Clare
Simmonds, Mark
Simpson, Alan *(Nottingham S)*
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willetts, David
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Alan Reid and
Mr. Crispin Blunt

Question accordingly agreed to.

9.37 am

Sitting suspended.

3.30 pm

On resuming—

Mr. Oliver Heald (North-East Hertfordshire) (Con): On a point of order, Mr. Speaker. As we meet here, I understand that it has been trailed on television that the Prime Minister is making a major statement about these proceedings outside Downing street—as we meet here. You are rightly jealous of the rights of this House. Last night, it emerged that the Prime Minister's statement that the security services had advised against a sunset clause was wrong, but he refused to come here to explain. Is it not time—

Mr. Speaker: Order. I am busy enough looking after the affairs of this Chamber. What goes on outside the Chamber is not a matter for me. *[Interruption.]* Order. This House has been called to look after a certain piece of legislation, and that is what we are going to do. I can deal with this matter simply and say that it is not a point of order, so I hope that the hon. Gentleman is not going to pursue it.

Mr. Gerald Howarth (Aldershot) (Con): Further to that point of order, Mr. Speaker.

Mr. Speaker: Order. What I am going to do is this. In a moment, I shall read out the title of the Bill, so we will be given a time at which the clock will start ticking. I will then accept points of order.

Before I do that, please allow me to make a statement. I would like to express my gratitude—and I am sure that I speak for all hon. and right hon. Members—to the Officers and staff of the House for the hard work and dedication that they have shown and I am sure will continue to show during today's sitting.

Lords reasons further considered.

3.32 pm

Mr. Speaker: I must inform the House that a message has been brought from the Lords as follows. The Lords insist on an amendment to the Prevention of Terrorism Bill to which the Commons have disagreed and do disagree with the Commons in their amendments in lieu thereof, for which insistence and disagreement they assign their reason. They do not insist on an amendment to which the Commons have disagreed, disagree to the amendment proposed by the Commons in lieu, but do propose an amendment in lieu thereof, and they do not insist on certain other of their amendments to which the Commons have insisted on their disagreement and agree without amendment to the amendments proposed by the Commons in lieu thereof.

Sir Menzies Campbell: On a point of order, Mr. Speaker. May I associate myself with the observations made a moment ago by the hon. Member for North-East Hertfordshire (Mr. Heald)? You are by tradition, history and convention the guardian of the interests of the House and the protector of our ability to discharge our responsibilities. If a statement is being made outside the House that bears on these proceedings, how then can we properly fulfil our responsibilities? May I take it that, if the Prime Minister were to seek your approval to make a statement before the House, you would readily assent to that?

Mr. Heald: Further to that point of order, Mr. Speaker. Is it not the case that it is insulting and contemptuous to the proceedings in this House for a Minister to behave in this way? Will you not protect the House in these circumstances?

Mr. Gerald Howarth: Further to that point of order, Mr. Speaker. In the past you have expressed grave

[Mr. Gerald Howarth]

displeasure when Ministers have come to the House second, after having made on a radio or television programme an announcement that was due to be made in the House. Is there not therefore precedent for you to call the Prime Minister to account for making a statement outside the House, instead of in the House? It is a contempt of Parliament. His Parliamentary Private Secretary is present. You could dispatch him to No. 10 and get the Prime Minister to come and answer the questions.

Mr. Hogg *rose—*

Mr. Speaker: Order. Let me answer. We are now on timetabled business. We are therefore considering the business before us. Many Members of the House, Government and Opposition have discussed the matter outside the House, and I will not stop anyone doing so. I have an hour's business before me and I am applying the rules of the House. That is what I will do. If someone tables an urgent question on Monday, I will consider these matters, but let us get on with the business in hand.

Mr. Luff: Further to that point of order, Mr. Speaker. Does it lie within your power to grant a brief adjournment of the House to enable us to study what the Prime Minister has said, in case it is germane to the proceedings that we are about to begin?

Mr. Speaker: That sounds sensible. It looks as though we will have a brief suspension within an hour and a half, and we can then discuss all the matters we want to discuss.

Mr. Foulkes: Further to that point of order, Mr. Speaker.

Mr. Speaker: Order. I know the right hon. Gentleman takes the matter very seriously, as he has spoken to me about it. We are now timetabled and the clock is ticking away.

Mr. Hogg: Further to that point of order, Mr. Speaker. There is a possibility that what the Prime Minister is saying to the press will have a serious impact on this debate. Until we know what he is saying, we cannot properly address the debate. Therefore, in seeking an adjournment, my hon. Friend the Member for Mid-Worcestershire (Mr. Luff) is entirely right.

Mr. Speaker: Let me give the right hon. and learned Gentleman a promise. As I stated to the hon. Member for Mid-Worcestershire, within an hour and a half these proceedings will be suspended. I will look at a transcript of what the Prime Minister said. I promise to do that.

Mr. Foulkes: On a point of order, Mr. Speaker.

Mr. Speaker: I am getting rather weary of points of order that are not genuine points of order.

Mr. Foulkes: Is it in order to raise points of order on media speculation and hypothetical matters? If it is, I could do it every day.

Mr. Speaker: Order.

Dr. Julian Lewis (New Forest, East) (Con): On a point of order, Mr. Speaker. Did the Prime Minister's office have the courtesy to inform your office that he would be making a statement at the same time as we would be reconvening to discuss these matters?

Mr. Grieve: I beg to move, That the House do now adjourn so that we can listen to the Prime Minister.

Mr. Speaker: Order. The hon. Gentleman is out of order.

Copies of the Lords reasons are available in the Vote Office, as are the Government's propositions relating to the message. All Government proposals are being debated together.

Lords reasons: 1A and 1B.

Mr. Charles Clarke: I beg to move, That this House insists on its amendments 1A and 1B to Lords amendment 1, insists on its disagreement to Lords amendments 12, 13, 15, 17, 22, 28 and 37 and insists on its amendments 37A to 37C and 37E to 37O and 37X, insists on its disagreement to Lords amendments 37Q, 37S and 37T proposed in lieu of Lords amendment 8, insists on its amendments 17H to 17M to the words restored to the Bill by its insistence on its disagreement to Lords amendment 17 and disagrees with Lords amendment 37Y.

In the light of the points of order, I should like to make it clear to the House that my remarks will set out clearly for the House to debate and discuss the situation on the Bill. As Home Secretary, I will set out the position in a moment. Right hon. and hon. Members will have every opportunity to discuss it.

Later this afternoon—not at this moment—the Prime Minister will give certain media interviews. He is not making a statement, as reported. You, Mr. Speaker, were entirely correct when you referred to media speculation in that regard. Like many other Members of the House, as you observed, the Prime Minister is giving interviews later this afternoon. That is perfectly appropriate.

Mr. Heald: Will the Home Secretary give way?

Mr. Clarke: No, I will not.

Mr. Heald *rose—*

Mr. Speaker: Order. The hon. Gentleman must be making a point of order.

Mr. Heald: The information given on the television was that the interview was at Downing street at 3.30—

Mr. Speaker: Order. I call the Home Secretary.

Mr. Clarke: I turn now to the substance of this stage of the debate. The amendments before us, which would ensure that the Secretary of State must consult the intelligence services commissioner before making an order under this section, follow three sessions of ping-pong and more than 24 hours of very substantial debate in both Houses. We are now entering a fourth round of

ping-pong. The will of this elected House has been consistent and strong, particularly on the two issues that remain outstanding between here and the Lords.

Voting in the other place on those two issues has been as follows. On the so-called sunset clauses, the first Division resulted in a 150 majority against. That majority reduced subsequently to 85, then to 68, and finally to 71. [HON. MEMBERS: " That does not add up."] On the burden of proof, the Divisions resulted in a majority of 89 against, then 71, then 55, and finally 48.

Mr. Grieve: Will the Home Secretary give way?

Mr. Clarke: No I will not.

At the same time, it is absolutely clear that the position of this elected House of Commons has remained strong, and that it has done so while support in the unelected House of Lords for those who oppose the Government's approach is in steady decline. The reason for that is that the Government's arguments against raising the standard of proof for non-derogating orders, and against the proposed sunset clause, are clear and strong. I will repeat them.

I shall deal first with the standard of proof, which the hon. Member for Beaconsfield (Mr. Grieve) has spent a lot of time discussing on the Floor of this House. With respect, he is missing a point that is of absolutely central importance. The decision to reduce the standard of proof would inevitably lead to the likelihood that certain dangerous individuals would not be brought under control—that is the core of the argument. There are other legal arguments that also have weight, but I will not refer to them now.

Mr. Michael Weir (Angus) (SNP) *rose—*

Mr. Clarke: The core point is that passing the measures proposed by the Opposition would make it more difficult, rather than less, for us to deal with threats to the country.

Mr. Kenneth Clarke: If the burden of proof were changed, fewer people would of course be affected by the orders, but those who would not be affected would presumably be those who, on the balance of probability, were not guilty of the allegations made against them. How can the Home Secretary persuade us to resist that conclusion?

Mr. Clarke: On the right hon. and learned Gentleman's first point, which he has made consistently throughout our discussions, it remains the case that we are talking about individuals who pose a very substantial risk to the people of this country.

We all know that an individual who is a suicide bomber and who takes such action is in a position to create mayhem and distress on an immense scale. That is why it is important that we have the powers set out, which I stand by.

Mr. Parmjit Dhanda (Gloucester) (Lab): On the burden of proof, the Home Secretary and I both know the difficulties that we in Gloucester have experienced since the arrest of the shoe bomber in November 2003. The threshold of evidence was very high when the police raided the house in question and looked for a conviction, which they got, but my right hon. Friend and the rest of this House should be aware that a shoe, a detonator and explosives were in that house for two years prior to the raid, so it is desperately important that the threshold be low enough for the police to do something about such a situation within such a period.

3.45 pm

Mr. Clarke: First, my hon. Friend is completely right in everything that he says; secondly, I pay tribute to him for the work that he has done in his community to deal with these issues; thirdly, and this answers the point made by the right hon. and learned Member for Rushcliffe (Mr. Clarke), the damage that that individual would have done is absolutely catastrophic. We have to take account of that, as my hon. Friend seeks to do.

On the sunset clause, I have told the House on a number of occasions, and I set it out again here today, that if we put one in the Bill we will be saying that powers that this House considers necessary to deal with the threat that we face may, in the very near future, be thought not to be necessary. That will send a clear message to terrorist organisations that this is a place where they can thrive, and I reject that approach.

Mr. Grieve: If that is the Home Secretary's concern, why were the Government content to put exactly such sunset clauses in other anti-terrorist legislation recently passed by this House?

Mr. Clarke: There are, as the hon. Gentleman says, examples of other legislation, of different types, which have sunset clauses—that is true. In each case, the argument needs to be taken on its merits. When I consider the merits of the case for such a clause in this Bill, I come to the conclusion that the risk is not right. There is a more fundamental reason for my position, which I have stated before and will state again.

Mr. Hogg: Will the Home Secretary give way?

Mr. Clarke: Not at the moment.

If the interest of the Opposition parties and the other place is in having substantive and substantial consideration of the right kind of anti-terrorist legislation for us, I point out that we have already put in place a whole series of means of achieving just that, and I shall list them again. There are the quarterly reports that I, as Secretary of State, make to Parliament on the use of the powers to make control orders and on surrounding issues. There is the independent reviewer, who looks at the whole operation of the Act, as a result of some of the changes that I have made, and makes a report to be laid before Parliament. There is the process of annual review that allows both Houses of Parliament to decide, by vote, whether to continue the Act. There is the fact that on the derogation orders there is also an annual renewal that operates in that way. There is the fact that, as I announced on 22 February, my clear intention is to introduce further counter-terrorist legislation as soon as parliamentary time allows. As the House knows, our intention has always been that that would be in the next Session of Parliament.

Huw Irranca-Davies: Will my right hon. Friend confirm, for clarity in the House, that none of the

[Huw Irranca-Davies]

measures that he has laid out before us is new—they have been before us all the time—and the combination of those measures makes the demand for a sunset clause completely redundant?

Mr. Clarke: My hon. Friend is entirely right, because there is a choice with the legislation. One can take the approach, suggested by the Opposition parties, that there is a defined moment at which anti-terrorist legislation simply disappears. The other approach, which I think is better, is to say that we need to have a system that improves the operation of our counter-terrorism legislation, learns from experience and decides how, if necessary, we make amendments. That is the superior legislative approach.

Mr. Gummer: Is not the Home Secretary entirely right, but the other way about? The only way the House of Commons can debate these matters without having to choose between no terrorism law or the present terrorism law is if there is a sunset clause.

Mr. Clarke: The right hon. Gentleman is wrong, and I will now explain what I intend to do to address his point more clearly.

Ian Lucas (Wrexham) (Lab): Does my right hon. Friend agree that an appropriate way of trying to build the broadest consensus across the House—indeed, across both Houses—would be to introduce a draft counter-terrorism Bill, which could be considered at great length and in great detail by all sections of both Houses?

Mr. Clarke: My hon. Friend is entirely right. Indeed, I have a suggestion that I hope colleagues in both Houses, on all sides, will consider.

Several hon. Members *rose—*

Mr. Clarke: I shall not give way.

I want to propose the positive course of action suggested by my hon. Friend because we know, following this ping-pong, that many colleagues in the other place understand that, in a democracy, the will of the elected House should prevail. I announced in my statement on 22 February my clear intention to introduce further counter-terrorist legislation as soon as parliamentary time allows. I can tell the House that the Government will ensure that the new legislation that I announced some weeks ago is timetabled in such a way that hon. Members will have had the opportunity to consider the first report of the independent reviewer before they seek to table amendments. The effect of that, of course, is that the operation of the Bill before us now and the reviewer's independent review will be available to Members of both Houses in considering amendments to that legislation.

To achieve that, I suggest a timetable along the following lines for the House to consider. I suggest that, in March 2005, we get Royal Assent for this Bill; that, immediately thereafter, we appoint the independent reviewer; and that, in the late autumn of 2005, we publish the draft counter-terrorism Bill and begin its pre-legislative scrutiny, which I promised to the House. In early 2006, the first report of the independent reviewer would be presented to the Home Secretary, who would lay the report before Parliament, as previously pledged. The report would include both the reviewer's report on the operation of the current Bill and the implications of the new offences for this Bill. In spring 2006, the new counter-terrorism Bill would be introduced in the Commons, informed by the analysis that I have just described. In March 2006, a year from today, there would be the first renewal of the prevention of terrorism Act order. Until July 2006, the counter-terrorism Bill would proceed through Parliament and, we hope, receive Royal Assent in July 2006.

I say in all seriousness that the course of action that I suggest is a constructive attempt to find a way forward and out of the area we are in. It will allow both Houses to consider the situation in detail and, instead of allowing the legislation to disappear, allow it to be improved. I therefore now invite Conservatives and Liberal Democrats in this House and in the other place to recognise the value of my constructive proposal, to recognise the need for the views of this House—the elected Chamber—to prevail, to withdraw their amendments in the other place on the sunset clause and on standards of proof and to drop their remaining opposition to the Bill.

Mr. Heath: The Home Secretary will recognise from my previous comments that the Liberal Democrats are anxious to find a way of getting round this apparently insoluble problem. Our prime requirement is that we have a mechanism by which new legislation may be introduced with a proper timetable and a proper opportunity to amend it. That was not on offer as part of the right hon. Gentleman's previous proposals. May I ask about what is now being proposed, which I certainly will consider carefully? First, will it be on the face of the Bill and therefore part of statute; and, secondly, does the right hon. Gentleman envisage that the process will be complete by November 2006?

Mr. Clarke: First, as I have said before, the hon. Gentleman and his party have sought on various occasions to make constructive proposals. As late as this afternoon, a different set of constructive proposals were made with which I could not agree. Nevertheless, I acknowledge that, unlike the main Opposition party, the Liberal Democrats have sought to take a positive approach on these matters.

On the hon. Gentleman's second question, yes, it would be our intention that by November 2006 the new Bill would have Royal Assent; and, on his first question, it would not be our intention to place the timetable issues on the face of the Bill, but the statement before this House is serious testimony that the hon. Gentleman should accept.

Donald Anderson (Swansea, East) (Lab): My right hon. Friend's proposed timetable must surely be the complete answer to anyone who says that there will not be adequate opportunity to test a new measure in this House. Will it not put to the test the motives of those who persist in opposing it, because surely it is puzzling that those who talk about fundamental principles ignore another fundamental constitutional principle—that this House has primacy?

Mr. Clarke: My right hon. Friend is entirely correct, first with regard to the primacy of this elected House, and, secondly, by putting his finger on the difference of approach that has existed between some opponents of the Bill. The difference of approach is between those who have been seriously concerned that there should be an improvement measure to ensure that the full applications of the Bill can be considered, and those who have proposed a sunset clause as a political tactic with no relationship to any other reality.

Mr. Clive Soley (Ealing, Acton and Shepherd's Bush) (Lab): My right hon. Friend explains in more detail what he indicated in outline last Wednesday, which should have been accepted last Wednesday. I put it to my right hon. Friend that, as he will know, he cannot put it on the face of the Bill, but in order to deal with this increasingly absurd situation both the other political parties could make it clear that, in the likely or unlikely event of their being in a position to do so after the general election, they would follow exactly the same procedure as he is, and then all three parties would be committed to it and we would have good way forward?

Mr. Clarke: My hon. Friend is entirely correct, and it was he who raised in the debates in the House the desirability of all-party discussions after the general election to try to bring the difficult task of terrorism legislation to the state of affairs where it was dealt with on a non-partisan basis—something that used to exist when the Labour party was in opposition. *[Interruption.]* My hon. Friend is entirely correct that the way to approach this is for each of the parties to indicate their serious intention to take forward in good spirit the approach that I suggest.

Mr. Kenneth Clarke: The Home Secretary appears to be giving a fairly binding obligation to introduce legislation that this House can consider in a proper, ordered fashion, with time for debate, this winter. I am sure he accepts that it would be rather shameful if his party were to win the election and go back on that. If the Conservative party were to win the election, it is committed to introducing similar legislation. *[Interruption.]*

Mr. Speaker: Order. I must hear what the right hon. and learned Gentleman is saying.

Mr. Kenneth Clarke: If the Labour party is successful in the election, a problem could arise if the scope of the legislation introduced by the Home Secretary's Government was so narrow that it precluded consideration of parts of the present legislation. Is he prepared to undertake that all the subjects that have caused the present rather serious crisis will be within the scope of any draft Bill that he brings before this House to consider in an orderly fashion?

4 pm

Mr. Clarke: I can give that assurance, and for this reason: it was from these Benches that we proposed the amendment to the role of the independent reviewer to shift the responsibility of the independent reviewer from simply looking at the operation of the control orders to looking at the operation of the whole of the Act. That is why the language I used a moment ago made it clear that the responsibility of the independent reviewer in looking at the whole of the operation of the Act was to make a report on all the matters concerned in order to inform the legislation that he proposes.

Mr. Hogg *rose—*

Mr. Clarke: I am delighted that the right hon. and learned Member for Rushcliffe, whom we should all like to see back at the head of the leadership of his party, is committing that party to introducing legislation of this type. To be entirely candid, I know that he is sincere in his support—

Mr. Hogg *rose—*

Mr. Speaker: Order. The right hon. and learned Gentleman cannot keep standing. He is not allowed to stand while another hon. Member is addressing the Chamber.

Mr. Clarke: I know that the right hon. and learned Member for Rushcliffe is committed to the control order regime that we are describing, and that he has simply had a number of objections to the way in which we have done things.

Mr. Kenneth Clarke *indicated assent.*

Mr. Clarke: He acknowledges that now. That is not true of those on the Front Bench of his party, and I am delighted by his commitment.

Mr. Hogg *rose—*

Mr. Clarke: I make the statement I am making today—

Mr. Hogg *rose—*

Mr. Speaker: Order. The Secretary of State is not giving way.

Mr. Clarke: I make my statement in a constructive spirit, but I have to say—I want to make this absolutely clear—that if it is rejected by the Opposition parties, I shall have no hesitation whatsoever in recommending to my colleagues in this House that they continue to press for as long as it takes to put the Bill on to the statute book.

I commend our proposals to the House.

Mr. Grieve: I told the Home Secretary this morning that if he wanted to discuss any matters in respect of the Bill with me or any of my hon. Friends, we were perfectly open to meeting him. Since then, the Home Secretary has been seen wandering around the corridors of the other place. Indeed, on one occasion, he spoke rudely to a Liberal peer about his speech, in a case of mistaken identity.

Mr. Clarke: I do not think I was very rude. I simply thought that the peer made a very poor speech on behalf of the Liberal Democrats in the other place.

Mr. Grieve: The trouble is, the Home Secretary spoke to the wrong person.

[Mr. Grieve]

That, I have to say, is, as far as I am aware, the full extent of the Home Secretary's approach to Opposition parties. It is certainly the case in so far as my own party is concerned. I take this opportunity, therefore, seeing that the Home Secretary has never engaged in the sort of discussions that—*[Interruption.]*

Mr. Speaker: Order. We must have order in the House.

Mr. Grieve: I have previously been involved in this stage of a Bill's progress through the House. Under the Home Secretary's predecessor, issues were resolved because discussions took place between the parties. I simply point out that the Home Secretary has not been willing to do that. Therefore, the only discussions that can take place must take place here. It is difficult for him to complain if he does not approach other people to reach consensus.

Sir Patrick Cormack: The Home Secretary has made much of the primacy of this House. Had he had proper regard to that in the way in which the Bill was introduced and handled, we would not be in this mess today.

Mr. Grieve: My hon. Friend is right. When the Home Secretary cited, at great length, his timetable for the passage of new anti-terrorist legislation, one could say only that one wished that something similar had been provided for this Bill, because then we would not have had the problem.

I take this opportunity to explain to the Home Secretary the areas of disagreement that we have. I hope to take this opportunity to point out to him that there might still be ways forward.

The Home Secretary dealt with the standard of proof. If he wishes to lower it to mere suspicion, I can guarantee that he will succeed in pulling in more people. It is inevitable that that will happen; indeed, if he decides to do it on a whim, he can lower the standard still further. However, if he is going to deprive a person of their liberty for a prolonged period, which is what his administrative action will result in, the question he must answer is whether it is proper to do that on reasonable suspicion rather than according to a normal standard of civil proof.

Donald Anderson: Is not this getting rather like a bad film—"This is where we came in"? The arguments on the standard of proof have been rehearsed again and again. In my judgment, the Home Secretary has put a very reasonable proposition to Opposition Front Benchers. Is it so difficult to say yes or no?

Mr. Grieve: I merely point out that the process of debate, in which I thought this House was supposed to engage, does seem to have enabled us to narrow some issues, so I hope that the right hon. Member for Swansea, East (Donald Anderson) will bear with me while I raise again with the Home Secretary the issues relating to the standard of proof. *[Interruption.]*

Mr. Speaker: Order. A Northern Ireland Minister keeps shouting. I have asked for order. I do not wish to pick out one individual Member, but I am being tempted to do so.

Mr. Barry Sheerman (Huddersfield) (Lab/Co-op): On a point of order, Mr. Speaker.

Mr. Speaker *indicated dissent.*

Mr. Sheerman: It is a point of order, Mr. Speaker.

Mr. Speaker: I bet it is not.

Mr. Sheerman: I will not ask how much.

The hon. Member for Beaconsfield (Mr. Grieve) is in a state of confusion. May the House be suspended for five minutes while he takes counsel from the Leader of the Opposition and the shadow—

Mr. Speaker: Order. Please have a seat. I won the bet.

Mr. Grieve: If I start to speak very slowly and clearly, perhaps the hon. Member for Huddersfield (Mr. Sheerman) will understand me.

I suggest to the Home Secretary that the standard of proof of the balance of probabilities is a much better one. I urge him, again, to reconsider that.

Let me turn to the sunset clause. I hope that Members and the Home Secretary had an opportunity to hear the debate in the other place that preceded this one. If they did, they would have heard Lord Morris of Aberavon explain that in legislation of this type, which gives the Government unusual powers, it is completely acceptable, and, indeed, good practice, that there should be some form of sunset clause. He acknowledged that the period ought to be open to negotiation, and he suggested that the Government suggest what that period should be.

Mr. Watts *rose—*

Mr. Tom Harris: Will the hon. Gentleman give way?

Mr. Grieve: No.

Mr. Hogg: Will my hon. Friend give way?

Mr. Grieve: Yes.

Mr. Hogg: The Home Secretary has told the House that he expects to have new legislation in place by November 2006. That being so, does my hon. Friend understand why we should not have a sunset clause, which comes into effect in November 2006? Does he also understand that if that were before the House, even those who like myself are basically opposed to the Bill in principle would accept it?

Mr. Grieve: My right hon. and learned Friend makes a very good point. If the Home Secretary would only listen to what Lord Morris had to say, I believe that the matter would be capable of being resolved. I urge the right hon. Gentleman at this eleventh hour to do just

that. He sketched out a timetable for his future legislation that, if I may say so, is undoubtedly helpful in explaining to the House how the Government intend to go about their business. However, there is no reason why that timetable cannot be married with a sunset clause. *[Interruption.]*

Mr. Speaker: Order. The House must come to order.

Mr. Grieve: I have to say to the House— *[Interruption.]*

Mr. Speaker: Order. It seems that Ministers want to shout today. I tell the Minister for the Cabinet Office, "Do not shout." If the hon. Gentleman is put out of the Chamber, he may not be able to vote.

Mr. Garnier: Does my hon. Friend agree that one of the reasons why the Government truncate debate and one of the reasons why they will not allow a sunset clause is that they lack self-confidence in their own proposals? Does my hon. Friend agree also that a Government who believe in the merits of their legislation would allow the House time for debate and would allow time for the House and the country to consider the Bill with a sunset clause?

Mr. Grieve: I find it strange that the Government, who to my mind had the good sense in the Anti-terrorism, Crime and Security Act 2001 to grant a sunset clause—

Mr. Soley: Will the hon. Gentleman give way?

Mr. Grieve: No. I must move on.

They granted such a clause in that instance but refuse to grant a reasonable sunset clause now, when the effects of the Bill on civil liberties would be far more draconian than the terms of the 2001 Act.

I see the Home Secretary sitting in his place, and I begin to detect that he knows that the argument has merit. I fear that the truth is that he has been persistently overruled in this matter by No. 10 Downing street. There can be no reason for not uniting his legislative proposals with a sunset clause. I ask him now, before the Bill returns to the other place, to reconsider the issue. If he wishes to discuss it with us, he can do so.

Others in the House—

Mr. Soley: Will the hon. Gentleman give way?

Mr. Speaker: Order. The hon. Gentleman is not giving way.

Mr. Mark Fisher (Stoke-on-Trent, Central) (Lab): Will the hon. Gentleman give way?

Mr. Grieve: Yes.

Mr. Fisher: I have, regrettably, felt it necessary to vote with the hon. Gentleman against the Government consistently on the matter of a sunset clause. Having listened to the timetable that my right hon. Friend the Home Secretary has set out, does the hon. Gentleman share my view that we have a sunset clause that "would smell as sweet" and sound as sweet "by any other name"? If we cannot see what is beneath our nose, I think that my right hon. Friend deserves the thanks of the House for an intelligent, flexible and witty solution, and we would do well to accept it.

Mr. Grieve: The hon. Gentleman is quite right. The Home Secretary's timetable is an important contribution to the debate. If the Government honour their commitments, there might turn out to be, or might probably turn out to be, a sunset clause. The trouble is that there is no requirement on the Government to turn the proposal into a sunset clause if, when the time comes, the Government decide to have two pieces of legislation on the statute book in parallel.

The argument that if the Home Secretary is prepared to offer such a programme, there is absolutely no reason why a sunset clause should not be put in the legislation must equally well apply. We really cannot get away from that. I urge every Member of the House who wishes to see this matter resolved to look sensibly at the creation of a sunset clause that guarantees that this legislation cannot stay on the statute book for a day longer than is necessary. That is the issue; the problem has been that the Government have refused consistently to respond. I ask the Home Secretary to urge the Prime Minister to do so instead of posturing around in Downing street with his own media bids. Then we might be able to make progress. Until then, I regret to have to tell the Home Secretary that we stand by the Lords amendments.

4.15 pm

Mr. Heath: First, may I acknowledge a fact that has not been acknowledged in this debate? There has been movement between the other place and here in the process of these amendments. Two concessions have been made by another place in recognition of the Home Secretary's position: one on the part of the Conservatives in dropping the amendment on the Privy Council committee that they had been pressing; the other on our part in dropping our insistence on the reference to the Director of Public Prosecutions, not because we believe that that was not the right way of doing it, but because we had acknowledged that the right hon. Gentleman has at least produced an apparatus for achieving the consultation on prosecutions.

Mr. Weir: Will the hon. Gentleman give way?

Mr. Heath: Not at the moment. [HON. MEMBERS: "Go on."] Well, if the whole House is going to feel sorry for the hon. Gentleman, I will give way.

Mr. Weir: I thank the hon. Gentleman—or perhaps the House—for giving way.

The hon. Gentleman said that the Liberals in the other place gave way on the issue of the Director of Public Prosecutions, but does he not realise—he should, because his party in Scotland is in government with the Labour party—that this creates a special Scottish problem? The effect is that a senior police officer will be

[Mr. Weir]

the one to determine whether there is a possibility of prosecution. That is a novel concept in Scots law and takes away the traditional procurator fiscal service.

Mr. Heath: The hon. Gentleman has made his point.

Two issues remain in play as far as we are concerned before we complete our consideration of the Bill. One is a matter of principle. The Home Secretary understands that we have a principled objection to the standard of proof that he believes is necessary and that we believe is too low. We will not agree on that issue. We have debated it time and time again; we will not agree. Nor will we stand down from our conviction that the balance of probabilities is the least standard of proof that is appropriate for the deprivation of liberties of British subjects. We shall persist with that, but we acknowledge the fact that the right hon. Gentleman is not going to move.

The other is a matter of process—how this House deals with this deeply inadequate, deeply flawed and deeply hurried legislation in future, so that we get better and stronger legislation to deal with the threat of terrorism. That is what we all want, and that is what the right hon. Gentleman, by a serial process, has given us to understand is his intention in bringing forward extra legislation in future.

Those hon. Members who heard the debate in the other place earlier this afternoon will have recognised the fact that men and women of good will on both sides in that House were very anxious to find a way of getting round the obstacle of what has been called a sunset clause. That is clearly an obstacle because of the barriers that have been put around it by the Prime Minister and others as a matter for dispute between the political parties.

The Home Secretary has put forward various proposals that enable the House to reconsider the Bill. We acknowledge that, but there is one last problem, which was quite unavoidable. That problem is the fact that Parliament would not be in a position to amend the legislation on renewal. Renewal orders are not amendable. As we have said repeatedly, the problem with that is that this House and another would be given the options of accepting renewal or rejecting it, and nothing else. It is not difficult to understand that. in the circumstances of a terrorist threat, only acceptance of renewal would be a proper course of action for responsible parliamentarians. Therefore, the House would not have the option of making good what we believe to be inadequate legislation.

Those of good will in another place, in whose number we include Lord Morris of Aberavon, who spoke extremely well, Lord King of Bridgwater, who made an outstanding speech, and my noble Friend Lord Steel of Aikwood—

Kevin Brennan *rose—*

Hon. Members: Give way.

Mr. Heath: All of them were clearly seeking a mechanism whereby we might get around the apparently immovable obstacle erected by the Prime Minister.

Kevin Brennan *rose—*

Hon. Members: Give way!

Mr. Speaker: Order. The hon. Gentleman is not giving way.

Mr. Heath: I have listened carefully to the Home Secretary's words this afternoon. Had he made those proposals with such clarity some hours ago, or even some days ago, we might have saved an awful lot of time. [HON. MEMBERS: "Ah!"] No, the right hon. Gentleman has not yet convinced me. I want to see his proposals in writing and to consider their implications. I want the opportunity to discuss them with my right hon. and hon. Friends—and perhaps with the Conservatives as well, because I believe that, in this sphere, it is far better to have consensus between the parties than to have dispute. I hope that that is not an unreasonable view to take. I hope that that is what we all seek on a matter of such importance to the people we represent.

Mr. Charles Clarke: I very much appreciate the hon. Gentleman's tone and I am happy to discuss with him and his colleagues what I am proposing in whatever detail he would like. I shall also be happy to make sure that a written copy of what I said is available for him and other right hon. and hon. Members to consider in a proper way.

Mr. Heath: I am most grateful to the Home Secretary and I take him up on his offer. We must now talk sensibly about how we can bring our proceedings to a satisfactory close. We shall not change our attitude toward the matter of principle—the balance of probabilities. He knows and I know that we differ on that point. However, on the point of process, if we can arrive at a solution that is satisfactory to this House and to the other place, so be it—we will have achieved substantial progress.

My final point is simply that, had we had a timetable for such legislation three years ago, we might not have been in the lamentable position that we are in today. We might not have had to consider legislation of such importance against the backdrop of an apparent emergency—an emergency that is, in fact, of the Government's own making. It is the Government's failure to take seriously the process of review, the Newton committee's proposals and the views of all those outside the House who said that we needed better, more appropriate anti-terrorism legislation that has brought us to where we are today. Given that we are here, let us see whether we can make progress.

Donald Anderson: The hon. Member for Somerton and Frome (Mr. Heath) has spoken very reasonably. He should be given time to examine the proposition, so that he and his colleagues can come to a proper conclusion.

The debate has been good in parts because it deals with grand principles, such as habeas corpus, which several hon. Members have mentioned. However, we have now reached the point at which, whatever the procedural faults of the past, we are narrowing the issues and coming close to consensus. The matter is now one of judgment and balance. In my view, we all recognise the nature of the threat. I was impressed by

what my hon. Friend the Member for Gloucester (Mr. Dhanda) said about the shoe bomber in his own constituency—*[Interruption.]*

Mr. Speaker: Order. There is far too much noise in the Chamber. It is unfair on the right hon. Gentleman.

Donald Anderson: Anyone who doubts that there is a real threat and often from unexpected quarters—people who are not known to the police—need not only listen to what very senior police officers have said about the numbers and nature of the threat, but simply read the details of the guilty plea of that Gloucester shoe bomber in order to get some indication.

I think that we have narrowed the issue to two points.

Jeremy Corbyn: Does my right hon. Friend accept that a criminal court convicted that individual and that the legislation that we are passing will allow people to be restricted or detained on the basis of hearsay evidence through the security services? The defendant will know nothing about it; nor will the public, and therein lies the road to miscarriages of justice.

Donald Anderson: The nature of the threat puts us in unprecedented times. These are not matters of parking fines, as one former Home Secretary meant to say. These are times when young men are prepared to blow themselves up along with several hundred people who are on the plane with them. Therefore, this country has to have the appropriate means to defend our citizens.

Perhaps we have at last reached a divide in our debate and we can separate, as I believe the hon. Member for Somerton and Frome has, people of good will who are prepared to seek points of principle and try to reach accommodations, from those whose motives are somewhat different.

As far as the standard of proof is concerned, clearly we have the difference between the balance of probabilities and reasonable suspicion. I have already mentioned the Gloucester bomber and the nature of threat. If I were sitting on such a case, I confess that, faced with reasonable suspicion or the balance of probabilities, I would bear in mind the awful nature of what would happen if I took the wrong view, and the effect on our citizens if afterwards I realised that I had applied too high a standard of proof and people were allowed to walk the streets and wilfully blow up our own people.

I turn finally to the second area of concern and difference: the sunset clause. What I dislike about the sunset clause—I understand the motive behind it; it is a very honourable one—is that it is absolute. It does not allow Members to discuss matters properly and to go through all our procedures.

Mr. Hogg: Will the right hon. Gentleman give way?

Donald Anderson: I am making a very short speech.

Surely the key question on the sunset clause is this: what is the objective of a sunset clause and can that objective be met in any other way? After all, a sunset clause is only a device to reach a particular end. So I pose the question whether that end can be reached in a more acceptable way—indeed, in a way that gives not only this House but the other place ample time in which to discuss and to amend. It is absolutely clear that the alternative put forward by my right hon. Friend the Home Secretary achieves that objective in a far more acceptable way. I therefore hope that reasonable colleagues on the Opposition Benches will consider that offer. Does it have to be written down? It will be in *Hansard*, and I am sure that my right hon. Friend would sign his notes if necessary.

Mr. Grieve: The right hon. Gentleman is making some very important points. If the Government's offer is indeed a fair one, there can be no reason for not having a sunset clause in the legislation that would expire at exactly the same moment as the legislative programme that the Government are envisaging comes to fruition, providing reassurance that bad law, which I am afraid we are seeking to pass at the moment, will not stay long on the statute book.

Donald Anderson: Both the sunset clause and the device proposed by my right hon. Friend the Secretary of State could achieve the same end. I concede that, but the disadvantage of a sunset clause is that it is absolute; it will fall at a certain time. The Opposition wanted, as a first foot forward, a six-month period until November. That was absolutely absurd in terms of our parliamentary timetable, even with the amount of days on which the House will be sitting before November. Even on March, it would impose an arbitrary timetable.

In my judgment, the step-by-step approach that my right hon. Friend has reasonably proposed achieves the same end in a far more acceptable way. This will separate the sheep from the goats. It will certainly separate those whose motives are to embarrass the Government from those—*[Interruption.]*

4.30 pm

Mr. Speaker: Order.

Donald Anderson: This matter will certainly separate those who, like the Liberal Democrats, hold a certain view on points of principle that they have properly put forward from those who may have another agenda.

Looking at the proposal dispassionately and objectively, it is clear that it achieves the object that the Opposition have put forward, and it does so in a way that gives far more opportunity for Parliament without the risks attendant on the sunset clause.

Finally, we have heard much about constitutional points. I have been in the House a very long time, and I know of no example in which the ping-pong has been so prolonged. In my judgment, in the past, those in the other place have recognised that, ultimately, it is the will of this House that will prevail. For whatever reason, they seem persistent; there is even a rumour around the House that they wish to adjourn until Monday. If they were to do so, they would clearly keep the headlines, but they would spoil the programme of the Government and their motives would be very much in question.

[Donald Anderson]

It is the will of this House that should prevail. There has been ample debate, and a real concession and a real way through has been put forward by my right hon. Friend. Surely, any reasonable person should now accept it.

Sir John Butterfill (Bournemouth, West) (Con): I have hesitated to participate in this debate because I am not a lawyer, and—*[Interruption.]*

Mr. Speaker: Order.

Sir John Butterfill: I understand that the Bill was provoked by the situation of those in Belmarsh and the inability to retain them in detention, and the decision of the Law Lords that that was contrary to the European convention on human rights. If that was so, I find that difficult to understand, because it was said that they were held because they were foreigners and that it was not the same for British citizens. Of course, the detainees were detained as foreigners who were being rejected asylum and whom we wished to deport. It would be very difficult to put British citizens in the same position. By definition, that could—

It being one hour after the commencement of proceedings, MR. SPEAKER *put the Question already proposed from the Chair, pursuant to Order [9 March].*

The House divided: Ayes 321, Noes 215.

Division No. 141] **[4.33 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burgon, Colin
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drew, David *(Stroud)*
Drown, Ms Julia
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mallon, Seamus
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura
Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Munn, Ms Meg

Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Ryan, Joan *(Enfield N)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Paul Clark and
Vernon Coaker

NOES

Abbott, Ms Diane
Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Bacon, Richard
Baker, Norman
Baldry, Tony
Barker, Gregory
Barnes, Harry
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clarke, rh Kenneth *(Rushcliffe)*
Clifton-Brown, Geoffrey
Conway, Derek
Corbyn, Jeremy
Cormack, Sir Patrick
Cotter, Brian
Cousins, Jim
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Davis, rh David *(Haltemprice & Howden)*
Djanogly, Jonathan
Dobson, rh Frank
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Follett, Barbara
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Galloway, George
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Hoey, Kate *(Vauxhall)*
Hogg, rh Douglas
Holmes, Paul
Hopkins, Kelvin
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jackson, Glenda *(Hampstead & Highgate)*
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Laws, David *(Yeovil)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McDonnell, John
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
McNamara, Kevin
Malins, Humfrey
Marshall-Andrews, Robert
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Russell, Bob *(Colchester)*
Sanders, Adrian
Sedgemore, Brian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Short, rh Clare

Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'ns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond
Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, David *(NW Leics)*
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Walter, Robert
Wareing, Robert N.
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Mr. Peter Atkinson and
Mr. Roger Williams

Question accordingly agreed to.

MR. SPEAKER *then proceeded to put the remaining Question required to be put at that hour.*

Lords amendment: No. 33

Motion made, and Question put, That this House insists on its disagreement with Lords amendment No. 33D and insists on its amendments Nos. 33C, 33G and 33J in lieu, does not insist on its amendment No. 331 and proposes amendment (a) in lieu.—*[Ms Blears.]*

The House divided: Ayes 325, Noes 196.

Division No. 142] **[4.50 pm**

AYES

Adams, Irene *(Paisley N)*
Ainger, Nick
Ainsworth, Bob *(Cov'try NE)*
Alexander, Douglas
Allen, Graham
Anderson, rh Donald *(Swansea E)*
Anderson, Janet *(Rossendale & Darwen)*
Armstrong, rh Ms Hilary
Atherton, Ms Candy
Atkins, Charlotte
Austin, John
Bailey, Adrian
Baird, Vera
Banks, Tony
Barron, rh Kevin
Battle, rh John
Bayley, Hugh
Beard, Nigel
Beckett, rh Margaret
Bell, Sir Stuart
Benton, Joe *(Bootle)*
Betts, Clive
Blackman, Liz
Blair, rh Tony
Blears, Ms Hazel
Blunkett, rh David
Boateng, rh Paul
Borrow, David
Bradley, Peter *(The Wrekin)*
Bradshaw, Ben
Brennan, Kevin
Brown, rh Gordon *(Dunfermline E)*
Brown, rh Nicholas *(Newcastle E Wallsend)*
Browne, Desmond
Bryant, Chris
Buck, Ms Karen
Burden, Richard
Burgon, Colin
Byers, rh Stephen
Byrne, Liam *(B'ham Hodge H)*
Caborn, rh Richard
Cairns, David
Campbell, Alan *(Tynemouth)*
Campbell, Mrs Anne *(C'bridge)*
Campbell, Ronnie *(Blyth V)*
Caplin, Ivor
Casale, Roger
Caton, Martin
Challen, Colin
Chapman, Ben *(Wirral S)*
Chaytor, David
Clark, Mrs Helen *(Peterborough)*
Clark, Dr. Lynda *(Edinburgh Pentlands)*
Clarke, rh Charles *(Norwich S)*
Clarke, rh Tom *(Coatbridge & Chryston)*
Clarke, Tony *(Northampton S)*
Clelland, David
Clwyd, Ann *(Cynon V)*
Coaker, Vernon
Coffey, Ms Ann
Colman, Tony
Cook, Frank *(Stockton N)*
Cook, rh Robin *(Livingston)*
Cooper, Yvette
Cranston, Ross
Crausby, David
Cruddas, Jon
Cryer, Ann *(Keighley)*
Cummings, John
Cunningham, Jim *(Coventry S)*
Cunningham, Tony *(Workington)*
Dalyell, Tam
Darling, rh Alistair
Davey, Valerie *(Bristol W)*
David, Wayne
Davidson, Ian
Davies, Geraint *(Croydon C)*
Dawson, Hilton
Dean, Mrs Janet
Denham, rh John
Dhanda, Parmjit
Dismore, Andrew
Dobbin, Jim *(Heywood)*
Dobson, rh Frank
Doran, Frank
Dowd, Jim *(Lewisham W)*
Drown, Ms Julia
Eagle, Maria *(L'pool Garston)*
Edwards, Huw
Efford, Clive
Ellman, Mrs Louise
Farrelly, Paul
Field, rh Frank *(Birkenhead)*
Fisher, Mark
Fitzpatrick, Jim
Fitzsimons, Mrs Lorna
Flint, Caroline
Foster, rh Derek
Foster, Michael *(Worcester)*
Foster, Michael Jabez *(Hastings & Rye)*
Foulkes, rh George
Francis, Dr. Hywel
Gapes, Mike *(Ilford S)*
Gardiner, Barry
George, rh Bruce *(Walsall S)*
Gerrard, Neil
Gilroy, Linda
Goggins, Paul
Griffiths, Jane *(Reading E)*
Griffiths, Nigel *(Edinburgh S)*
Griffiths, Win *(Bridgend)*
Grogan, John
Hain, rh Peter
Hall, Mike *(Weaver Vale)*
Hall, Patrick *(Bedford)*
Hamilton, David *(Midlothian)*
Hamilton, Fabian *(Leeds NE)*
Hanson, David
Harman, rh Ms Harriet
Harris, Tom *(Glasgow Cathcart)*
Havard, Dai *(MerthyrTydfil & Rhymney)*
Healey, John
Henderson, Ivan *(Harwich)*
Hendrick, Mark
Hepburn, Stephen
Heppell, John
Hesford, Stephen
Hewitt, rh Ms Patricia
Heyes, David
Hill, rh Keith *(Streatham)*
Hood, Jimmy *(Clydesdale)*
Hoon, rh Geoffrey
Hope, Phil *(Corby)*
Howarth, rh Alan *(Newport E)*
Howells, Dr. Kim
Hoyle, Lindsay
Humble, Mrs Joan
Hurst, Alan *(Braintree)*
Hutton, rh John
Iddon, Dr. Brian
Ingram, rh Adam
Irranca-Davies, Huw
Jackson, Helen *(Hillsborough)*
Jackson, Robert *(Wantage)*
Jamieson, David
Jenkins, Brian
Johnson, rh Alan *(Hull W)*
Johnson, Miss Melanie *(Welwyn Hatfield)*
Jones, Helen *(Warrington N)*
Jones, Jon Owen *(Cardiff C)*
Jones, Kevan *(N Durham)*
Jones, Martyn *(Clwyd S)*
Jowell, rh Tessa
Joyce, Eric *(Falkirk W)*
Keeble, Ms Sally
Keen, Alan *(Feltham)*
Keen, Ann *(Brentford)*
Kelly, rh Ruth *(Bolton W)*
Kemp, Fraser
Kennedy, rh Jane *(Wavertree)*
Khabra, Piara S.
Kidney, David
King, Andy *(Rugby)*
Knight, Jim *(S Dorset)*
Kumar, Dr. Ashok
Ladyman, Dr. Stephen
Lammy, David
Laxton, Bob *(Derby N)*
Lazarowicz, Mark
Lepper, David
Leslie, Christopher
Levitt, Tom *(High Peak)*
Lewis, Ivan *(Bury S)*
Liddell, rh Mrs Helen
Linton, Martin
Lloyd, Tony *(Manchester C)*
Love, Andrew
Lucas, Ian *(Wrexham)*
Luke, Iain *(Dundee E)*
Lyons, John *(Strathkelvin)*
McAvoy, rh Thomas
McCabe, Stephen
McCafferty, Chris
McCartney, rh Ian
McDonagh, Siobhain
MacDonald, Calum
MacDougall, John
McFall, rh John
McGuire, Mrs Anne
McIsaac, Shona
McKechin, Ann
McKenna, Rosemary
Mackinlay, Andrew
McNulty, Tony
MacShane, Denis
Mactaggart, Fiona
McWalter, Tony
Mahmood, Khalid
Mallaber, Judy
Mann, John *(Bassetlaw)*
Marris, Rob *(Wolverh'ton SW)*
Marsden, Gordon *(Blackpool S)*
Marshall, David *(Glasgow Shettleston)*
Martlew, Eric
Meale, Alan *(Mansfield)*
Merron, Gillian
Michael, rh Alun
Milburn, rh Alan
Miliband, David
Miller, Andrew
Moffatt, Laura

Mole, Chris
Moonie, Dr. Lewis
Moran, Margaret
Morgan, Julie
Morris, rh Estelle
Mountford, Kali
Mudie, George
Mullin, Chris
Munn, Ms Meg
Murphy, Denis *(Wansbeck)*
Murphy, Jim *(Eastwood)*
Murphy, rh Paul *(Torfaen)*
Naysmith, Dr. Doug
Norris, Dan *(Wansdyke)*
O'Brien, Bill *(Normanton)*
O'Brien, Mike *(N Warks)*
O'Hara, Edward
Olner, Bill
O'Neill, Martin
Organ, Diana
Osborne, Sandra *(Ayr)*
Owen, Albert
Palmer, Dr. Nick
Pearson, Ian
Perham, Linda
Picking, Anne
Pickthall, Colin
Pike, Peter *(Burnley)*
Plaskitt, James
Pollard, Kerry
Pond, Chris *(Gravesham)*
Pope, Greg *(Hyndburn)*
Pound, Stephen
Prentice, Ms Bridget *(Lewisham E)*
Prescott, rh John
Primarolo, rh Dawn
Prosser, Gwyn
Purchase, Ken
Purnell, James
Quin, rh Joyce
Quinn, Lawrie
Rammell, Bill
Raynsford, rh Nick
Reed, Andy *(Loughborough)*
Reid, rh Dr. John *(Hamilton N & Bellshill)*
Robertson, John *(Glasgow Anniesland)*
Robinson, Geoffrey *(Coventry NW)*
Ross, Ernie *(Dundee W)*
Roy, Frank *(Motherwell)*
Ruane, Chris
Ruddock, Joan
Russell, Ms Christine *(City of Chester)*
Salter, Martin
Savidge, Malcolm
Sawford, Phil
Shaw, Jonathan
Sheerman, Barry
Sheridan, Jim
Shipley, Ms Debra
Simon, Siôn *(B'ham Erdington)*
Skinner, Dennis
Smith, rh Andrew *(Oxford E)*
Smith, Angela *(Basildon)*
Smith, Geraldine *(Morecambe & Lunesdale)*
Smith, rh Jacqui *(Redditch)*
Smith, John *(Glamorgan)*
Soley, Clive
Southworth, Helen
Spellar, rh John
Starkey, Dr. Phyllis
Stewart, David *(Inverness E & Lochaber)*
Stewart, Ian *(Eccles)*
Stinchcombe, Paul
Stoate, Dr. Howard
Strang, rh Dr. Gavin
Straw, rh Jack
Stuart, Ms Gisela
Sutcliffe, Gerry
Taylor, rh Ann *(Dewsbury)*
Taylor, Dari *(Stockton S)*
Taylor, David *(NW Leics)*
Thomas, Gareth *(Clwyd W)*
Thomas, Gareth *(Harrow W)*
Timms, Stephen
Tipping, Paddy
Todd, Mark *(S Derbyshire)*
Touhig, Don *(Islwyn)*
Trickett, Jon
Turner, Dennis *(Wolverh'ton SE)*
Turner, Neil *(Wigan)*
Twigg, Derek *(Halton)*
Twigg, Stephen *(Enfield)*
Tynan, Bill *(Hamilton S)*
Vaz, Keith *(Leicester E)*
Walley, Ms Joan
Ward, Claire
Watson, Tom
Watts, David
White, Brian
Whitehead, Dr. Alan
Wicks, Malcolm
Williams, rh Alan *(Swansea W)*
Williams, Betty *(Conwy)*
Wills, Michael
Wilson, rh Brian
Winnick, David
Winterton, Ms Rosie *(Doncaster C)*
Woodward, Shaun
Woolas, Phil
Worthington, Tony
Wright, David *(Telford)*
Wright, Iain *(Hartlepool)*
Wright, Tony *(Cannock)*
Wyatt, Derek

Tellers for the Ayes:
Joan Ryan and
Paul Clark

NOES

Ainsworth, Peter *(E Surrey)*
Allan, Richard
Amess, David
Arbuthnot, rh James
Atkinson, David *(Bour'mth E)*
Baker, Norman
Baldry, Tony
Barker, Gregory
Baron, John *(Billericay)*
Barrett, John
Beith, rh A. J.
Bellingham, Henry
Bercow, John
Beresford, Sir Paul
Blunt, Crispin
Boswell, Tim
Bottomley, Peter *(Worthing W)*
Bottomley, rh Virginia *(SW Surrey)*
Brady, Graham
Brake, Tom *(Carshalton)*
Brazier, Julian
Breed, Colin
Brooke, Mrs Annette L.
Browning, Mrs Angela
Bruce, Malcolm
Burnett, John
Burns, Simon
Burstow, Paul
Burt, Alistair
Butterfill, Sir John
Cable, Dr. Vincent
Cameron, David
Campbell, rh Sir Menzies *(NE Fife)*
Carmichael, Alistair
Cash, William
Chapman, Sir Sydney *(Chipping Barnet)*
Chidgey, David
Chope, Christopher
Clappison, James
Clifton-Brown, Geoffrey
Conway, Derek
Cormack, Sir Patrick
Cotter, Brian
Curry, rh David
Davey, Edward *(Kingston)*
Davies, Quentin *(Grantham & Stamford)*
Djanogly, Jonathan
Dorrell, rh Stephen
Doughty, Sue
Duncan, Alan *(Rutland)*
Duncan, Peter *(Galloway)*
Evans, Nigel
Fabricant, Michael
Fallon, Michael
Field, Mark *(Cities of London & Westminster)*
Flight, Howard
Flook, Adrian
Foster, Don *(Bath)*
Francois, Mark
Gale, Roger *(N Thanet)*
Galloway, George
Garnier, Edward
George, Andrew *(St. Ives)*
Gibb, Nick *(Bognor Regis)*
Gidley, Sandra
Gill, Parmjit Singh
Gillan, Mrs Cheryl
Goodman, Paul
Gray, James *(N Wilts)*
Grayling, Chris
Green, Damian *(Ashford)*
Green, Matthew *(Ludlow)*
Greenway, John
Grieve, Dominic
Gummer, rh John
Hammond, Philip
Hancock, Mike
Harris, Dr. Evan *(Oxford W & Abingdon)*
Harvey, Nick
Hawkins, Nick
Hayes, John *(S Holland)*
Heald, Oliver
Heath, David
Heathcoat-Amory, rh David
Hendry, Charles
Hoban, Mark *(Fareham)*
Holmes, Paul
Horam, John *(Orpington)*
Howarth, Gerald *(Aldershot)*
Hughes, Simon *(Southwark N)*
Hunter, Andrew
Jack, rh Michael
Jenkin, Bernard
Johnson, Boris *(Henley)*
Jones, Nigel *(Cheltenham)*
Keetch, Paul
Kennedy, rh Charles *(Ross Skye & Inverness)*
Key, Robert *(Salisbury)*
Kirkbride, Miss Julie
Kirkwood, Sir Archy
Knight, rh Greg *(E Yorkshire)*
Laing, Mrs Eleanor
Lait, Mrs Jacqui
Lamb, Norman
Laws, David *(Yeovil)*
Leigh, Edward
Lewis, Dr. Julian *(New Forest E)*
Liddell-Grainger, Ian
Lidington, David
Lilley, rh Peter
Loughton, Tim
Luff, Peter *(M-Worcs)*
McIntosh, Miss Anne
Mackay, rh Andrew
Maclean, rh David
McLoughlin, Patrick
Malins, Humfrey
Maude, rh Francis
Mawhinney, rh Sir Brian
May, rh Mrs Theresa
Mercer, Patrick
Mitchell, Andrew *(Sutton Coldfield)*
Moore, Michael
Moss, Malcolm
Murrison, Dr. Andrew
Norman, Archie
Oaten, Mark *(Winchester)*
O'Brien, Stephen *(Eddisbury)*
Öpik, Lembit
Osborne, George *(Tatton)*
Ottaway, Richard
Page, Richard
Paice, James
Paterson, Owen
Pickles, Eric
Portillo, rh Michael
Prisk, Mark *(Hertford)*
Pugh, Dr. John
Randall, John
Redwood, rh John
Reid, Alan *(Argyll & Bute)*
Rendel, David
Robathan, Andrew
Robertson, Hugh *(Faversham & M-Kent)*
Robertson, Laurence *(Tewk'b'ry)*
Roe, Dame Marion
Rosindell, Andrew
Ruffley, David
Sanders, Adrian
Selous, Andrew
Shephard, rh Mrs Gillian
Shepherd, Richard
Simmonds, Mark
Simpson, Keith *(M-Norfolk)*
Smith, Sir Robert *(W Ab'd'rns & Kincardine)*
Soames, Nicholas
Spelman, Mrs Caroline
Spicer, Sir Michael
Spink, Bob *(Castle Point)*
Spring, Richard
Stanley, rh Sir John
Streeter, Gary
Stunell, Andrew
Swayne, Desmond

Swire, Hugo *(E Devon)*
Syms, Robert
Tapsell, Sir Peter
Taylor, Ian *(Esher)*
Taylor, John *(Solihull)*
Taylor, Matthew *(Truro)*
Taylor, Sir Teddy
Teather, Sarah
Thurso, John
Tonge, Dr. Jenny
Tredinnick, David
Turner, Andrew *(Isle of Wight)*
Tyler, Paul *(N Cornwall)*
Tyrie, Andrew
Viggers, Peter
Walter, Robert
Waterson, Nigel
Watkinson, Angela
Webb, Steve *(Northavon)*
Weir, Michael
Whittingdale, John
Widdecombe, rh Miss Ann
Wiggin, Bill
Wilkinson, John
Williams, Roger *(Brecon)*
Willis, Phil
Wilshire, David
Winterton, Ann *(Congleton)*
Winterton, Sir Nicholas *(Macclesfield)*
Yeo, Tim *(S Suffolk)*
Young, rh Sir George
Younger-Ross, Richard

Tellers for the Noes:
Bob Russell and
Mr. Peter Atkinson

Question accordingly agreed to.

Committee appointed to draw up Reasons to be assigned to the Lords for disagreeing to their amendment No. 37Y: Ms Hazel Blears, Mr. Dominic Grieve, Mr. David Heath, Mr. John Heppell and Kali Mountford; Ms Hazel Blears to be the Chairman of the Committee; three to be the quorum of the Committee.—*[Mr. Heppell.]*

To withdraw immediately.

Reasons for disagreeing to certain Lords amendments reported and agreed to; to be communicated to the Lords.

Mr. Heald: On a point of order, Mr. Speaker. I did not join in the congratulations and tributes paid to the staff of the House earlier today. On behalf of all right hon. and hon. Members on the Opposition Benches, I now join in those tributes. What the staff have done today has been magnificent.

Sir Robert Smith: Further to that point of order, Mr. Speaker. I associate the Liberal Democrats with those congratulations, and pay tribute, in particular, to the innovative way in which the staff adapted the House and the facilities of the House to cope with the unusual circumstances in which they found themselves.

The Leader of the House of Commons (Mr. Peter Hain): Further to that point of order Mr. Speaker. On behalf of the whole House, I make exactly the same points. I particularly thank the catering staff, who have had to respond at very late notice and have done absolutely magnificently on behalf of us all in the process, and have had little sleep in so doing.

5.7 pm

Sitting suspended.

7.20 pm

On resuming—

Mr. Speaker: I have to inform the House that a message has been brought from the Lords as follows. The Lords do not insist on their amendment to the Prevention of Terrorism Bill to which the Commons has disagreed and do agree with the Commons in their amendment in lieu thereof. They do not insist on an amendment in lieu of certain other Lords amendments to which the Commons have disagreed and do agree to the amendments proposed by the Commons in lieu thereof. They agree with the amendments proposed by the Commons to the words so restored to the Bill.

ROYAL ASSENT

Mr. Speaker: I have to notify the House, in accordance with the Royal Assent Act 1967, that the Queen has signified her Royal Assent to the following Act:

Prevention of Terrorism Act 2005.

PETITION

Accommodation Centre (Bicester)

7.21 pm

Tony Baldry (Banbury) (Con): It gives me pleasure to present a petition relating to the Bicester accommodation centre for asylum seekers. It is signed by the leader and deputy leader of Bicester town council and the chairmen of Arncott, Blackthorn and Piddington parish councils, who are all affected by the proposal.

The petition states:

Bicester accommodation centre for asylum seekers

To the House of Commons

That the Deputy Prime Minister calls a full independent Planning enquiry after the decision by Cherwell District Council to refuse detailed planning permission for an accommodation centre for asylum seekers at Bicester;

That Home Office Ministers have stated at the Dispatch Box of the House of Commons during the passage of the Immigration, Nationality and Asylum Act 2002 that "the government have made it clear that we will abide by the planning process, and by the outcome of any public enquiry... that is both fair and democratic";

That councillors unanimously and comprehensively rejected the Home Office application on the advice of officers concerns over the inappropriate design of buildings; concerns over light pollution; concerns over road safety; and concerns over the effectiveness of library and education facilities;

That the councillors objections echo the widespread concerns of every welfare organisation from the Red Cross to the Refugee Council and an independent Planning Inspector's report last year;

The Petitioners therefore request that the House of Commons urge the Deputy Prime Minister to honour the government's clear commitment to the full planning process by calling a Planning Enquiry to take evidence from concerned organisations in the UK and others who operate accommodation centres for asylum seekers in other European member states and not bulldoze through the detailed planning application against the decision of democratically elected councillors.

And the Petitioners remain, etc.

To lie upon the Table.

7.23 pm

Richard Younger-Ross (Teignbridge) (LD): On a point of order, Mr. Speaker. Further to your earlier statement praising the staff for their hard work last night, in particular the Refreshment Department staff

who went without sleep for 24 hours, they and the House might be interested to learn that the records in the Library show that this is the third longest sitting of the House since 1877.

Mr. Speaker: I thank the hon. Gentleman for making that point.

Heather Bell

Motion made, and Question proposed, That this House do now adjourn.—*[Jim Fitzpatrick.]*

7.24 pm

Mr. Edward Leigh (Gainsborough) (Con): It has been a long wait. As we have just heard, this has been the third longest sitting since records began and although to the rest of the world it is Friday evening, to us it is still Thursday. However, for me the 30-hour wait has been worth it, because the subject of the debate is important to my constituency.

The debate is about the sad death of my constituent, Heather Bell, a rider who was thrown from her horse after it had bolted from a low-flying RAF Chinook. That resulted in a number of recommendations to help reduce the chances of such accidents occurring in future: first came the recommendations of the coroner, and then the petition from my constituents.

I recognise that the Minister has taken a step in the right direction—I give him credit where credit is due—in response to the coroner's call for

"better communication with the public",

and has set up a hotline. However, the information provided by the low-flying hotline is valid only at the time of calling. The caller must either

"keeping calling back"

for

"updates or . . . take a chance".

That means taking a chance on death or serious injury to horse and rider. In the wake of the several deaths already caused by the problem—I should emphasise that the matter does not just concern my constituency and the tragedy that occurred there; there have been serious injuries elsewhere—that is scarcely reassuring.

The hotline adviser told someone from my office who called to inquire about the service that

"if you were out for a couple of hours, we could say 'No, there's nothing'—and then near the end of the ride

a low-flying aircraft

comes along".

Given that the information is therefore limited not only to one specific day but to one very brief time slot and subject to change within a half hour or less, it appears that the value of the hotline is not much above the cosmetic.

The same adviser took pains to stress that all times were "just advisory", and that the best time to ring was "just before" going out. When asked what flights would be taking place between 4 pm and 5.30 pm in the central Market Rasen area in Lincolnshire, the adviser stated that there would be "one large rotary" during that period. The area covered stretches across Boston, Scarborough and Wakefield—some hundreds of square miles. The information is therefore completely useless to anybody who wants an idea of whether a Chinook is to thunder down on them as they are riding a horse, perhaps causing it to bolt. Low-flying area 11 covers Humberside, North Lincolnshire, north-east Nottinghamshire and north-east Yorkshire—4,618 square miles.

[Mr. Edward Leigh]

The adviser could give no information whatever about the following day, and, as the MOD's press release announcing its launch last month pointed out, it is a "helicopter hotline" only. It tells people nothing about fast jets as they thunder across the countryside. If someone is planning to ride anywhere near a base or a helicopter training school,

"it will not be able to provide information on . . . activity around"

such locations

"due to the consistently high level of activity in these areas."

Furthermore, the hotline operates only between 8 am and 5 pm. When I rang the hotline, I was told that it was too late and to "ring back tomorrow". Could the availability of the hotline be extended, particularly as at times a busy person might not be able to get through?

As the Minister is aware, I have called for the Ministry of Defence to notify the public on a website of a strip of perhaps 10 square miles either way where training is proposed and when, but that has not been done. Yet, as I have said before, there is no convincing reason—in security or technology terms—why it should not be done. The coroner accepted, as of course I do, that

"on occasions security issues may prevent publication of proposed sorties."

However, he went on to say that he suspected that that

"would not apply to the majority of training flights."

I am sure that the Minister accepts that that is entirely reasonable.

I do not question in any way the need for the RAF to conduct low-flying training; it is protecting national security. Nobody in Lincolnshire is a fanatic about the matter; we all recognise that Chinooks have to go out. We just want warning of where they will be on the training flights, which I would have thought are planned in advance. Co-ordinates must be laid out and the pilot must be given them. It is surely possible for the public to be told.

It is true that the current MOD website gives a skeleton timetable and calendar for low flying in the three most intensive low-flying areas of the country—central Wales, north Scotland and the Scottish borders—but that is no good either to my constituents or, for the first few days of this month, to people living in those three areas, as on 4 March the website was still showing the calendar for February, despite the claim that it had been updated on 1 March. If the information was merely about leisure activities or various public services, that would be regrettable, but it is about saving people's lives and there have already been deaths. Regrettably, there seems to be no great sense of urgency about that at the Ministry of Defence. Neither does it give one great confidence that any online service giving information about low flying in my constituency would be as helpful as one would hope.

The MOD website is not easy to navigate, and people need to know that the information is available before they can find it. When it is at last discovered, buried in a paragraph, it is pretty vague; time slots of up to eight hours are given for several days in a row in northern Scotland and central Wales. Even washing machine repair men can usually say whether they will be coming in the morning or the afternoon, and that drives us all crazy. I urge the Minister in the strongest terms to ensure not only that the current website is made much more user-friendly, but that the current state of affairs will not be the model for any other online information.

None the less, the question must be asked: why could not the MOD apply even the same skeleton plan, with all its deficiencies, to the area concerning my constituents? Currently, all that they can find out about their broad area from the MOD's website is the total number of hours flown in "North Lincolnshire". That covers hundreds of square miles, and it included bordering areas the previous year. That might be useful to statisticians or students, but I do not see how it will save any lives.

Gainsborough might not be in the top three areas for military low flying, but that did not prevent 23 complaints from being logged in Market Rasen before Heather Bell's death. In fact, according to figures released to the *Lincolnshire Echo* last month under the Freedom of Information Act 2000, the MOD received 332 complaints about low-flying aircraft across Lincolnshire in the three years between 2002 and 2004. As the *Echo* commented,

"That's the equivalent of one complaint every three days."

The same report of 8 February recorded the fact that there had been another 45 complaints from residents in the Market Rasen area, including those in the villages of Glentham and Walesby, since the accident on 10 June 2003.

Let me quote a few lines from the report:

"In Middle Rasen itself, two complaints about low-flying helicopters were logged on June 13th, three days later. Two days after the accident, on June 12th, 2003, a low-flying jet was reported over Middle Rasen. A low-flying jet was seen over the village four days later. One complainant contacted military officials to report a low-flying helicopter over Market Rasen on July 21st 2003—just a month after the accident."

Even worse, the report continues:

"A complaint about a low-flying helicopter over Middle Rasen was made in November 2004, even though the MOD has enforced a no-flying policy within a one-and-a-half mile radius of the village."

The number of complaints is increasing. In 2002, there were 95 complaints; in 2003, there were 114; and in 2004 there were 123. Of the total 332 complaints, 262 were about low-flying fixed or non-rotary aircraft, mainly jets, while 56 concerned helicopters—and the MOD was "unavailable for comment".

Let us see what the Ministry does, apart from log events, when a person complains. According to the editor of the *Market Rasen Mail*—I presented a petition in response to his newspaper's campaign, which is why I have secured this debate—the complainant receives a visit from the RAF police, and the burden of proof is on the complainant, who has to answer technical questions about exact height and speed. Clearly, that does not encourage justified complaints any more than the current quality of the MOD website and hotline encourages use of those services.

So what is to be done? In the three high-intensity areas, there are regional community relations officers, who, according to the website,

"act as the focal point for military low flying issues in their respective areas."

Can we not extend the area covered by community relations officers? Can we not have them in other parts of the country?

On the coroner's recommendations, I reiterate all the points made by my hon. Friend the Member for Buckingham (Mr. Bercow), who raised this matter in an Adjournment debate last week, about reducing the area for low flying. I do not insist or ask that we go back to the pre-1979 situation. I know the arguments about that and I have received a letter from the Minister dated 31 March, but surely there must be a way of avoiding smaller towns and villages. There are arguments about increased use of simulators, which I would have thought was possible, and about improved technology vis-à-vis tracking devices, which I know Air Commodore Garwood called a "very, very good idea" at the inquest. I echo my hon. Friend's support for the coroner's recommendations on avoidance notices, specifically in the Market Rasen area. I would have thought that it was perfectly possible for the RAF to avoid flying over stables, which are fixed buildings, so those involved know where they are.

The coroner said that his task at the inquest

"would have been made very much easier if the cockpit voice recorder had been operational".

He therefore recommended that in future such recorders remain operational. He commented that as health and usage monitoring systems—HUMS—which constantly monitor the condition of aircraft, like a constantly updated MOT, can record data for up to eight hours, they should be left on. That must be possible, as is the norm with civilian aircraft. The coroner suggested that more information should be coming out of the cockpit, and that is what we want. It could be useful in assisting the RAF police with investigations and to relieve complainants of the burden of attempting to supply the answers to technical questions about height and speed, which they cannot simply answer.

The coroner's sixth recommendation was that, following the practice applied to fast jets, helicopters involved in low-flying training could be fitted with video equipment so that the whole sortie was recorded on videotape. I agree with his comment that

"if helicopter crews were aware that their flight was being videotaped then it would encourage strict compliance with Flying Regulations."

It would also provide more useful and, importantly, "immediately available" evidence. There would then be no need for "flight reconstruction". Does the Minister believe that that would be a worthwhile investment?

The coroner's seventh recommendation in the event of future similar fatalities—or, one might add, accidents—was that

"clear procedures need to be established to immediately secure available evidence."

He specified that

"all flight crew should immediately be the subject of alcohol and drug testing",

that the impounding of the helicopter should be considered "at a high level",

that no further sorties should be undertaken following such an incident, that the downloading of information should be given the highest priority, should be done by

"a member of the RAF who has considerable experience in such matters",

and should take place in the presence of a RAF police officer. The downloaded data should be stored in

"a tamper-proof bag which should be properly labelled"

and

"immediately be placed in a secure place and kept under lock and key with limited access."

I ask the Minister to note the coroner's comment that Sergeant Newton of the RAF police, who investigated the case,

"was not aware that Chinook helicopters had HUMS equipment fitted",

and that

"he had received no training about which aircraft had such equipment and relied upon picking up such information by word of mouth".

Another suggestion from the coroner was that inquiries should be made to ascertain whether it would be technically possible for the loadmaster, who sits at the left rear of the aircraft, to

"receive the same audible information as the remainder of the crew".

Finally, I draw the Minister's attention to the coroner's statement that these recommendations

"need to be considered in their totality."

The Minister is aware of the petition launched by the *Market Rasen Mail*, which I fully support. It endorses the coroner's call for a return to a restricted zone for low-flying training and greater use of simulators. It calls for the lower limit to be raised above 50 ft and for devices to alert people to aircraft in the area, and recommends a recorded message briefing of daily flight plans.

With the navigation system used in helicopters and sophisticated altometers, it should be possible to know where a helicopter is and at what height at a particular time, so that complaints can be monitored. I hope the Minister will accept that there is no more time left for words of comfort. He must translate those words into action, so that my constituents may feel that some good has come from the tragic death of Heather Bell. He must take action. The MOD has a reputation for being slow-moving in this and other matters—witness the debate over the veterans of the Arctic convoy this week. This is an opportunity for the Minister, in his final weeks in the MOD, to make a name for himself and once and for all resolve the issue of low-flying aircraft and helicopters.

7.38 pm

The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin): I join the hon. Member for Gainsborough (Mr. Leigh) in welcoming the fact that we eventually got to the Adjournment debate after 32 hours. It is a particular pleasure on a Friday evening to be speaking on Thursday evening. That is certainly a first.

I thank the hon. Gentleman for his constructive approach to the debate and for the points that he raised in relation to a particularly tragic accident. One cannot

[Mr. Ivor Caplin]

begin to imagine the sense of grief and loss suffered over the past 16 months since that tragic accident, and our condolences are extended to Mr. Bell and his family.

We must not forget that Alexandra Nixon and Melanie Dodds also lost their lives in similar tragic circumstances, and I extend our condolences to their families, as I did last Friday. I readily understand the strength of feeling shown by the hon. Gentleman's constituents, which has been expressed through him as the constituency Member, and in the petition organised by the *Market Rasen Mail*. The letter to which he referred summarised, I hope, the action that we have taken so far.

The circumstances surrounding Mrs. Bell's death have been sufficiently aired, and I agree that we must learn lessons from this terrible accident. The Louth and Spilsby district coroner conducted an extremely comprehensive inquest into the death, and the Ministry of Defence provided our fullest co-operation, but before I turn to the coroner's recommendations in detail—as I said I would last Friday—let me address the individual points that the hon. Gentleman raised.

I am pleased that the hon. Gentleman welcomes the provision of a telephone advisory service as a first step to improving communication. However, he made a number of criticisms, which deserve some comment. He pointed out that the information is valid only at the time of the call and does not provide a forecast of forthcoming activity. That is simply because low-level bookings by military aircrew can be made only on the day when they need to undertake such training—they cannot pre-book training in the UK low-flying system. This approach is born out of the experience that weather, equipment availability and other factors can make earlier booking meaningless, and lead to the public's being given misleading information. The only exception is when we anticipate low-flying activity connected with a specific exercise that needs to be pre-planned—but even that has to be booked on the day when such activity takes place. Moreover, given the short-notice changes that can be made to planned low-flying training as a result of a number of factors—that can include additions as well as cancellations—it would be irresponsible for the system's operators to say anything other than that the information is valid only at the time of the call.

The hon. Gentleman expressed disappointment at the fact that the telephone service does not include information on low-flying fast jets or on activity close to our main helicopter-operating bases and training schools. As I said last Friday, we intend to keep all these issues under review, and I hope that the House will regard that as reasonable, given that the phone line has been in operation for just 11 days.

It is a fact that a high level of helicopter activity is expected near our main helicopter bases and training schools, which are known as dedicated user areas. We are, of course, extremely grateful to the public for their tolerance in these areas, but it is not practical to provide information about the number of helicopter movements there. However, the bases in question all have points of contact for the public, should they have any particular issues to discuss.

We have never sought to mislead anyone about the service offered. We have made it clear that at present we are unable to provide anything other than a broad indication of planned low-flying helicopter activity. The information that we are providing has not previously been available to the public, and it does indicate the expected level of low-flying helicopter activity.

I now want briefly to respond to some of the hon. Gentleman's other points. The information available on our website on low-flying activity is not buried, as he suggested. Indeed, a simple search for "low flying" on the internet provides a prompt and direct link to the MOD website; in fact, it is the first search result. Nor do I accept his view that navigating the website is an issue. For example, details on the new telephone service feature on our home page, with a link leading straight to the relevant low-flying information pages. I was also a little puzzled by his saying that information on the tactical training areas was out of date. As he said, that information was updated on 1 March, but it should be noted that it related to both February and March. Indeed, it has always been our practice to make available information on both the preceding month and the month ahead.

The hon. Gentleman is right to say that 23 complaints were logged in the Middle Rasen area in the 18 months before Mrs Bell's death, but that should be seen against the background of the near presence of four major RAF flying stations. He is correct in saying that the number of complaints across the county has risen, but of course that might reflect an increased awareness of such activity.

It is, regrettably, true that, on occasion, avoidance areas are intruded into by military aircraft. The hon. Gentleman made reference to a number of specific complaints. All such incidents are subject to full investigation by the defence flying complaints investigation team. However, I am surprised that his constituents find those investigations intimidating. The feedback that we receive is generally favourable. Complainants are pleased that their reports are being taken seriously. The investigators merely seek to clarify the reported facts as far as possible and ask only for estimates of height and speed.

The hon. Gentleman referred to three "high-intensity areas" as having regional community relations officers. Those posts were established because of the amount of activity seen in areas where there is no RAF presence to give a natural point of contact. Given that there are two major flying establishments, each with their own community relations staff, within 15 miles of Market Rasen, that scarcely applies to Lincolnshire.

I want now to deal with the nine recommendations made by the coroner. The first sought a reduction of the area in which low-flying helicopter training takes place in the United Kingdom. That is a complex issue that requires careful consideration, so we have established an MOD working group, composed of representatives of our rotary wing users, to consider very carefully the requirement for helicopter low-flying training. The low-flying system that we have in place today is not too far removed from that in operation before 1979, but to minimise disturbance we have moved away from fixed transit corridors to spread such training flights as equitably as possible across the remaining areas.

The second recommendation was that we increase the use of simulators—another point made by the hon. Gentleman and by his constituents in their petition. The hon. Member for Buckingham (Mr. Bercow) also made the point last Friday—he would be deeply disappointed if I did not mention it. I can assure the House that we use simulation as much as we can, and we are finding that the fidelity of the simulation offered to support our more recent equipment purchases is allowing us to make greater use of simulated flight.

During the coroner's inquest, comparisons were made between the amount of time spent using simulation in training by civilian pilots and by military aircrew. I understand that one witness stated that over 90 per cent. of training in the civilian context takes place in simulation. Let me make this simple point: current operations such as those in Iraq and Afghanistan, as I said last week, have highlighted the requirement for military helicopters to fly at very low levels in hostile environments, sometimes operating in poor weather conditions, flying under pylon wires, and operating in the face of enemy fire. That, I think the House will accept, is a rather different requirement than that for a commercial pilot.

Another point raised in the petition was the height of low-level helicopter training. By the nature of their operations, military helicopters need to fly as low to the ground as possible. In some cases they are authorised to fly as low as 50 ft or even down to ground level if required for specific training events. However, only the minimum amount of flights at these very low levels take place, for very obvious reasons. Raising the height of those training sorties quickly reduces the training value for the aircrew.

The third recommendation was that we improve our communication about our low-flying activities. We accept that that is a valid point, and we are looking at a range of measures to improve the flow of information to the public. I dealt with that in some detail earlier. The hon. Gentleman made a point about the opening hours of the phone line, and I can confirm that we intend to extend them to 8 pm during the summer months.

The fourth recommendation asked us to consider the utility of improved technology to assist aircrew in locating horse riders. The working group is considering those aspects very carefully and will take into account the technical, cost and practical implications of the use of such devices.

The fifth recommendation was to increase the duration of voice recording tape in our helicopters. Around a third of the helicopters in Joint Helicopter Command have the facility to record voice data. Those meet Civil Aviation Authority mandated standards for voice recording in line with civilian helicopter accident recorders. The aim of the standard is to provide a voice recording of any events leading up to an aircraft accident, rather than being a permanent record of the entire flight. The voice recorders serve to assist post-aircraft accident investigations as opposed to post-incident investigations.

The sixth recommendation was to introduce video cameras into the cockpits. Given that helicopters can have sortie lengths of many hours' duration, the length of the video recording tape would become an issue, as would the endurance of the battery unit. To overcome that, there would be a requirement to "hard wire" the camera into the on-board system. That would present other technical issues, requiring Design Authority approval, which is both complex and expensive.

During the inquest, criticisms were made about the way in which evidence was secured by the RAF police immediately after the tragic accident involving Mrs. Bell. As the hon. Gentleman pointed out, the coroner's seventh recommendation suggested a number of measures to tighten up our procedures and training of investigators. We accept that there were shortcomings and have since undertaken a complete review of evidence collection procedures, and enhanced training has been put in place. In addition, standardised processes have now been introduced in order to clarify precisely what action should be taken in the event of any serious incidents.

In his eighth recommendation, the coroner suggested that the rear left loadmaster of the Chinook crew should receive the radar altitude warning. Currently, the handling pilot, non-handling pilot and rear right hand side crew member of a Chinook receive an audible warning if the aircraft is at risk of descending below its authorised height. We see no operational value in making that warning available to the rear left loadmaster of the Chinook crew. It is the responsibility of the flying crew to ensure that the aircraft maintains appropriate heights throughout a sortie, and we are satisfied that the addition of the warning for the right hand loadmaster is sufficient for those purposes.

Finally, the coroner's ninth recommendation asked if we would give consideration to granting an avoidance for low-flying activity for the Market Rasen area—a point that the hon. Gentleman repeated—given that a considerable amount of equestrian activity takes place in the area. The House will wish to know that, as a mark of respect to the Bell family, we introduced an avoidance for military helicopters over Middle Rasen, and that that will remain in force for five years, after which it will be reviewed. That reflects, I know, the strength of feeling in the town, and I hope shows how seriously we take these matters.

We have been quite open about the action we are taking in relation to the coroner's nine recommendations. We accept that there are lessons to be learned and we are serious about learning them. On completion of the consideration of the recommendations by the Ministry of Defence, which I expect to be concluded by the end of June, I intend to make a further announcement to the House, and I certainly expect that to be before the summer recess commences.

Question put and agreed to.

Adjourned accordingly at eight minutes to Eight o'clock.

Westminster Hall

Tuesday 22 February 2005

[MR. EDWARD O'HARA *in the Chair*]

APW Pension Scheme

Motion made, and Question proposed, That the sitting be now adjourned.—*[Margaret Moran.]*

9.30 am

Mr. David Chidgey (Eastleigh) (LD): May I pay tribute to the many right hon. and hon. Members whose constituents are also victims of the APW pension scandal for their support? It is a good example of all that is best in our Parliament, with Back Benchers working together, regardless of party, for the common good of those whom we represent. I also thank the Minister and his team for meeting a delegation of fellow Members and some of those affected by the collapse of the APW pension fund. We met the Minister late last year, and he listened at first hand to the desperate situation of the workers who were represented at that meeting. However, I am sure that he would be the first to agree that listening is not enough. What we now need is a set of responses that will reassure the members of the APW pension scheme about their future retirement.

Three months have passed since this latest pension failure broached the headlines. The failure left hundreds of my constituents in Eastleigh traumatised by the news that their pensions had been slashed—if they were lucky, to one fifth of their expected value.

The discovery of large deficits in final salary pension schemes has become all too common. It has been caused by a combination of employer contribution holidays, the abolition of tax credits paid to pension funds, and a recent slump in the stock market. It has resulted in many schemes becoming unviable. Sadly, it is not even a new phenomenon. Final salary pension schemes have been under increasing threat since the 1980s. For the record, before entering Parliament I too was a victim of a failing pension scheme, as colleagues from my area may recall. I mention it now in case, by some remote chance and even at this late stage, I might myself have an interest in the Government's proposals.

The Government's own figures show that about 65,000 people have been affected by final salary pension scheme deficits. As we know, employers are required to make good those deficits, but many prefer to close or wind up their schemes rather than continue to incur the cost of closing the funding gap. All too often, firms genuinely do not have the funds to make good the deficit, and paying the pension debt could bankrupt the company. Pension fund trustees are then faced with a choice. They can bankrupt the company, but still not recover the debt; or they can enter a compromise agreement to accept less, but still more than if the company were to go into liquidation. Inevitably, however, it is the members of the scheme who lose out—the pensioners by having their pensions frozen, and the workers by suffering a significant reduction in their deferred benefits.

In general, the decline and winding up of the APW scheme closely followed that pattern, but it is in the particular that we are interested. Our debate provides an opportunity to explore and expose actions that at best can be described as unethical, and it allows us to highlight the deficiencies in the regulations that can result in the failure to provide protection to the employees in the fund. It is the latter who are the real victims.

From our discussions with the Minister and his officials, and from our meetings and correspondence since then, I am sure that the Minister is aware of the detailed events that surround the failure of the APW scheme, but it is important that the salient facts should be placed on the record.

I start by confirming that, under regulations introduced in June 2003, solvent employers who want to wind up their pension schemes have to purchase annuities for all scheme members. For a while, that seemed to stop the wind-ups. Prior to June 2003, employers could wind up their schemes and pay only the minimum funding requirement—the MFR debt—which was usually between a fifth and a seventh of the cost of the annuities. It was understood by most Members that after those regulations came into force, no solvent employer would be able to close an underfunded pension scheme.

However, unscrupulous employers began to realise that the common law that enabled trustees to compromise a debt could still be used if they could show that the new buyout debt would force the employer into bankruptcy. In fact, because the new buyout debt was so much larger than the MFR debt, the new regulations gave employers more scope to compromise.

In the case of APW, the MFR deficit was about £7.8 million, compared with a buyout debt of £55 million. Therefore, while it could be argued that the MFR level of debt could be met over 10 to 20 years—so the trustees would refuse to compromise it—it was obvious from the accounts that the APW group could not afford £55 million all in one go to buy the annuities. Furthermore, APW knew that if it allowed its pension scheme to keep going beyond April 2005, the trustees would not be open to any compromise. They would simply allow the firm to go into liquidation, knowing that the scheme members would receive 90 per cent. of their pensions from the new Pension Protection Fund. APW would also have known that, although the new financial assistance scheme would be a further incentive to trustees not to compromise, at that time the trustees had no concrete information to go on. The Pensions Bill merely stated that all the detail would be provided by subsequent regulations. Therefore, the trustees had no way of knowing whether the APW scheme would be eligible and, if it were, how much it would receive and whether a limit would be placed on members' pensions.

The choice was between forcing the firm into liquidation over the pension debt and leaving members hostage to fortune on the vagaries of the FAS, and the best possible compromise, which would still only secure 20 to 30 per cent. of members' deferred benefits. Should anybody think that the threat by APW directors to put the firm into liquidation was a bluff, I am assured that the trustees received a written ultimatum that unless they agreed to the compromise drawn up in November, the directors would file for bankruptcy the next day. To

[Mr. David Chidgey]

add insult to injury, the trustees were also told that APW's American parent would then buy the firm back out of bankruptcy, free of the £55 million pension debt, at a knockdown price. So the compromise was made and the bombshell fell on hundreds of scheme beneficiaries, many of whom found their expectations of a secure retirement in ruins. Members were left distraught, having to rethink their lives.

Let me give just one example, that of Karen and Wayne and their daughter Shannon. Wayne has paid contributions for 16 years, and his partner, who has been in the scheme for 11 years, has called the news a kick in the teeth. She said:

"I have a message for the Government. They need to do something about this. It's all very well saying we should build for the future, but if they do not do something to secure company pensions, they will face having more of us relying on their state pensions. They need to put in a clause to stop people being stitched up."

Most people are in no doubt that Wayne, Karen and Shannon are in a devastating predicament through no fault of theirs, or of the trustees of their pension scheme. As the Minister will recall, following his meeting with our delegation late last year, the situation with regard to the APW scheme and the trustees is as follows. At the time when the trustees were being pressed into agreeing a compromise for the scheme wind-up, they were hampered by a lack of information on the regulatory framework of the FAS. They lacked information on the deemed buyback value of members' pension benefits and suffered from the vagueness of the facts about potential support for firms via the FAS when schemes were wound up to avoid their becoming insolvent.

In his response to these points in January, the Minister went to some lengths to describe the Occupational Pensions Regulatory Authority's expectations of the trustees when negotiating a compromise agreement. In what areas, if any, has the Minister been advised that the APW trustees have failed to meet the expectations of OPRA in making a compromise agreement?

I now turn to the situation on deemed buyback of state pension rights. In their negotiations on the compromise agreement, the APW trustees were hampered by a lack of information from the national insurance contributions office on the deemed buyback values of scheme members' state pensions, which were likely to be particularly significant to lower-paid workers.

I have been informed that since our meeting with the Minister things have happened quickly. I am not curmudgeonly: I am grateful if the Minister has taken a personal interest in the scheme and things have moved forward to the benefit of my constituents. I am advised that in late January, NICO contacted the trustees and asked for details of a sample of 20 scheme members who were worst affected by the collapse of the APW pensions fund. Apparently, the results came back from NICO last week. I am sure that the Minister will know that of the 21 cases put forward, 16 qualify for full reinstatement of their rights, three qualify for partial reinstatement and two do not qualify at all. That news will come as some relief to lower-paid APW members.

But life is not that simple. We are told that it will take three years to complete a full scheme reconciliation of guaranteed minimum pension. That will leave hundreds of workers in limbo in the meantime, and will leave those who retire after the scheme winding-up process with nothing to fall back on. We need the Department for Work and Pensions to confirm that pensioners who retire post wind-up will not only qualify for the deemed buyback, but will be entitled to have the benefits backdated to the date at which they retired at age 65. I think that that is the meaning of the law, and I hope that the Minister can confirm that that will happen.

Can the Minister also confirm that his Department has been saying that members' additional voluntary contributions—AVCs—would be lumped together with their ordinary scheme benefits in order to calculate their benefits under the Pension Protection Fund, which will commence after April? Surely he agrees that it would be morally indefensible to penalise prudent members of our society for saving extra for their pensions. That would send the wrong message to the public at a time when the Government want them, and us, to save more for their retirement. I understand that the Department has since realised that that approach contradicted the priority order for benefits in the scheme wind-up set out in section 73 of the Pensions Act 1995. No doubt the Minister will confirm that change of heart by his officials, who are, perhaps, not quite so well versed in the law as I am sure he is.

While the uncertainty about deemed buyback rights is gradually being resolved—albeit at a snail's pace and far too late to help the compromised negotiations for APW—the major difficulty of the application of the FAS remains. I understand, and can even sympathise with, the Minister's concerns that including pension schemes that have been wound up to avoid bankruptcy with those of firms in liquidation puts him, the Government and the taxpayer at some risk. Clearly, the Government do not want to open the floodgates to firms that want to offload their pension liabilities on to the taxpayer, particularly if they continue to trade and subsequently return to profit to the benefit of their shareholders, but not necessarily their workers.

Mr. Nigel Waterson (Eastbourne) (Con): I am following closely what the hon. Gentleman says. Although I understand his argument about opening the floodgates, would not it have been better for all concerned if the eligibility criteria for the FAS had been clear from a much earlier stage?

Mr. Chidgey: I agree. That is self-evident, and is an issue that I hope we shall address to the Minister in some numbers today. I hope also that we will receive a sympathetic response from him.

I return to the point that I was making. There is an issue regarding how big the problem is and whether the taxpayer should bail out people who are less careful in the way in which they run their businesses. In the case of the APW scheme, even a cursory inspection of the historic figures—not the accounts prepared a few months before the negotiations on the pension scheme, but those running back for several years—would show that there is not a chance of the £55 million pension debt being met. The merest glance would show that.

The Minister will know from correspondence with colleagues who are here today that the APW trustees were faced with a choice of accepting a compromise or seeing the company become insolvent. On the final day, 5 November 2004, when the company was still allowing discussions and the guillotine was about to fall, the trustees could not know of the Minister's subsequent decision to allow companies that became insolvent after May 2004 to be eligible to join the FAS. That decision had still not been announced when the APW scheme was wound up in the High Court on 17 November. I do not blame the Minister for that; that is how the sequence developed. However, the trustees for the APW scheme were trying to negotiate with both hands tied behind their backs because that information was not in the public domain.

It seems likely that only a limited number of schemes will be in the position of the APW scheme, so there will be a limited number of genuine candidates for inclusion in the FAS. I thank the right hon. Member for Southampton, Itchen (Mr. Denham) for his suggestion that it would be perfectly fair to ensure that, as a result of the compromise, no member of the APW scheme is worse off than they would have been if they had been eligible to join the FAS. That is a telling and valid point. I ask the Minister to call on his officials to explore that suggestion in detail. It should be possible to establish how many firms would be involved and the liability that would therefore fall on the FAS.

In that context, the Government announced on 8 February that they had had an unexpected windfall of £6.2 billion in 2002–03 through unclaimed benefit entitlements. That gives rise to the suggestion that diverting even a small percentage of that largesse—an unexpected treasure—to bolster the £20 million annual funding of the FAS would make a huge difference.

Still on the subject of funding, is there any reason why the FAS could not be run in the way that it is proposed that the Pension Protection Fund be run? Could not the FAS take assets of schemes that qualify and that have not yet distributed all their assets to members? Thus the FAS fund would not amount simply to £20 million a year; it would be substantially more. For the record, the APW fund alone was worth £33 million. PPF fund moneys could be invested in the same way, and benefits could be paid to members on reaching the age of 65, possibly through the state pension system.

It is clear that the APW pension collapse has raised many questions among scheme members, many hundreds of whom live and work in my constituency. I conclude my speech this morning by recounting just a few of their questions. There are many more questions, but time will not allow me to put them on the record. If a firm avoids insolvency by winding up its pension scheme, why could it not claw back contributions when it returns to profit? That would be a perfectly logical thing to do. Why have the Government not yet followed European legislation that provides better protection for pensioners and their pensions? When will the Government review information issued in booklets and leaflets by OPRA, by the Department for Work and Pensions and by the FSA to ensure that they do not give a false sense of security to pension scheme trustees and members? This is a plea from people on the front line who are trying to make these things work, not from those of us sitting comfortably in Whitehall, as we often are. Did the DWP and the Treasury receive actuarial advice that scheme members should be told that full funding on minimum funding requirements did not mean that all liabilities could be met if the scheme were wound up? Finally, my constituents want to know whether the Government are aware that pension scheme members throughout the country have little confidence in their ability to protect and preserve the investments that employers are making for a decent retirement.

9.49 am

John McDonnell (Hayes and Harlington) (Lab): I congratulate the hon. Member for Eastleigh (Mr. Chidgey) on seizing the opportunity to use this Adjournment debate to set out in detail the ramifications of the APW case. Like several other hon. Members in the Chamber, I have a number of constituents who have been dramatically affected by the collapse of the APW pension scheme, although their number is relatively small . They were based at the Uxbridge site, and the hon. Member for Uxbridge (Mr. Randall), who has to go to a Statutory Instrument Committee, has taken up a larger number of cases. His constituents worked with constituents of mine, and they, too, have been dramatically affected by the collapse of the scheme. I am grateful to my constituent Mr. Alan Harwood for contacting me, for bringing together those of my constituents who have been affected and for providing me with briefings and advice throughout our discussions with Ministers.

The cases that have been brought to me are all equally heart-rending. They involve people who have invested in the scheme for years, who have properly saved for their retirement and who will now receive a relatively trivial amount as pensioners. Some – this is easy to say but difficult to describe—will face straitened circumstances and, in some instances, real poverty. The problem has arisen when they least expected it: they thought that they were in a secure scheme, and they were preparing for their retirement by contributing in exactly the way that successive Governments had advised them to do. They also placed their faith in their trustees. To be frank, the trustees have acted on the basis of legal advice on every occasion, and they have even taken action to put their legal advice and judgments before the courts, which have judged their actions to have been legal throughout.

When we debated the legislation that the Government introduced to protect pensions, hon. Members throughout the House welcomed the fact that the Government were seeking to ensure that none of our constituents would be further disadvantaged by the collapse of pension schemes. During those debates, no one, as far as I can remember, raised the issue of the compromise settlements that were being enforced, particularly after takeovers. In welcoming the new legislation, however, we undoubtedly thought that it would give adequate protection to most of our constituents and that we were redressing a wrong that many of them had experienced.

However, this is a special case, and I plead it as a special case. Our constituents have been affected because they have been caught in a specific time frame. After the legislation was enacted, the guidance was not made available as promptly as we would have hoped. As a result, scheme members have been denied access to the protective mechanisms that the Government's new

[John McDonnell]

legislation introduced. At the same time, they have no redress against their trustees, because their trustees acted legally and in good faith; indeed, the courts have judged that they acted legally.

The case before us is an example of a specific problem; I am not sure how many other examples there are, but I doubt that there will be many. In the very specific period before the new advice and guidance were given, trustees were left having to exercise their best judgment, based on legal advice. In this instance, it would have been better if they had allowed insolvency to occur. That is certainly true for my constituents, who would then have been protected under the new legislation. However, the trustees reached a judgment—quite rightly, in the light of the legal advice that they were given—to make a compromise agreement to avoid insolvency and keep the firm going. In doing so, they thought that they were looking after the fund's long-term interests.

Mr. Steve Webb (Northavon) (LD): I think I understood the hon. Gentleman to say that the trustees would have done better to force the company into insolvency because scheme members would have got something better in those circumstances. However, it is important to put it on the record that that is not necessarily true, because none of us knows what they would have received under the financial assistance scheme, although we know that the FAS does not have enough money in it. Scheme members might have got practically nothing.

John McDonnell: It is a matter of judgment and we are not clear. Every indication that we have received so far—in statements, representations and discussions—is that pensioners may well have been in a more secure position, particularly with regard to the moral duty that would have been placed on the Government to ensure their protection. There is a moral duty on the Government to act. Trustees acted without that guidance—properly, legally and, they thought, in the best interests of pensioners—and now many of our constituents find that they face penury in their old age, or at least significantly reduced pensions.

The solution is fairly straightforward. We should deal with the situation as a special case and consider applying the legislation and guidance in such a way as to give the members of that pension fund access to the protection that we had thought would be available in cases of insolvency.

I have also received representations about the advice and information that was given in the various booklets that successive Governments published. Most of our constituents felt that they were protected by past legislation and past assurances or by the new legislation, which most of us supported. Many feel that their hopes were raised by the initiation of the new legislation on pensions protection, and that they were misled by that information and by successive Governments, who persuaded them to buy into those private pension schemes, so that they could have secure futures.

I therefore urge the Minister to consider how we can interpret the new legislation and guidance to deal with the situation. I do not believe that that will open the floodgates. There may be one or two small examples that are similar, but the moral onus is now on the Government to act. The delay in publishing the guidance has meant that the trustees, acting properly and legally, have disadvantaged our constituents in a way that the Government should redress.

On that basis, I hope for a sympathetic hearing of our constituents' pleas. However, if the Minister cannot give us firm commitments, he should at least not close the door and should allow us to come back with further detailed suggestions about how to deal with individual cases. The deemed buyback route was open to a number of our constituents. However, as has been mentioned, the delay in implementation will not satisfy even them, so a special measure and specific guidance may be needed. I would warmly welcome the Minister's consideration of that proposal.

9.58 am

Mr. Desmond Swayne (New Forest, West) (Con): There can be little doubt about what has happened to company pension schemes in the past few years. The volume of assets in such schemes was one of the great success stories of the British economy and the sheer amount of funded pensions was something on which we did much better than comparator economies. That success has almost become a disaster area. I have no doubt that the crisis was precipitated largely by the decision to tax the pension funds so heavily, with a £5 billion-a-year tax, the effect that that had on the savings market, and the knock-on effect on the value of the stock market. In effect, that hit the pensions industry with a double whammy.

Of course, there is the question of how far that merely expedited a trend that was discernible elsewhere. The withdrawal from defined-benefit pension schemes has been measurable in other Anglo-Saxon economies, and they have not had our tax whammy. We must consider whether pressures would have built up, although perhaps at a slower rate, on company schemes, such as that of APW, anyway, given that people are living longer and causing a greater drain on companies' resources.

What happened at APW seems to be of a different order, however. The sharp practice that was involved is breathtaking, and it is intolerable that the trustees should have been put in such a disgraceful position. In effect, a gun was held to their head and a timetable—a guillotine—was set within which they had to reach a decision. We must examine the means by which such pressure on trustees can be avoided.

My suspicion is that the trustees made the right decision, certainly in respect of what they knew at the time. It was an awful decision to have to take, but I believe that they made the right one. However, difficult questions of public policy will arise if, when the precise terms and arrangements of the FAS become clear, it seems that the trustees would have done better for their members and beneficiaries had they taken the other decision and forced liquidation. As we do not want to provide a perverse incentive, perhaps the Minister should consider the incentives that we need to build into the system to encourage trustees who are put in a similar position to those at APW to come to a decision that is collectively of benefit to the trustees, but also takes account of the greater public good.

I want to highlight something that my constituents who have suffered from the APW situation have put to me. Their request is for urgency and certainty, although I am not sure that the two are compatible. They want to know quickly where they stand, and they emphasise that the ongoing discussions and considerations of Ministers should be expedited. When I face them in my surgery, I question whether it would not be better to wait and let the thing take its course rather than to force a quick decision, because the outcome might be better. Nevertheless, as one would naturally expect, people who are in the middle of their working life, and many are approaching the end of their working life, are worried. They have made contributions, but they suddenly find that certainty has been taken away. They want quick redress, and I hope that the Minister will take on board the sense of urgency that our constituents properly feel about the matter.

10.4 am

Mr. John Denham (Southampton, Itchen) (Lab): The hon. Member for Eastleigh (Mr. Chidgey) clearly set out the background. I wish to re-emphasise his point that MPs on both sides of the House will work together on this issue. There has been a meeting with the Minister, the hon. Gentleman and I met trustees in my office in Southampton, and several of us attended a meeting organised by one of the trade unions involved. It is important to make progress so that we take some positive news back to constituents who have been affected.

Among the many cases that have been publicised is that of one of my constituents. He was due to retire seven days after the winding up of the scheme was confirmed. His pension of less than £10,000 became a pension of less than £2,000, and the 25 per cent. lump sum disappeared. He is in the unfortunate position of suffering from a degenerative disease, so he does not have the option of seriously looking for work into his late 60s and 70s to put the situation right. It is difficult for most of us to comprehend exactly what it would feel like to find ourselves in that position a week away from retirement, but we are talking about such people today.

I thank the Minister for his interest and, through him, a number of his officials, who have been very helpful in talking me through some of the more technical details. I appreciate that enormously. I have two points to make about the history of the situation. The first is that when we look back at our debates, we sometimes realise that there was a missed opportunity. When the Pensions Act 1995 went through Parliament, there was a proposal for a central continuation fund into which the funds of schemes, such as the one under discussion, would have been paid. That would have been run on an ongoing basis. Much of the real deficit in the APW scheme comes from the fact that it has been closed. The deficit in the MFR is quite small on an ongoing basis, but once a scheme is wound up and annuities must be bought, the deficit becomes huge. Had that proposal been adopted back in 1994–95, we would not face many of these problems.

The second point, which supports the comments made by the hon. Member for New Forest, West (Mr. Swayne), is that the trustees were put in an impossible position. My initial reaction was to be highly critical of them, but having gone through the circumstances in some detail, I feel that they do not have a strong case to answer. Even at this late stage, the Minister might want to consider whether trustees could be protected against being forced into compromising on such disadvantageous terms. Such proposals have been floated in previous meetings with him.

There are two main ways in which we can make progress. Deemed buyback was included in the 1995 Act but has never been implemented. If APW members were to gain access to deemed buyback, it would be a historic first because it has never been available to any other set of members. I believe that is the case, but I can be contradicted if wrong.

Essentially, deemed buyback means that people who contracted out of the state earnings-related pension scheme are treated as though were in it. For most people in a final salary scheme, they would not get as much as they would have done, but it could be significantly more than is currently available.

I have been provided with one calculation of how the scheme might affect somebody who has recently retired. I use the figures with some caution because every case is different and it would be wrong to generalise that the proportions or figures arising from a specific case would apply to any other scheme member. However, they illustrate the possible difference. For an individual being paid a pension of £1,848 a year at 20 per cent. of what he should have got—£9,240 a year—deemed buyback could pay him £5,512 a year. I suppose the conclusion that we draw from that depends on how we look at the figures. That amount is substantially less than £9,000 and, from that point of view, probably pretty disappointing. On the other hand, it is substantially more than is currently on offer.

Calculating deemed buyback has been difficult because the relevant actuarial tables have not been made available. I understand that some progress may have been made on that, and that my hon. Friend the Minister may have played a role in it. The hon. Member for Eastleigh referred to that. No one would be forced to take deemed buyback, but for some members it looks as though it could be a significant improvement on what is on offer.

I want to reinforce two points made by the hon. Gentleman. First, with the scheme under way, it would be important that members knew their position and could take a decision as quickly as possible. It would be unfortunate if it took three years to resolve the scheme's position and to offer advice to each member. I hope that the Minister will examine that.

Secondly, the Department has suggested that even if the scheme took three years to resolve, there would be no backdating of the pension payment. That would not be acceptable and I cannot understand the legal position for it. Will the Minister confirm whether backdating would occur, even if he has to get back to us at a later date? The timing would then be a problem only for those people whose pensions are just about to be in payment.

There seems to be a query, which I cannot understand, about whether deemed buyback would be available to those whose pensions are in payment—either those who have just come into that position or those who had been in it for some time. Again, I cannot understand why that should be the case, and I hope that it can be quickly resolved. Nobody would suggest that

[Mr. John Denham]

deemed buyback is some sort of knight on a white horse coming over the hill to rescue all scheme members. People are facing a pretty desperate situation and a number of longer-serving, lower-paid employees, who are least likely to have other retirement savings and pension provision, could benefit most. If the Minister can build on what he has done so far to move that along, that would be helpful.

To reinforce what has been said, I want to address the issue of the financial assistance scheme, the second main way in which we can make progress. I understand why any Minister would be concerned about opening the floodgates of support to schemes when the parent company is still solvent, still trading and appears to have walked away from its liabilities. The dangers of the Government stepping in and saying that they will underwrite all schemes in such circumstances are obvious. I do not think that any hon. Member would advocate that.

A close examination of the APW scheme suggests that that scheme and only a fairly small number of other schemes fall into a category of schemes that need attention. Those schemes were forced into making a compromise between the time of the announcement of the financial assistance scheme last May and of the Minister's announcement last November that schemes that went insolvent after May would be eligible for the financial assistance scheme.

Such schemes are in a special category because, however hard they tried, the trustees who took the decision to compromise could not possibly have known whether their scheme members would be eligible for the financial assistance scheme. They might have guessed at it, as they did in the APW case, and taken their best shot at working it out. However, in practice, they had to go to the High Court and wind up the scheme before the Minister's decision. As the hon. Member for Eastleigh said, there is no doubt that the trustees were explicitly told that if they did not agree to the compromise, which brought extra money into the scheme, the company would go insolvent and there would be no extra money.

I want the Minister to consider that argument and see whether he can ring-fence not just the APW scheme, but the relatively small number of schemes that got into the same difficulty over that period of time. That would be helpful. As people—in particular, our constituents—will read this debate, it is important not to try to mislead anyone. None of us should pretend that the financial assistance scheme will solve all the problems for all scheme members. The Minister set out clearly in writing that that scheme will be targeted—we do not yet know by how much—at those scheme members who are nearest to retirement, whose needs are greatest, and who have the least opportunity to adjust and make further provision for the future. Even if we were to get the APW scheme into the FAS—I hope that we do—I do not want to pretend that it would solve everyone's problems.

Looking at the available tools, it seems to me that a combination of the rapid implementation of deemed buyback and the extension of the financial assistance scheme to the APW scheme would make a considerable number of people better off. It is not about restitution. No doubt the campaign for that will continue in other ways and in other places. I wanted to focus on those two aspects of the scheme because it is within the Minister's power to deliver on them.

10.14 am

Dr. Julian Lewis (New Forest, East) (Con): Most of the people who have spoken before me know far more about this area of policy than I do, so I shall talk about what it means in human terms, to four of my constituents, that their pensions have, effectively, been stolen from them. Mr. Andrew Kellaway, Mr. T.N. Snelgrove, Mr. Alan Harding and Mr. Graham Henley all wrote to me independently towards the end of last year, and I will, with the indulgence of the House, read an extract from Mr. Henley's letter.

Mr. Henley said that he and his wife were "shattered" to receive a letter from APW Electronics Ltd., informing them that it had wound up the company's defined benefit pension scheme in deficit. From their point of view, the company had

"held secret negotiations with the trustees to this end back in August."

Mr. Henley says that he

"like thousands of others in this country believed that this was not possible. That changes in the law since the Robert Maxwell pension fund scandal had sorted this out, and that pensions were now safe."

He relates that he and his wife

"have two sons and have a mortgaged home"

and that they have both worked very hard to bring their sons up

"as respected members of the community and are proud of the result."

He continues:

"We have borne the cost of their education and upbringing and have never ... received any financial assistance. On three occasions during my manufacturing engineering career my job has become redundant".

It is only because he has lived a prudent lifestyle that he has been able to plan for retirement effectively.

I am sure that constituents of all the hon. Members who have spoken so far would be able to repeat such moving and extremely disturbing facts ad nauseam—a catalogue of misery that has been inflicted. As the right hon. Member for Southampton, Itchen (Mr. Denham) has pointed out, that has engendered a great deal of cross-party support, precisely because of the injustice done to so many people.

I pay tribute to the hon. Member for Eastleigh (Mr. Chidgey). He has spearheaded the campaign relentlessly. However, I also pay tribute to Mr. Roger May of Blake Lapthorn Linnell, the professional team that acted as legal advisers to the trustees of the scheme. Over and above what they tried to do to help the work force, they have taken an interest in the issues on principle, and have gone to a great deal of trouble to analyse what has gone wrong in the case.

I refer now to a short memorandum that was circulated to us in the meeting with the Minister in December. The specialist advisers point out that the guidance from the regulatory authority, OPRA,

"is not working."

Trustees of the relevant pension funds

"can follow the OPRA guidance to the letter, and still end up in a situation where the members lose 70 per cent. or 80 per cent. of their promised pensions."

The key to the situation lies in the fact that the parent company is a foreign company and that the foreign company has, as it were, the first charge on the assets of the domestic company. It can happen that the domestic company is technically insolvent—it would normally go out of business, when, at least, its work force would come under the protection of the financial assistance scheme—but is kept alive on a form of life support by small injections of cash from the parent company.

Then, when the point is reached where the parent company wants the conglomerate to walk away from its obligations to the work force, it suggests a compromise in which the UK pension scheme is wound up and a small amount of money is paid into the scheme. Originally the parent company, with magnificent generosity, proposed to offer 1 per cent. of the debt that it owed in respect of pensions to its own work force.

Bearing in mind that it remains possible and legal for a foreign parent to put the UK subsidiary into liquidation and then buy the business back from the liquidator, leaving behind the pension liabilities, we have a couple of recommendations from those specialist advisers. They have suggested that there ought to be a ban on

"pension scheme compromises where members will lose more than (say) 30 per cent. of their pension benefits. The compromise would not be allowed to go ahead unless the scheme actuary certified that all scheme members would receive at least 70 per cent. of their promised scheme benefits."

The advisers also recommend that schemes where the employer—that is to say, the British domestic employer—

"only remains solvent because the scheme trustees have compromised the buy-out debt, and where the members have lost"

a large percentage of their benefits, should become eligible for financial assistance from the Government.

I was not happy with the meeting that we had with the Minister in December. I felt that he was focusing far too much on the fact that the company was still trading, even though the only reason that it was still trading and had not become insolvent was that a gun had been held to the heads of the trustees of the work force, in that they had been told that the company would go insolvent unless they allowed 80 per cent. of its pension funds to be—I make no apology for using this word—stolen from them.

At that meeting with the Minister I was able to remind him that, from time to time, there had been talk of the Chancellor of the Exchequer using the unclaimed assets of dormant accounts in banks and building societies for various good purposes. I was able to point out that the spokesman for my party in this area had pledged that, as a result of tens of thousands of people having done the right thing by paying into a company pension scheme, but having lost their savings when the company became insolvent, the Conservative party would use the unclaimed assets in dormant bank and building society accounts to rebuild the pension funds of wind-up victims. That is a practical proposal. It would also meet the situation where, even when the financial assistance scheme goes into effect, it might be found that it would not make up the shortfall to anything more than a limited degree. That shortfall could be met by a policy of that sort. I did not get a clear answer from the Minister at the meeting, so I ask him again whether he will match that pledge to the victims of what has happened in this and other cases.

10.23 am

Mr. Steve Webb (Northavon) (LD): I congratulate my hon. Friend the Member for Eastleigh (Mr. Chidgey), who spoke out powerfully, knowledgeably and effectively on behalf of the APW pensioners. I bumped into him at breakfast this morning, and it was the only time that I have discussed deemed buyback over my fried egg. *[Interruption.]* Strange but true.

It was not only my hon. Friend who stood up effectively for his constituents. The right hon. Member for Southampton, Itchen (Mr. Denham) also brought a great deal of knowledge and experience of the area. His colleague, the hon. Member for Southampton, Test (Dr. Whitehead), who chaired the meeting that I attended with APW pensioners, and Members from throughout the House have worked together on behalf of the group. Regrettably, there have been too many similar cases. There has been a macabre procession at Work and Pensions questions every month, whereby an hon. Member whom one has never seen before at Work and Pensions questions has suddenly discovered the intricacies of pension wind-up because, tragically, it has happened on their patch.

One of my reflections about this episode is that, when the financial assistance scheme was announced last summer, we welcomed the £20 million a year that was offered but pointed out that solvent firms were excluded. We tabled amendments to try to get solvent firms included and were opposed by the Government. At the time, there was a sense of euphoria—that there had been a campaign, that the campaigners had won and that everything would be fine. Nobody was willing to listen or to say, "Hang on a minute. The emperor may have a few clothes, but not nearly as many as we are being led to believe."

A problem with the financial assistance scheme, as the right hon. Member for Southampton, Itchen hinted, is that it is like a cake that was baked last summer. More people have laid claim to a slice of it since then, and there is a danger that they will end up with only crumbs because the Government have refused to make it bigger. The £20 million that has been allocated is wholly inadequate, and even if we succeed in getting the APW workers into that scheme, a few of the hardest cases—the right hon. Gentleman cited a very poignant one—may receive a reasonable amount of compensation, but many others may get precious little.

One source of redress that has not been mentioned, perhaps because it is not in the gift of the House, is the parliamentary ombudsman. Several hon. Members have spoken today about misleading literature and the fact that people read leaflets and trustees were sent information that talked about "guaranteed" minimum pensions, which in fact were not guaranteed, and that discouraged people from opting into insecure personal pensions because their company pensions were safe. So much of the literature, advice and culture of the time gave people an inaccurate sense of certainty. I contacted the parliamentary ombudsman last spring, as did several

[Mr. Steve Webb]

other hon. Members. She is investigating the position of these workers, and given the Government's unwillingness to offer more, she may be the best hope for some of the workers about whom we are talking today.

Several points were made about solvent wind-ups. The Government's constant refrain has been that it is the company's job, not the taxpayers', to put in the money. As has been said, however, what happens when the company will not put in the money and cannot be made to do so? That is the important point. Will the Minister comment on the power of the regulator in this context? Under the Pensions Act 2004, the powers of the new pensions regulator will be backdated to last April to pursue, for example, parent companies to put in money if there is a shortfall. Will the Minister say whether that might be relevant in this case? Can the APW workers hope that the new regulator will tell the parent company that it must put in money before the taxpayer even thinks about doing so? Does the regulator, who I believe has a backdated power in that respect, have the power to do such a thing?

I am sure that APW scheme members will read the record of our deliberations today, so will the Minister clarify precisely what we mean by deemed buyback? Are we talking about returning some of the balance of the scheme to the Government, in return for which people will be treated as if they had been in SERPS and the state second pension? Given that the power has been on the statute books for 10 years, will he explain why it seems to have been used so little? Will he explain in layman's terms what the problem is?

The right hon. Member for Southampton, Itchen rightly pointed out that when the decision was taken to accept the compromise agreement, the trustees could not have known that they might fall within the scope of the FAS. Indeed, they still might not do so. Even if the Minister was to make that announcement today, there is no moral hazard because no one can act in the future on the basis of a decision announced today. Will he at least consider the suggestion that schemes that have already been the subject of compromise agreements might fall within the scope of a properly funded FAS?

The hon. Member for New Forest, West (Mr. Swayne) made an important point about incentive structures. Compromise agreements may be in the greater public interest if they keep the firm running, particularly if the firm then became profitable again, so why should there not be a claim on the future profits of the firm? Moreover, given that presumably the Government want employment rather than unemployment, and that the taxpayer must foot the bill for unemployment, might not the taxpayer want there to be compromise agreements in some cases? If the Government tell a company that members of its scheme are stuffed if it implements a compromise agreement and the firm is still solvent, why would the trustees do it? Surely we should give trustees the right incentives for the greater good, without penalising scheme members. I am not convinced that the current incentive structure does that.

My hon. Friend the Member for Eastleigh referred to the treatment of AVCs. Will the Minister clarify this point? There has been a suggestion recently—I had heard it from other sources, including my hon. Friend—that in order to meet the shortfall in the fund, claim might be made on the AVCs that people had put in, instead of ring-fencing them and saying that that was essentially personal saving that happened to be done individually through the scheme, and that that should not be used to reduce in any way the Government's or taxpayers' liabilities. Can the Minister clarify the position on that?

A number of the issues that have been discussed relate to the coverage and adequacy of the financial assistance scheme. Again, the hon. Member for New Forest, West presented the point well. The impression that I got from the members at the trade union-sponsored meeting was that they very much wanted to know where they stood. However, here we are, many weeks later, and they still do not—indeed, it might be a matter of years before they know where they stand on deemed buyback. Scheme members want certainty.

I wonder whether the Government are stalling until the end of March. If I were in their position, I might be tempted to do the same. Once we get to the end of the financial year—the Minister smiles broadly at this—nothing else can go into the financial assistance scheme, because the Pension Protection Fund will be up and running. Have the Government been stringing us along all this time, so that they can announce the rules of the financial assistance scheme in April, because they know what the price tag attached will be? That would be understandable but makes life even more difficult, not only for the APW workers but for many others in similar situations. Can the Minister at least assure us that on 6 April—assuming that the House is still sitting then—he will tell us how the FAS will work and who will be in and out, and at least put an end to that uncertainty? I might have the dates wrong, but I can see why the Minister would want to do that on the first day of the new financial year rather than the last day of the previous one.

We have heard of the powerful human side of such tragedies, which were preventable. Interestingly, the right hon. Member for Southampton, Itchen mentioned the failure of the Pensions Act 1995 to introduce a central discontinuance fund. That is correct, but the Government could also have set up the financial assistance scheme on that basis. In a sense, the opportunity has been missed again, because had the financial assistance scheme taken over the assets rather than simply making hardship payments, it could have been more generous, even with the same level of Government funding. History almost repeated itself only last year—the previous Government failed to grasp the nettle, as did this one, unfortunately.

We are united in wanting to stand up for workers who have done the right thing—worked hard and saved hard—and yet have had the rug pulled from underneath them. I hope that the Minister will do more than say that the firm should have found the money and that he cannot say any more for many more weeks to come.

10.32 am

Mr. Nigel Waterson (Eastbourne) (Con): I begin by congratulating the hon. Member for Eastleigh (Mr. Chidgey) on securing the debate and apologise for missing the first couple of minutes of his speech, owing to the weather.

The subject is important and, as the hon. Member for Northavon (Mr. Webb) said, we keep returning to it. The reason is not simply that such tragedies occur fairly regularly, but that there is still massive uncertainty over compensation. I recently had the opportunity to meet some of the APW workers affected, when they came to lobby us. As we know, many of them—perhaps most—look to lose some 80 per cent. of their pension rights. Our hearts go out to them, particularly those in the cases that various hon. Members have mentioned.

It is heartening that this debate has been so well attended, with contributions from hon. Members in all parts of the House, including the hon. Member for Hayes and Harlington (John McDonnell), my hon. Friends the Members for New Forest, West (Mr. Swayne) and for New Forest, East (Dr. Lewis), the right hon. Member for Southampton, Itchen (Mr. Denham), and the hon. Member for Eastleigh. My hon. Friend the Member for Uxbridge (Mr. Randall) would have liked to participate, but, as has been said, he has other business in the House.

The FAS has, to put it mildly, a chequered history. In a letter in *The Times* today, that redoubtable campaigner and former Government adviser Dr. Ros Altmann describes it as being responsible for a "cruel deception". As time goes on it becomes difficult to disagree with that judgment. In his opening speech setting out the background to the APW issue, the hon. Member for Eastleigh described the real effects on real people in yet another failed scheme of the vagueness—I think that that was his word—around the rules for the FAS.

The hon. Member for Northavon may or may not be right in accusing the Government of stalling over the FAS, but the Minister cannot argue that the Government have been quick to set out the eligibility criteria for taking advantage of it. As we know, it had a troubled birth: it was produced in a hurry in May 2004, when the Government were in a tight corner on the legislation. However, one would have thought that, by now, we would have significantly more detail about how the scheme will operate.

The hon. Member for Northavon talked about the price tag, but that is one issue that we cannot lay at the Minister's door. Although this is a dynamic and ongoing situation, with schemes failing as time goes on, the price tag is, bizarrely, already known. It is the only thing that has been clear from day one, because the Chancellor coughed up £400 million—not a penny more—to provide for the financial assistance scheme. That was long before the Government did any research into how many people would be affected, let alone into the ongoing dynamics behind cases such as that of APW.

Mr. Webb: Of course, one of the paradoxes about the Chancellor apparently coughing up £400 million is that he actually did nothing of the sort. The money was already in the Department's budget, and the Department had to make savings elsewhere in its budget to find the money for the financial assistance scheme.

Mr. Waterson: The hon. Gentleman makes a very good point.

So, the price tag is known, and all the claims, including new claims up to the end of the FAS's time scale, will have to be squeezed into the £400 million.

We have had a variety of statements about the FAS—we had one in June 2004 and another in December—but they have not shed much light on how it will work. It was indicated that the Government would be in a position early this year to announce indicative assistance levels and the like, and I hope that the Minister is in a position, finally, to give us some clear rules for how the FAS will operate.

As I said, the figure of £400 million was woefully inadequate from the start. When it was produced, we already knew that 65,000 to 70,000 workers had lost pension rights. Since then, we have had Turner and Newell, APW and other, perhaps less publicised, failures. As my hon. Friend the Member for New Forest, East said, Conservative party policy has consistently been that we should use unclaimed assets as happens in other countries. The Government had set their face against that until the Chancellor decided that he would use unclaimed assets, although for other purposes, in his recent Budget.

So, what have Ministers desperately been trying to do? One slightly feels for them because they were given the price tag at the start and have since been desperately trying to fit it round the worsening situation. They have tried to start limiting the eligibility criteria; they have been talking down the likely level of compensation; and they have started to stress, as one of their departmental mantras, that the FAS offers not compensation but assistance, which will be pitched at a much lower level than that available under the PPF. When even that began to stretch the money far too far, they suddenly announced, very late in the day, and contrary to everything that they had said during the passage of the Pensions Bill, that the PPF could be retrospective in certain circumstances. I am a little hazy on the chronology as regards APW, but would the trustees have decided to enter into the compromise had they been clear that, given the right sort of act of insolvency, they could have benefited from the PPF when it opens its doors in April?

On the face of it, that is no help at all to APW. Indeed, if one reads the Library note on all this, as I am sure you have, Mr. Deputy Speaker, one sees that the position is very clear:

> "Moreover, schemes will only be able to enter the PPF if the sponsoring employer has experienced an 'insolvency event' . . . It appears that the compromise agreement has prevented APW from having such an event."

So, as regards the PPF and the FAS, the compromise has had a potentially disastrous effect on the rights of pensioners and deferred pensioners. I have great sympathy with those involved. The right hon. Member for Southampton, Itchen said that it is easy to start with the view that they got it wrong, but as people say in America, they were caught entirely between a rock and a hard place, as we have heard. It is unfortunate that a combination of the Government's vagueness over a long period about the way in which the FAS will operate and a very late announcement that the PPF could be retrospective, may well have prejudiced the decision taken by the trustees, with all the effects of which we have heard. As I have said before in these debates, the distinction between solvent and insolvent wind-ups is wholly artificial. The workers have no input or control over the wind-up; they are merely the ones who end up losing out.

[Mr. Waterson]

We have heard about the compromise, but we and the workers need to hear from the Minister whether the compromise has had the disastrous effect that—from what we have heard—it may well have done, and will shut out the workers from any help from the PPF or the FAS. It is, however, interesting and mildly encouraging to read recent comments in the *Daily Echo*, which I believe is a Hampshire newspaper.

Dr. Lewis: And a very good one.

Mr. Swayne: God's own newspaper.

Mr. Waterson: A good one, I am told from two sedentary positions. The paper obviously has good information, as it says:

"The Daily Echo has learnt from a well-placed source at Westminster that pensions minister Malcolm Wicks is 'sympathetic' to the APW victims."

Later, it says:

"However, it is understood that the Financial Assistance Scheme is being looked at again regarding eligibility criteria."

As they used to say in *Private Eye*, and for all I know still do, I think we need to be told.

10.41 am

The Minister for Pensions (Malcolm Wicks): I begin by thanking the hon. Member for Eastleigh (Mr. Chidgey) for securing this debate on a very important topic. It is not a subject of mirth; we are all sympathetic to the plight of that group of APW workers. We have had contributions of differing kinds. There was an authoritative contribution from my right hon. Friend the Member for Southampton, Itchen (Mr. Denham), and a useful contribution from my hon. Friend the Member for Hayes and Harlington (John McDonnell). There was a more political contribution from the hon. Member for New Forest, West (Mr. Swayne), a useful contribution from his hon. Friend the Member for New Forest, East (Dr. Lewis), and helpful contributions from the Front Bench.

As has been noted, I have had meetings with many Members whose constituents have been affected by the wind-up of underfunded pension schemes, some of which have been due to the insolvency of the sponsoring employer, and some where a scheme has started to wind up with a solvent employer. The APW situation has been clearly described, and I recently met several hon. Members to discuss it. I actually thought that there was one dissenting voice, but it was a thoughtful and serious meeting. It was also helpful that some of the workers affected were at the meeting.

In the time allocated to me I want to describe generally the situations that we have had to consider in developing the FAS and addressing issues about solvency and insolvency. I then want to say as much as I can about APW Electronics Ltd. specifically, and if time allows I shall say something about deemed buyback.

At the meeting I have described and at meetings with members of other schemes who find themselves in similar circumstances, I have always been struck, as any of us would, by the distress and anxiety that those very difficult circumstances have caused members and their families. The issues are often complex, involving the financial and retirement futures of our constituents, the legal position of the trustees of the scheme and how they interpret their responsibilities, and the position and attitude of the sponsoring employer. As colleagues know, because of the concern generally we have legislated through the Pensions Act 2004 to establish the Pension Protection Fund, which I am pleased to say will be opening its doors from April. It will bring immense security to people in defined-benefit or so-called final salary schemes. There were, however, groups of workers who were already in debilitating circumstances due to their pensions, hence the establishment of the financial assistance scheme. We have been working hard to reach a point where we could provide more information about eligibility for help under the financial assistance scheme. In my first statement to the House I noted the milestones to be reached in advancing the principle of the FAS towards practice when the scheme opens in spring, with payment of benefits thereafter. We have kept to those milestones and the FAS will be open in the spring.

Mr. Chidgey: On that very point, it has been drawn to my attention that today's Order Paper shows that the Minister will provide the House with a written statement on the financial assistance scheme. I do not want to steal his thunder this morning, but how many schemes are likely to be in the list of those that the FAS may be able to help? What percentage of the value of the pensions will be awarded as an assistance package? Most importantly, will APW Electronics be one of the firms on that list?

Malcolm Wicks: I shall deal with the specific circumstances of APW a little later in my speech, but I was about to say that it would have been a difficult situation for me, particularly if it was a little later when we said more about the FAS. Obviously, it would have been more convenient for the purpose of this debate if we had been able to issue our statement yesterday. However, that has not been possible; it will be available soon in the House of Commons.

The hon. Member for Northavon (Mr. Webb) lapses into cynicism from time to time—on most days—saying that we have been stringing things along to delay the statement. Well, a further statement about the FAS will be available soon; it will cover 380 schemes. That shows the size and complexity of the task, and I make no apologies for the fact that we have been working through the details, collecting information. Although hon. Members understandably often talk about the scheme with reference to their own constituencies, it is a big and complex issue. There may be a chance in the uprating debate this afternoon—if Mr. Speaker will allow it—to consider some issues relevant to the FAS, but I am anxious to deal with the particular subject of the debate: APW.

Among other things, the statement includes a list of potentially eligible schemes; APW Electronics is not on that list. That is the situation at the moment. The list is a long one, of 380 items, but is not necessarily exclusive. In some circumstances others could be added to it.

I realise that an explanation for what is not on the list will be cold comfort to those who, through no fault of their own, have lost out. Nevertheless I think it is

important that people understand why we are where we are. We consulted widely on the definition of employer insolvency and came to the conclusion that for financial assistance scheme purposes we should go with a general definition that captures schemes where the sponsoring employer no longer exists and where the insolvency may have occurred some time after winding up started. That definition will be similar to the definition of insolvency used by the Pension Protection Fund.

We shall also include some companies that have undergone members' voluntary liquidations, where a declaration of solvency was made at the time of wind-up but the company is now no longer solvent so no employer exists to support the scheme. I hope hon. Members will agree that the definition is entirely in keeping with the intentions that I outlined to the House on Second Reading of the Pensions Bill.

It is our judgment that we cannot provide what would in effect be a blank cheque to help all those who have suffered pension losses. I also said that we would need to consider in detail the implications of any definition of insolvency that we could use, and that it was also our intention that people would not be ruled out on technicalities.

Mr. Webb *rose—*

Malcolm Wicks: I am reluctant to give way, because of the range of issues on which I want to speak; is the matter really pressing? Hon. Members want answers to their questions.

Mr. Webb: If the FAS does not include APW Electronics, what is the prospect of redress through any other route? That is the key question.

Malcolm Wicks: May I continue? On Report of the Bill in the House of Lords, Baroness Hollis emphasised:

"The Government's starting point is the principle that solvent employers should be responsible for the occupational pension schemes they provide."—[*Official Report, House of Lords*, 15 November 2004; Vol. 666, c. 1243.]

She went on to say that the blanket term "solvent employer" covered an enormous variety of different circumstances.

Part of the purpose of the consultation and research that we have undertaken to inform the development of the financial assistance scheme was further to understand the different circumstances. We considered whether sensible and workable distinctions could be drawn while protecting the principle that the taxpayer cannot be expected to stand behind employers' pension promises. The criteria for employer insolvency that have been outlined in today's statement are sensible, workable and prudent. By moving beyond the definition used for the Pension Protection Fund, including members' voluntary liquidations, and by allowing schemes to qualify if employer insolvency occurs after the start of winding up, assistance may be provided in circumstances where employers no longer exist. That general definition helps to ensure that members of schemes connected to such employers will not be ruled out of the financial assistance scheme on a technicality.

Mr. Denham: I realise that my hon. Friend wants to make progress, but he seems to be saying that APW would be considered for the scheme if it were to go bankrupt now, but would not if it did not. However, from the point of view of the scheme members, APW has no intention of putting any more money into the fund. His objective is to stop companies walking away, but the company has walked away. The question is whether the Government can offer support to the members of the scheme.

Malcolm Wicks: Let me make some more progress. The case has been made forcibly today that, through no fault of their own, members of the APW Electronics scheme face losses. However, assistance in such cases would go beyond our intention of ensuring that people are not ruled out on a technicality. Such assistance would provide help where there is an ongoing solvent employer, and that would not be appropriate. It would go against the fundamental principle that assistance from the scheme should be given only in cases of insolvency. Abiding by that principle means that difficult decisions will have to be made, and wherever such lines are drawn, people who fall outside the scope of the scheme are bound to feel aggrieved.

Returning to today's statement, I wish to stress that the list is of potentially eligible schemes. It is an indicative list that is based on the information that is currently available to us, which in turn would have been based on the position when the information was submitted. If new information comes to light, or if, for example, the solvency status of a sponsoring employer changes, we would want to reconsider the situation. That applies to APW as well as other schemes.

Let me be perfectly clear. I am not saying that APW is in or out of the FAS. In reply to my hon. Friend the Member for Hayes and Harlington, the door is not closed. However, it is only right that hon. Members and those whom they represent should understand the basis on which those who have the relevant authority will take decisions in due course. Of course, any Member of Parliament may believe that their scheme is a specific case. I have discussed various schemes with many Members, and nearly always their scheme is a "specific case". I am not being cynical about the situation—I do understand it.

In the data collection exercise for the FAS, some 200 returns were received for schemes that do not appear to be eligible. Furthermore, a significant proportion of them are likely to be cases in which compromises were reached with solvent employers. Those are special cases in some respects, but they certainly are not unique. The real danger is that the state will be seen to be underwriting companies that are having difficulties with their pension schemes. They would like the taxpayer to write a cheque to bail them out, but that is a slippery slope towards the nationalisation of risk, which we must resist.

Let me say something about deemed buyback. If APW's circumstances do not change, it does not necessarily mean that the employees would be left completely high and dry. As we heard, APW employees may qualify for deemed buyback, which is an existing provision that gives certain scheme members the option of having some or all of their state scheme rights restored.

Deemed buyback is one of the more technical areas of pensions legislation and I have no intention of going into all of its complexities today, nor do I have the time

[Malcolm Wicks]

to do so. Basically, scheme members who were opted out of the state earnings-related additional pensions are given back those rights in exchange for the limited funds that they have left in the scheme, which is their share of remaining scheme assets. For example, a member could agree that £10,000 of pension scheme rights be paid into the national insurance fund and they could, in return, be reinstated into an additional pension worth, say, £80,000. They will therefore derive some recompense from the state scheme that would mitigate their loss.

Deemed buyback is one of a number of options available to a member for securing their accrued rights. Another approach is that a member could transfer their rights to another scheme. Another option is that the loss in the APW scheme is not sufficient to trigger the deemed buyback process. That would mean that the remaining assets would provide a greater return than could be had from the state scheme. The final decision on which option to use is taken by the member, not by the scheme. I cannot say what would be the best option for APW scheme members. That decision must be based on knowledge of the individual circumstances of each member. However, there is the potential to offer significant help to employees at APW. I will facilitate the process as best I can.

I realise that hon. Members were hoping for a clear outcome. I hope, however, that the possibility of deemed buyback and an assurance that the position of APW will be reconsidered if its solvency status changes will provide some comfort.

Beckenham (Overdevelopment)

10.56 am

Mrs. Jacqui Lait (Beckenham) (Con): I am grateful to the Minister for Pensions for finishing early and look forward to an expanded explanation from the Minister for Housing and Planning, who has responsibility for London. I am glad to have this opportunity to discuss the issue and know that my constituents are grateful that I have the opportunity to raise it on their behalf.

You may not know much about Beckenham, Mr. Deputy Speaker. I am not sure that the Minister does, although he represents a south London seat—one needs to take out one's passport to come to Bromley. I will describe my constituency so that he appreciates the pressures that it is under.

Beckenham is part of Bromley borough, the largest borough in London in terms of acres—or should I say hectares. Bromley's slogan has long been "Green and clean", and half of it is designated as green belt. Beckenham is primarily suburban, with the area around Crystal Palace more like an inner city. The area developed from villages that were surrounded by large estates into an area of primarily large Victorian and Edwardian suburbs, with large family houses on large plots. Those are typical of late 19th and early 20th century buildings. Some of the gardens were sold off to become smaller family houses in the 1920s, 1930s and 1950s. Many of the mansion houses were turned into flats. Obviously, there was bomb damage in the second world war.

Since the 1960s, there has been further development of those Victorian and Edwardian plots into town houses and blocks of flats, which have met the increasing demand for one or two-bedroomed properties as families have fragmented and our parents have lived longer. Alongside the privately owned houses, there is a lot of social housing that is indistinguishable from the surrounding buildings. There are large areas of substantial four to six-bedroom houses as well as many semi-detached properties.

In recent months, residents have voiced their concern to me, to councillors and to the local papers that the pace of development has speeded up. They feel powerless and without a voice, despite the best efforts of their many vocal residents associations. They believe that their environment is changing irrevocably. They do not like that and feel that neither they nor the council can do anything to stop it. Yesterday I received an e-mail from a constituent who lives in the same road as I do. It reads:

> "I am appalled at what is happening to Beckenham with regard to more and more single family homes being torn down and replaced with apartment buildings. The new builds are not providing off-street parking. The volume of traffic has increased, and commuters park in the streets around Beckenham Junction making it miserable for those of us who live in these streets. I enjoy living in Beckenham—but only just".

That is the authentic cry of despair of a local resident.

Residents also criticise Bromley council for not preventing developments although, in fact, many planning applications are overturned on appeal, so it is not the council's fault. Indeed, Bromley has one of the highest rates of appeal to the planning inspectorate. Bromley council has a historic commitment to provide

8,650 units between 1992 and 2006. Its current agreed housing target, set out in the unitary development plan, is for 11,450 units between 1997 and 2016, with an average annual target of 573 units. It is sad to call houses units, but that is a quick way of describing a wide variety of dwellings. Originally those figures, derived from the London housing capacity study of 2000, were regarded as capacity figures, as opposed to minimum targets.

It would be remiss of me not to make it clear that the borough has a waiting list for social housing—just in case the Minister gives that as the reason for the imposed minimum targets. In my surgery, second only to immigration cases are appeals to be housed, and I am sure that I am not alone in finding that. Bromley is on target to provide 2,300 houses by 2016, and with the reduction to 15 in the number of units that would need to include social housing, we expect a higher density to be achieved.

I am obliged to Stuart McMillan, the chief planner, and Claire Glavin, the planning policy planner, at Bromley council for advising me on the technicalities that I am about to describe. They tell me that the capacity figures have become minimum targets because section 38(2) of the Planning and Compulsory Purchase Act 2004 defines the development plan in Greater London as

"the spatial development strategy and the development plan documents (taken as a whole) which have been adopted or approved in relation to that area."

Section 38(5) specifies that if a policy contained within a development plan—including, for example, the London plan and the UDP—conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy contained in the last document to be adopted. That sounds like an obscure mathematical formula, but I am sure it is not. The London plan is considered to be the last up-to-date adopted plan because the revised deposit UDP is still progressing through to adoption. That appears to be how the capacity figure has become the minimum target.

One of the excuses for changing the capacity figure to a minimum target is that housing completions are falling short of the planning permissions given by the council. That is no consolation to my residents, but it appears to be the basis on which the housing inspector, in her part-report on the UDP dated 25 August 2004, has insisted that the borough is 1,000 dwellings short in addition to the agreed total of 573 units each year. She has therefore gone back to the bad old ways of predict and provide, rather than taking the Government's preferred approach of plan, monitor and manage. If developers think that they can sell only 76 per cent. of the 573 units, even when they have been given planning permission for 110 per cent. of those units, then the inspector is challenging the market—not an approach that this Government allegedly espouse.

In a recent application form for a conference on historic suburbs run by the Institute of Historic Building Conservation and supported by the Government's own English Heritage, it was said that suburbs are

"an integral and equal part of great towns and cities and have a crucial role to play in regeneration and development. They can engender fierce loyalties and intense civic pride yet their conservation is often misunderstood or sidelined."

Bromley council well understands the needs and aspirations of its suburbs. Its policy on housing design states that it

"will resist designs which are out of scale or character with the surrounding area."

On residential density, it states:

"on sites of 0.4 hectares or more, the council will normally expect schemes not to exceed the existing density of the immediately surrounding area except on sites within town centres and on sites where the immediately surrounding area has no readily identifiable residential character."

Where possible, the council is already giving planning permission using brownfield sites to allow development of higher densities, often against the wishes of local residents who actively prefer the lower densities in which they have opted to live.

In the town centres in my constituency, including Beckenham and Penge, buildings tend to be up to five storeys high, and hence are denser, in compliance with the council's own planning guidance. In the tree-lined residential streets, buildings are not more than four storeys high, or roughly up to the tree line. We have some very pleasant streets and wonderful trees, and the streets often have wide grass verges in addition to pavements.

However, Beckenham faces a new threat from density. Close to Beckenham Junction station, and defined as being in the town centre, the British Railways Board built a seven-storey block of offices back in the 1960s which has lain empty for some 10 years. In the seven years or so that I have represented the constituency, its dereliction has been of more and more concern to residents and council alike. It is now being developed into flats, which is welcome, but the problem is that it is seven storeys high.

As someone who lived on the 39th floor of the Barbican in the City of London for seven years, and within the Barbican in other properties for a total of 10 more years, I cannot be accused of not enjoying high-density living. However, people do not move to the suburbs to enjoy high-density living. They move there because they like to be surrounded by space, enjoy and are proud of their gardens, and appreciate a degree of peace and quiet that is missing from city centres. I can confirm that Beckenham during the week is quieter than the City of London at the weekend.

A major change seems to be on the way because the seven-storey precedent has been set. Already, within 50 m of the block of offices, another seven-storey residential building is under construction. However, it is in a pleasant residential street, where Bromley borough council's own planning guidelines suggest that it should be no more than four storeys high. If I were to be nimbyist about this, I would not admit that it is the street in which I live, but it is. I live within 50 m of that new development, and if my worst fears and those of my constituents are realised, I can well understand and sympathise with neighbours who are unable to resist the siren call of their bank accounts when approached by developers seeking to build yet another seven-storey block. Once the precedent has been set, we have discovered in our borough that it is extraordinarily difficult to resist such developments.

In Shortlands, another area of Beckenham, a developer has assembled a series of back-garden plots where none has been developed before. So far, the council has resisted that development. We hope and pray that it will continue to be resisted, but it is

[Mrs. Jacqui Lait]

extraordinarily difficult. Developers may go to appeal and be turned down, but they go away, rethink their case and return to have another go. They persist until the precedent is set, and once it is set, we will lose control over the development of a street. I am surrounded by examples of that in Beckenham. When one Edwardian or Victorian house is sold—I do not blame the people who sell their houses, because it is difficult not to accept a bonus on the value of one's house—the rest fall like dominoes and the whole area changes.

It is not beyond the wit of any of us to understand that the pressure will soon be on to build more tall buildings in that pleasant residential area which are well over the level of the tree line, despite the council's insistence that in residential streets the height of buildings should be only up to the tree line. Within a few years, the whole complexion of the area could change dramatically. Yes, it will provide higher-density housing, but the character of the surrounding area will have been destroyed. The council's carefully thought-through policies will have turned to dust and the pressure on schools, roads, rail transport—Bromley is well provided with rail links and I think I hold the title of the MP with the most railway stations in a constituency, with 13—and health services will be intolerable.

A new senior school has just been built in Bromley to meet the demand for high-quality education in the borough. If the borough has to follow the demands of the inspectorate, the Mayor's London plan and the Office of the Deputy Prime Minister's figures, the infrastructure is also needed. However, there is no land because of the demands imposed by housing. My hon. Friend the Member for Orpington (Mr. Horam) raised that point with the Under-Secretary of State, Office of the Deputy Prime Minister, the hon. Member for Pontefract and Castleford (Yvette Cooper), in his Adjournment debate on 1 February. He pointed out that the Environmental Audit Committee, of which he is a distinguished member and was the first Chairman, has been astounded that no Department has carried out an environmental impact assessment of the house building targets that are being imposed not only in Beckenham and the wider borough of Bromley, but all over the country.

The inspector at the unitary development plan inquiry recommended releasing some sites from the green belt, metropolitan open land, urban open land or employment designations after carrying out a sequential test. As a Scot growing up in Scotland in the 1950s, I witnessed what happens when housing is built without any care for the impact on the environment. I saw Easterhouse being built. Everybody uses it as an example of what happens when house building goes wrong. Houses were built, but there were no shops, no pubs, no churches, no community facilities and no schools. The reverberations on the families transshipped there by Labour-run Glasgow council are still being felt today, 50 years later. Although I do not for a minute expect such a drastic change of character in Bromley, it is an awful warning of the impact of ill-considered housing changes.

It is important to my constituents that they live in a green and clean borough. When representatives of the Copers Cope area residents association heard that I had secured this debate, they rang me up to say how glad they were that I would be raising their concerns. The London borough of Bromley residents federation wonders how we can build a better Bromley when the density of housing imposed by the Government and the Greater London authority is being increased.

The council is so concerned that, despite its overwhelming Conservative majority, a cross-party select committee—almost unique in the history of the Conservative-run Bromley borough—is being set up to inquire into the threats posed by the new residential developments proposed by the Mayor and the Government. Will the Minister assess the harm done to the democratic process when the Government impose housing targets without the agreement of the local community? He should look again at the imposition of targets, rather than agreed capacity levels, ensure that one Department or another carries out an environmental impact assessment of the imposed new housing, and give control over planning back to local councils.

The backlash that I am witnessing as a local MP to the changes to the suburbs and constituency of Beckenham causes me grave concern about the health of the body politic. It should concern the Minister, too, as a democrat. I seek his assurance that he will look again at the change from a capacity figure for housing to a minimum target, and ensure that Bromley looks forward to being in control of its own housing policies.

11.13 am

The Minister for Housing and Planning (Keith Hill): I congratulate the hon. Member for Beckenham (Mrs. Lait) on using this opportunity to secure a debate on overdevelopment in Beckenham. I note that three weeks ago the borough of Bromley debated a motion that more or less rejected the housing target in the London plan. The motion disputed that there is such housing need and asked for it to be reviewed.

The borough's attitude to housing provision concerns me. Housing figures are not made up out of thin air. They are based on real people's needs. If we deny those needs, we harm only ourselves, our families and our communities. Part of my understanding of community is the importance of maintaining family links, which means at least allowing for the possibility of families living reasonably close to each other. If we reject the case for new housing in a locality, our sons and daughters will not get on the housing ladder locally. Why deny them that opportunity? The need for new housing means that the problem of affordable housing will grow, as will homelessness. The economic vibrancy of our towns will also be stifled.

Housing figures are not imposed—if that is what the hon. Lady suggested—by Government or regional bodies such as the GLA. That is a myth. The starting point for working out our housing needs are population and household projections, which are policy neutral. Population projections are carried out by the Office for National Statistics, whose expertise and impartiality are beyond question. Those figures enable us to get a grasp of the scale of what we face in the future. Experience has shown them to be fairly accurate, and they have proved useful for decades to get an idea of future regional housing needs. Indeed, the Opposition supported that methodology when they were in government.

Local authorities then work out what their area can sustain. Their housing capacity studies enable them to identify supplies of potential brownfield sites over the next 10 to 15 years. Each authority then agrees those capacity figures. The last set of figures was assembled by the London boroughs in 1999, and published by their representative body, the London Planning Advisory Committee, in 2000. Regional planning bodies use all that information to apportion housing figures between authorities. In London, those figures were subject to a wide-ranging public examination in 2003 and endorsed by an independent panel.

Bromley supported the last housing capacity study. It was even on the steering group. It included the housing figures for those capacities implied in its plan, and then consulted on them and took them to an inquiry. Clearly, the inspector's report on the UDP raised some important questions for the borough. She did not say that the green belt should be built on, but prompted Bromley to demonstrate the site supply that it said was available. She suggested that the borough should face up to its affordable housing needs, and proposed that density levels could be increased to reduce the threat to greenfield sites.

It is for Bromley to decide what to do now. It cannot pretend that its housing-needs problem and the London plan do not exist. Its members cannot pretend that they are not part of London or the south-east—a region that is commonly recognised to be under a great deal of housing pressure.

Mrs. Lait: Bromley has always agreed to the capacity plan. It is working on the basis of 573 units and is providing extra social housing. It is the increased targets to which it objects—the increase of units to more than 573 and increases to the housing association list.

Keith Hill: I appreciate the hon. Lady's point, but I shall go on to argue—if there is time—that it is imperative that Bromley proceeds to meet its commitments on housing capacity, because there is no point having local plans that have been properly consulted on and independently tested sitting on the shelf and not put into practice.

The Government are keen to make home ownership more widely available and to ensure that sufficient affordable housing is provided. We are considering how to respond to Kate Barker's recommendations on increasing housing supply. In the meantime, all current commitments to housing supply must be honoured. The Government, the GLA and the Association of London Government have launched a housing delivery plan for London, part of which involves looking at the areas in which housing completions have fallen, and working out what measures various parties can take to deal with that. Bromley was such an area from 1997 to 2001, and I am glad to say that the council has been most co-operative in considering what can be done. It worked with the Government office for London to produce a housing action plan, which examines how to overcome obstacles to new housing so that the problems that Bromley claims exist can be addressed. The Government are using this process to ensure that all the wider infrastructure issues that the hon. Lady identified, such as health, education and transport, are co-ordinated with the borough's housing needs. What we need now is for Bromley to start putting that housing action plan into practice.

The hon. Lady specifically mentioned what she terms "overdevelopment". I hope that she will accept that that expression can be both unclear and somewhat subjective. Government guidance is very clear about how authorities should plan for new homes. The guidance on planning for housing—planning policy guidance note 3—establishes that the first aim is for authorities to focus new development, wherever possible, on brownfield sites. That is the most sustainable choice. In London, some 90 per cent. of all new development is on brownfield sites. That is a fantastic record. That also holds true in Bromley, where the figure is about 93 per cent.

PPG3 says that greenfield development is allowable, but only where brownfield sites are completely unviable or simply not there. It is also clear that authorities should be developing policies in their plans to ensure that the most effective use is made of existing brownfield sites. Opportunities for new development should not be wasted with low-density schemes, especially when those are in accessible areas. Not only will low-density developments not work towards building sustainable communities, they will exacerbate the need to release greenfield sites.

Unfortunately this is one area where Bromley could do much better. Average London densities are around 53 dwellings per hectare. In Bromley the rate is only about 28 dwellings per hectare. Bromley seems unwilling even to achieve the average for outer London boroughs, which is 40 dwellings per hectare. This means that Bromley itself is causing a lot of the pressure on greenfield sites. It should not blame the Government or the GLA for that.

I hear what the hon. Lady says about some of the recent developments in Bromley being ugly, or out of scale, and that densities in the town centre are unacceptable. I cannot comment on individual cases, but I would not seek to deny that some developments have left much to be desired. However, there is a positive and creative way to address that. Good design can help to ensure that higher densities blend in and even enhance an area. Some of the most attractive and valued parts of London, such as Chelsea, are at surprisingly high densities. Planning guidance is clear that new developments should be in scale with their surroundings and design qualities should be of a high standard. It is open to local planning authorities to reject applications on grounds of scale and design. Indeed, as Planning Minister I have frequently drawn attention to these powers. There is some evidence to show that planning authorities are increasingly willing to use them. Ministers have also been willing to sustain those judgments.

The Government have produced many excellent good practice examples that show what can be done without compromising or damaging the character of an area, which is the usual criticism of density. Authorities should not dismiss higher densities in a knee-jerk reaction. They need to explain to their communities what opportunities are available. There is a leadership role to consider.

[Keith Hill]

The hon. Lady also raised the threat to the Bromley green belt. I have already pointed out that through the housing capacity study, and its plan, Bromley has maintained that it has sufficient brownfield sites over the lifetime of the plan to accommodate the future housing needs of its own community, but if Bromley now concludes that it cannot do this, and needs to release greenfield or green belt sites, it will be for Bromley to make the case for it. It should happen only once other options have been fully explored, such as increasing the number of high-quality design and greater-density homes. Only then should greenfield sites in the most sustainable locations be released.

The Government are very supportive of the green belt policy, as set out in PPG2. Indeed the policy remains unchanged from that of the previous Conservative Administration. There are no proposals to relax it and it is as strong as ever. Indeed, our target is for each English region to maintain or increase the current area designated as green belt in local plans, even in regions containing housing growth areas. Between 1997, when the Government came to power, and 2003, the size of the green belt nationally increased by more than 19,000 hectares, with a further 12,000 hectares proposed in emerging plans. Under this Government, the amount of green belt land being developed has fallen when compared with that allowed for under the Conservatives in the 1980s and 1990s, and we propose to strengthen the green belt policy even more. We will shortly be consulting on a new green belt direction, which will require inappropriate planning applications to be referred to the Secretary of State.

The London plan was adopted last year and, as programmed in that plan, a review and another housing capacity study are under way. The Greater London authority is hoping to consult on the emerging strategy next year and we understand that Bromley is contributing to the new capacity study. However, the new plan is for the future, and boroughs need to respond to the existing London plan, which addresses today's needs.

We face serious affordable housing problems and we should not play petty politics with people's need for decent homes. There are some fantastic opportunities and we should work together to address London's housing needs in a way that protects greenfield sites and promotes sustainable development. I sincerely hope that the hon. Lady will encourage her local authority, Bromley, to face up to its responsibilities.

11.27 am

Sitting suspended until Two o'clock.

Porton Down

2 pm

Mr. Deputy Speaker (Mr. Edward O'Hara): Hon. Members will be aware that this is a highly charged issue. I understand that certain legal proceedings are in play, and I ask hon. Members to be sensitive to that fact when making their contributions.

The Minister advises me that, given the importance of the issue, he needs a full 15 minutes in which to reply, so I shall take account of that in determining the time at which I call the Front-Bench contributions.

Mr. Patrick Hall (Bedford) (Lab): I am pleased to have secured the opportunity to raise several issues arising from the service volunteer programme at Porton Down, particularly about what happened there in the 1950s. In doing so, I am relieved to have a little more time than the three minutes that I managed to squeeze into the short debate on 10 January, which was secured by the hon. Member for Poole (Mr. Syms), who brought to the attention of the House matters relating to his constituent Mr. Douglas Shave, who was a Porton Down service volunteer.

I am pleased to see the hon. Gentleman in his place today, and my hon. Friend the Member for Linlithgow (Mr. Dalyell), who served this country as a Royal Armoured Corps national serviceman between 1950 and 1952—a time that is highly relevant to the matters I shall raise today. I look forward to hearing his contribution. I am also pleased to see present the right hon. Member for Maidstone and The Weald (Miss Widdecombe), my hon. Friend the Member for Mitcham and Morden (Siobhain McDonagh), the hon. Members for Bournemouth, East (Mr. Atkinson) and for Southport (Dr. Pugh), and others. I look forward to hearing their contributions.

As I said on 10 January, I come to this issue through a constituent of mine, Mr. Peter Parker. He joined the RAF and national service, and served as an aircraftman between 1951 and August 1953. He recalls hearing an officer announce that volunteers were required to attend the Chemical Defence Experimental Establishment at Porton Down. He recalls that the advice he received thereafter and some written information relating to it was clear that the process he faced as a volunteer posed no risk to his health. He recalls being told, and certainly believing, that he was participating in a programme of research into the common cold.

Mr. Parker was assisted in his decision to volunteer by an offer of a 48-hour pass and 15 shillings. He attended a gas chamber on 4 May 1953, where 200 mg of the nerve agent sarin GB was applied to a piece of cloth on his forearm. Sarin was then known to be the most toxic of the poisons brought to the UK from Nazi Germany. It gave him a terrible headache for many hours, from which he thankfully recovered. He did not know that a potentially lethal nerve agent had been applied to him. Neither could he have known that two days later, at the same place, service volunteer aircraftman Ronald Maddison would die as a result of a similar process. Mr. Parker did not know any of those things until approximately three years ago, when he received a telephone call from Wiltshire police under Operation Antler.

Thanks to my constituent, I have made contact with other people who are concerned about those issues. I mention in particular Mr. Ken Earl, who is a leading light in the Porton Down Veterans Support Group, which consists of over 550 veterans, Mr. Alan Care of Thomson Snell and Passmore, who represents my constituent, and Llias Craik—Ronald Maddison's sister.

I thank Peter Parker, Ken Earl and Alan Care for their assistance, courtesy and good humour. They, and others, have helped me to understand the wider picture, which is that well over 20,000 people have participated in the service volunteer programme in the 80 years following the first world war, and that much of the work, such as assisting in the development of protective clothing, was, and is, uncontroversial. Indeed, although the scale of the programme is much reduced, I note that it continues to this day.

Many of the participants who are still alive have no issues about their experiences as volunteers. Between the 1950s and 1980s, however, some of the activities at Porton Down included studying the effects of nerve agents on human subjects. The veterans support group believes that many people who were volunteers in the 1950s later suffered unusual patterns of health problems and early death. To be fair, the Ministry of Defence has taken those suggestions seriously since the police investigation began in 1999. It has been open to making available to former volunteers information about what was done to them, including the opportunity to examine the records for themselves.

In May 2001, the Government announced that the MOD would carry out a comprehensive historical survey, supervised by Professor Ian Kennedy of the Porton Down service volunteer programme. Professor Kennedy is acknowledged as one of the country's foremost medical ethics experts, among other things. I note from a letter dated 7 August 2001 to me from the Minister of State, Ministry of Defence, my right hon. Friend the Member for East Kilbride (Mr. Ingram), the Minister who was responsible for such matters at the time, that the survey would be published. The Government went on to fund an independent epidemiological study, led by researchers from Oxford university and overseen by the Medical Research Council. I understand that it is due to be completed next year, and I trust that it will be published. If claims are to be made on the basis of the outcome, I believe that the War Pensions Agency is the correct body to deal with them.

The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin): My hon. Friend mentioned two ongoing studies, and it may be helpful if I talk briefly about the historical study to which he referred that was commissioned in 2001. That work is now complete and is being proof-read, so we can publish the research as soon as it is practicable to do so. I anticipate that it will be published within the next three or so months.

Mr. Hall: That is most helpful, and answers a question that I wanted to ask at the end of my contribution. I shall refer to it again later for the sake of completeness.

Several people, including the veterans support group, have called for a public inquiry principally into the health issues, but I do not believe that such an inquiry is justified if the epidemiological study is sufficiently broad. It is, however, important that the study into the possible long-term effects of exposure to a nerve agent does not confine itself to the incidence of cancer, but includes mental illnesses.

My key concern is the quality of the consent that the volunteers gave before participating in the trials at Porton Down. For such consent to be wholesome and meaningful, it must surely be informed. I believe that there is prima facie evidence to suggest that it was anything but informed. My constituent, Peter Parker, believes that he was deceived, that he was not told the truth, and that he was not provided with the information necessary for him to give informed consent. His belief is shared by hundreds of other former volunteers.

My hon. Friend the Minister has dismissed several times the widespread claims that volunteers were recruited on the pretext of common cold research, citing the fact that the Chemical Defence Experimental Establishment at Porton Down never carried out work on the common cold and that that work was actually done at the Medical Research Council unit at Harnham Down near Salisbury, which closed in 1989. I accept all that, although that does not prove that people were not misled into thinking that they were assisting common cold research when they volunteered.

My hon. Friend has also stated that after Operation Antler, the recent five-year investigation into the Porton Down volunteer programme, Wiltshire police found no documentary evidence of a centrally organised campaign to recruit volunteers on the basis of common cold research. He has said that the Wiltshire and Swindon coroner at the recent rerun inquest into the death of Ronald Maddison confirmed that. However, although documentary evidence may not exist—or has not, at least, been found—the words of those who were there at the time and who bore witness to these events surely counts as evidence. One way or another, they picked up this message from their military units around the country, and it simply will not do to gainsay that.

I do not dispute the outcome of the police investigation or the coroner's statement, but the inquest, which sat for 64 days last year and considered hundreds of pages of documents, revealed important facts about the recruitment information made available to potential service volunteers. As I mentioned, Porton Down has been in use for military research purposes since the first world war, and I believe that it opened in 1916. The inquest turned up a letter dated 30 July 1925 from the War Office, which referred to the need for volunteers to take part in studies of the treatment of men who had been contaminated with mustard gas. It states:

"The tests will involve only slight discomfort to the individual, and consist simply in subjecting a small place on the arm to the action of certain chemicals. They will be carried out under expert medical supervision of the staff of the Physiological Department, Porton, and under such conditions that the risk of injury to the individual is negligible".

By 1953, the wording had become even more reassuring. In February 1953, a notice calling for volunteers at an RAF unit said:

[Mr. Hall]

"The physical discomfort resulting from tests is usually very slight. Tests are carefully planned to avoid the slightest chance of danger".

After the death of Ronald Maddison on 6 May that year, a Treasury solicitor, in a memo marked "Secret" and dated 15 May 1953, stated:

"I suggest that the wording of the information to be brought to the attention of personnel to encourage them to volunteer ought to be altered. The sentence 'Tests are carefully planned to avoid the slightest chance of danger' has proved misleading. Indeed it is difficult to see how it was ever possible to say truthfully that tests with lethal gases did not contain 'the slightest chance of danger'".

As a result of his advice, Ministry notice board information calling for volunteers was altered to state:

"The tests carried out at CDEE are carefully planned and are arranged so as to eliminate all foreseeable danger."

In 1964, after a note from Porton Down referred to that wording as "unfortunate" because it probably deterred some potential volunteers, the official wording was altered again to remove the word "foreseeable". In other words, it reverted to the pre-Maddison wording, if I can put it like that, and said that there was no danger.

Even if there is no documentary evidence of volunteers being recruited on the basis of common cold research, the written evidence that does exist is far more damning. It claims variously that there was not

"the slightest chance of danger",

that there was no "foreseeable danger" and then simply that there was no danger. At the very least, we have a prima facie case of volunteers not being told the truth—of their being lied to about the danger that at least some of them faced at Porton Down. That strongly suggests that they were not in a position to give informed consent.

The Adjournment debate of 16 October 1996 was secured by the hon. Member for Bournemouth, East in order to raise issues relating to a constituent, Mr. Michael Paynter, one of the service volunteers at Porton in 1954 and again in 1955. Replying to that debate, the hon. Member for Mid-Sussex (Mr. Soames), then Minister of State for the Armed Forces, emphasised that over the past 80 years, experiments on humans at Porton Down had always followed best practice. Furthermore, he stated that since the inception of the 1947 Nuremburg code of ethics on medical research, which resulted from the horrors of the Nazi concentration camps, the principles laid out in the code have governed all work relating to human subjects at Porton Down. He went on:

"The code emphasises the essential voluntary nature of the consent to participate and states that volunteers must be made aware of the nature of the study, its duration, its purpose, the method and means by which it is to be carried out, all inconvenience and hazards that can reasonably be expected and any likely effects on their health that are known to those proposing the study."—[*Official Report*, 16 October 1996; Vol. 282, c. 790.]

That does not accurately describe the circumstances that were experienced by my constituent and many others.

At the inquest last year, many ex-servicemen gave evidence that they believed that they had attended Porton Down for research into the common cold. They certainly believed that nothing would be done that put them in danger. They also explained that the dominant culture of the time was to do as one was told and not to question authority—a culture that may not square with the more modern concept of informed consent. Indeed, some will doubtless question the status of that concept in the United Kingdom, and point out that the Nuremburg code has not been incorporated into domestic law. But is anyone saying that a person about to be exposed to a nerve agent voluntarily should not be fully apprised of what a nerve agent is, what it is designed to do, and therefore the risks that may be faced? Put like that, of course, one may conclude that few if any would consent. That is the point, is it not?

Taken together, I do not believe that much credence can be attributed to the official position of the Ministry of Defence on the matter. I do not believe that the consent granted by a large number of volunteers can fairly be described as informed. I do not accept that best practice has been followed for many years. I do not believe that the principles of the Nuremburg code have been applied since 1947.

I think that a sufficiently robust case has been made and that the Government would wish to set the record straight by setting up an independent public and judicial inquiry. Surely that is the least that those who served their country deserve. Why not? Those matters occurred in the main 50 or so years ago. They are not the outcome of current Government policy. It would be the right thing to do.

It is important to acknowledge that the present Government have been co-operative and helpful in a number of ways. The understandable desire by service volunteers for information about what happened to them at Porton Down has been met much greater openness than that encountered in 1996 by the hon. Member for Bournemouth, East. The volunteers' concerns about possible unusual health and mortality effects have been taken seriously, and studies continue. After the then chief constable of Wiltshire, Elizabeth Neville—now Dame Elizabeth Neville—took the enlightened and courageous decision to launch Operation Antler, the then Home Secretary, my right hon. Friend the Member for Blackburn (Mr. Straw), agreed to contribute £870,000 towards costs of about £2.4 million.

Sadly, there are mixed messages from Government. It has taken them 51 years to apologise for the death of Ronald George Maddison, and to indicate that they would pay compensation to his family—even though the Treasury solicitor recommended the latter in 1953. At the same time, they appear to be going in the opposite direction because of the MOD's decision to challenge the inquest's unanimous verdict of unlawful killing by way of judicial review.

I conclude by asking my hon. Friend the Minister the following questions. Will he outline the nature of the epidemiological study to which I referred and specifically confirm whether it includes mental health? Will he explain why the 2001 comprehensive historical survey of the Porton Down service volunteer programme has not yet been published? He has stated that it will happen in the next three months. Does he agree that it is highly unlikely that a significant number of service volunteers were in a position to give informed consent before they participated in trials at Porton Down during the 1950s? Does he agree with his predecessor that the principles of the Nuremberg code

applied to the service volunteer programme since the inception of the code in 1947? If so, does he believe that those principles were properly implemented throughout the 1950s and beyond? Will he explain why the Ministry of Defence is prepared to spend possibly large sums of public money by challenging by way of judicial review the process and outcome of the recent inquest? Does he agree that an independent public and judicial inquiry into the service volunteer programme should take place in order to establish whether volunteers were misled? If not, will he spell out why not?

This year sees the 60th anniversary of Victory in Europe day. It also sees the 60th anniversary of the liberation of the Nazi concentration camps. There will not be another occasion for a major celebration and commemoration of this nature, simply because the generation who carried the torch will no longer be around. It would be fitting for the men and women who served this country at war and in national service that this year at last the full story of Porton Down be told.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. It is worth my reminding hon. Members present about sensitivity to judicial proceedings.

2.22 pm

Miss Ann Widdecombe (Maidstone and The Weald) (Con): This is an appalling story of an arrogant state and innocent young men; a story of a state that believed it was acceptable to experiment on its own citizens without giving them proper information to enable them to agree to what was going on; and a story of utter innocence and trust. As the hon. Member for Bedford (Mr. Hall), who very ably opened the debate, reminded us, it was an age in which people implicitly trusted authority. That trust was betrayed.

I would like to speak principally on behalf of my constituent Ken Earl, and set out the picture that emerges from what happened to him, initially in his own words. In a letter to me he says:

"When I was called up for my National Service in January 1952, I was a student actor with a repertory company in Folkestone. I was eighteen years old and had been educated at the Harvey Grammar School, also in Folkestone . . . I had decided that it was to be an actor's life for me and I was a reluctant conscript when summoned to the RAF. Since the age of fourteen I had been an enthusiastic member of the . . . St. John Ambulance . . . so after my recruit training, I decided to be a 'medic' for two years. Unlike some others, I had not received any gas instruction during training, had not been issued with a gas mask and as a 'medic' at an RAF hospital I did not do guard duty. I was eventually stationed at Wroughton RAF Hospital, Swindon, Wiltshire. I enjoyed my job and soon I was flying from RAF Lyneham to the Middle and Far East to pick up wounded and other sick patients. I was happy where I was and I did not have any urge for a change. However, sometime in April 1953, I saw an item of interest on our Hospital notice board . . . 'Volunteers wanted to help find a cure for the common cold. Those participating will receive extra pay and a weekend pass'. The extra pay and the leave were what made me decide to apply. I was not worried about the cold as I seldom caught one. However, National Servicemen were always hard up, we received far less money than the regular airmen and when I did get a pass, I had to hitchhike all the way home to Maidstone and then do the same for the return. I had a girlfriend in Maidstone, who I eventually married, and I wanted to get home to see her. That in a nutshell is how a young country boy came to go to CDEE, the Chemical Defence Experimental Establishment at Porton Down. I hadn't read many newspapers in my life, I had never seen a television programme and like the other lads with me I was extremely naïve. On 2 May 1953 I walked through the gates at Porton where I met nineteen other airmen from different units and all between the ages of 18 and 25. I was a senior aircraftman, I was the heaviest of all the men there, I was extremely fit and well and at that time I played rugby for my station and I was a keen weightlifter. We were all put in one billet, a wooden hut . . . 2 May was a Saturday, and is remembered as the day of the Stanley Matthews Cup Final. Nothing happened on the Sunday . . . Monday . . . we were split mainly into groups of six and taken to a building for what can only be described as anthropometrical tests. This is a comparative study of the sizes and proportions of the human body. Not a medical . . . in my job I had helped carry out plenty of medicals. The tests involved taking measurements: height, weight, *body shapes, a lung capacity test . . . We had a series of rubber* patches stuck on one of our upper arms and a blood sample was taken. My group, there were six of us, were then marched to a low brick built building with glass panels to one side. There were two men in charge of the test and they were wearing white coats. They told us to roll up our left battledress sleeve to the elbow, and then they tied two pieces of khaki material, one on top of the other, to the inside of our forearms. We were then issued with respirators and instructed to put them on and told not to remove them until they told us to do so. We entered this building, which I now know to be a gas chamber, and the doors were sealed. The two technicians who I thought at the time were doctors entered with us, they too were wearing respirators. We were seated at a small table in the centre of the chamber and I am now aware that my place in the middle was seat number 4. One of the technicians then proceeded to drip . . . a colourless liquid onto the material on our left forearms. I now know that we each received 20x10 mg drops which I thought at the time and in my ignorance was a cold virus or vaccine but I now know was 200 mg of the lethal nerve agent sarin (GB). Today this chemical is known as a weapon of mass destruction! I had not been told anything and did not give my informed consent to this contamination. Never having worn a respirator before I became very hot and claustrophobic, of course the sarin was playing its part too and the climatic chamber was heated. How I lasted half an hour in this state I will never know and I still cannot travel on the underground to this day without a feeling of panic. After half an hour we were released gasping and spluttering into the open air. It was a beautiful May morning. We had the material taken from our arms, were told to run around a bit and then to remove our respirators. A second blood sample was taken.

• Two days later on 6 May another six young airmen entered this chamber and sitting in my seat that day was LAC Ronald Maddison. He died an agonising death within 45 minutes of being contaminated.

• My red blood cholinesterase depression was 34 per cent., Maddison's was 99 per cent. at post mortem.

• The Porton scientists believed before his death that 100 per cent. depression would be fatal and they had already had cases of over 80 per cent. who had been hospitalised.

• Oliver Slater, a man in the chamber with me on 4 May, had a 90 per cent. depression and this critical figure was ignored by the scientists. They went ahead two days later and killed Maddison.

• Only twelve were tested with 200 mg that week, my group and Maddison's group and of those twelve only five of us have reached three score years and ten. The other seven have died prematurely.

• Only ten days before we arrived at Porton, a young soldier had collapsed in an experiment with 300 mg of sarin, his breathing stopped but he was resuscitated. He was still very ill in the Station Hospital and on the day that Maddison died, his cholinesterase depression was still 85 per cent.

• I was not told what the scientists were doing or whether there could be any long-term ill health from this so-called cold test.

• Before I went to Porton, I had never heard of the place.

• I did not receive a Medical examination at my parent unit before leaving for . . . Porton.

• I did not receive a Medical on my arrival at Porton.

• I did not have a medical after leaving Porton Down seven days later on 8 May.

[Miss Ann Widdecombe]

- I was not medically examined on my return to my parent unit.
- Neither my service record or my service medical record shows an entry of my attendance at Porton.
- I didn't have a medical check or follow up in the years following my contamination, we were just left to our own devices.
- I didn't find out what had really happened to me at Porton until I read in a newspaper in 1999 about the Police Inquiry . . . My health since that time has often been poor unlike the rest of my family. I believe my nervous and immune systems have been damaged. I have suffered urinary tract problems since 1954, the year after the experiment.
- I suffer from numerous skin problems. I believe these have been brought on by the skin contamination with sarin. These include: Seborrhoeic eczema—Scalp scaling—Nasal rash—Pitted nails—Erythema—Pruritis—Scaly areas on hands—and a Basal Cell Carcinoma on the opposite side of my forearm to the sarin application which has been surgically removed.
- I have been diagnosed with Ankylosing Spondylitis and as a result, two areas of my spine are seized up.
- I need to have constant colonoscopies to remove Tubulo-Villous Adenomas. Luckily benign so far but only because these are removed regularly. The problem is ongoing.
- My right leg is dead to the knee joint and I walk with the aid of a stick.
- I have calcaneal spurs with associated Planter Faciitis, making walking difficult and painful.
- I have had a major operation for the removal of Prostate Cancer.
- I have to take Warfarin to thin my blood.
- I have multiple hepatic cysts."

That is the story of a young man of 18 who was reluctantly conscripted to national service, who began to enjoy the work and who was comprehensively betrayed by his country and by those who ran its armed services and the experimental centre at Porton Down. I am outraged when I am told that there is no documentary evidence that the subjects thought that they were going to get a common cold. If they were not told that they were going to get a common cold, we have to conclude that they are all lying, that they have formed some large conspiracy in which they have agreed to falsify what happened at that time and that in concert with one another they have fabricated evidence in order either to claim compensation or to receive an apology. That seems an extremely serious allegation.

If there is no such allegation, we must accept the individual statements from witnesses that they thought that they were participating in cold research. Why did they think that? They are clear that it was in the notice. They may have picked up a great deal by rumour. However, it is extremely clear that no proper explanation was given to the young men when they went to Porton Down. It is a disgraceful story and a disgraceful episode in our past. Now, only a handful of Porton Down veterans remain. Surely the time has come not merely to apologise but to compensate for what was done.

Even if they have suffered no ill effects—although clearly they believe that they have—what was done was so unacceptable that compensation should be paid by way of an apology. I deeply regret the attitude of the Government, although they are not the only ones involved in this and I would not suggest that they were, in trying to maintain the fiction that those people did not believe that they were going to assist with research into the common cold. There are times when Governments should say, "Wrong was done," even if the matter was in the past. If living beings are still affected by the wrong that was done, they should receive justice. All we are asking for is a common courtesy, the sense of fairness for which this country used to be renowned and, above all, a recognition that innocent young men, who trusted authority, were betrayed.

2.35 pm

Siobhain McDonagh (Mitcham and Morden) (Lab): I should like to make a short contribution on behalf of my constituent, Arthur Ashley of Legion court in Morden. When he was 18 years old and working as a signalman on HMS Vanguard, he received a signal from the Royal Navy asking for volunteers to take part in tests for smog and the common cold. Despite many years of searching, there are still no records of any signals having been sent. That point has been replicated in all the contributions so far. My constituent passed the signal to his comrades and, like many of them, decided to take part in the trials.

He says that he is

"one of the lucky ones",

because the ill effects of the trials have not been as bad for him as for his comrades. He was 18 at the time of the trials. He is now 68. At the time and in the immediate aftermath of the test he felt a burning sensation in his eyes and had a sore chest and problems with his skin. In the 50 years since the test, he has suffered from continual skin complaints. He has also suffered dizziness, chest complaints and ear problems.

Irrespective of the health effects of those tests, which may or may not be fully attributable to the Porton Down tests, what makes Mr. Ashley most upset is that he loved the Navy. He joined at 15 and rose through its ranks to become a lieutenant. He feels betrayed by the service that he so much loved. Like so many others, Mr. Ashley feels that the MOD should compensate veterans for the pain that they have suffered and that there should be a public inquiry into what happened at Porton Down. It was wrong to ask young men to take part in trials without telling them what was to be involved. Mr. Ashley feels that he has been duped and that that was not right.

That all happened 50 years ago. One of the happy truths that has emerged from the Porton Down campaign is that it could never happen now. Our attitudes have changed: we no longer operate in a cold war environment and society is much less servile. Irrespective of compensation or whether there should be a public inquiry, I hope that we can do the right thing and say that it was wrong to dupe those men into taking part in those tests. I hope that we can walk away today agreeing that duping servicemen to take part in tests was wrong and I urge the Minister to apologise for the actions of a different set of officials under a different Government in a different age. It will help constituents of mine, such as Mr. Ashley, to move on.

2.38 pm

Mr. David Atkinson (Bournemouth, East) (Con): I commend the hon. Member for Bedford (Mr. Hall) on his initiative in securing the debate on what really went on at Porton Down. It enables me to raise the

experiences of two constituents, one of whom has sadly died, whose health was undoubtedly and permanently impaired as a result of the service volunteer programme.

In his reply, I hope that the Minister will go further than when he addressed the House earlier this year in response to the experience of a former constituent of mine, Douglas Shave, which my hon. Friend the Member for Poole (Mr. Syms), who is in his place, raised in his Adjournment debate on 10 January. In my view, Wiltshire police and the doctors of St. Thomas' hospital have now collated enough evidence of ill health and premature death to support an independent public inquiry without any further delay.

It was such a public inquiry that my constituent, Mrs. Maureen Rossiter, sought when she came to my surgery nearly two years ago. She is adamant that her husband, and servicemen like him, were duped into going to Porton Down, where they were subjected to horrendous, outrageous experiments and then discarded. Her husband, Vernon Rossiter, volunteered to research the common cold for two weeks at Porton Down in 1958. He arrived on 14 April. He was fitted with a respirator, given an antidote for nerve gas, had his chest punctured by needles, which led to a collapse of his lung, was hospitalised and was sent home on sick leave a week early. He suffered health consequences for the rest of his life and died in 1985. A post mortem examination found that both lungs were overweight, with one grossly so.

Mrs. Rossiter pursued her own investigation with the Ministry of Defence, which she found a frustrating experience because of the negative attitude that she encountered, so she sought my help. In his letter to me of 23 July 2003 the Minister referred to an invitation that Mrs. Rossiter had received to visit Porton Down, check her husband's record and discuss her concerns with staff. She attempted to take up the invitation but was told that such visits had been suspended. She has since learned from others that such records are incomplete or non-existent.

In response to her suggestion that her husband had responded to notices calling for volunteers to research the common cold at Porton Down, the Minister told me that no evidence to support that exists, despite in-depth searches by the Ministry of Defence and the Wiltshire police. It is suggested that former volunteers may be confusing the notices they claim to have seen with those calling for volunteers to attend the common cold research unit located at Harnham Down. No. That does not wash.

It would, of course, be surprising if notices and posters calling for volunteers had survived the abolition of conscription in 1958. However, the memories of those who responded to the notices remain clear. It was to go not to Harnham Down but to Porton Down, and those who have returned to Porton Down to check their records recognise it as Porton Down and not Harnham Down. A former assistant secretary in Mr. Speaker's Office, who has now retired, recalls typing such a notice calling for volunteers to research the common cold at Porton Down.

A letter appeared in *The Daily Telegraph* of 12 July 2003, from Lieutenant-Commander P.J. Grigsby RN, about the apparent lack of evidence. It stated:

"I was surprised to note that 'the essential piece of evidence — the poster' has not been found. I remember them well, and saw them frequently during my time in the Royal Navy . . . They were issued as Admiralty Fleet Orders (AFOs), later to become Defence Council Instructions (DCIs), designed to promulgate to the fleet information that needed to be acted on early. The calls for volunteers at Porton Down were classed as temporary, but appeared regularly. They all had a reference number starting at 1 on the year of issue (e.g. AFO 1/54), and a binder was supplied for each year's issue. Somewhere within the public records at MOD historical branches there will be complete sets of AFOs/DCIs. The detectives should look again."

Thus I hope that the Minister will be more positive today on the subject of the call for volunteers to research the common cold at Porton Down.

I shall not dwell for long on the experience at Porton Down of a second of my constituents, Michael Paynter. In May 1954 and again in March 1955, as a conscripted national serviceman in the RAF, he volunteered to be the subject of research into the common cold at Porton Down. On both occasions that involved going into a gas chamber without any protective clothing apart from a gas mask. He has not enjoyed his previous robust good heath ever since.

I described his symptoms in my Adjournment debate of 16 October 1996. It was possibly the first such detailed reference in the House to what went on at Porton Down and was responded to by my hon. Friend the Member for Mid-Sussex (Mr. Soames), the then Minister of State. He stressed that neither of Mr. Paynter's visits and studies involved his exposure to any chemical warfare agents and said that the programme of work in which Mr. Paynter participated was part of the Government's research programme to investigate the causes and effects of London smog.

It must already be clear from this debate that a great many questions about Porton Down remain unanswered. However, thanks to Operation Antler and the outcome of the inquest on Ronald Maddison, which found that his death was unlawful, we are slowly but surely getting to the truth. It would be a credit to the Government if they were to admit the truth, which is that past Governments have allowed conscripts to be used as guinea pigs to research the effects of lethal gases such as sarin, by encouraging them innocently to volunteer for research into the common cold and London smog at Porton Down, that as a consequence those young men's lives were damaged or destroyed and that that is a great national scandal. It deserves a public inquiry and compensation without any further delay.

In a press release of Tuesday 25 April 1995 entitled "Labour highlights human experiments at Porton Down" the then shadow Defence Minister, the late Derek Fatchett, said:

"The Labour Party is calling for the Government to act over claims that soldiers who volunteered for experiments at Porton Down have suffered serious damage to their health.

We are very concerned at claims by some ex servicemen that they were not adequately informed of the risk involved in testing, and that they have suffered long term damage to their health.

Other Governments are beginning to acknowledge that their testing programmes may have put the health of service personnel at risk. It is time the British Government did the same and investigated the claims of the Porton Down volunteers."

[Mr. David Atkinson]

Nine years after Derek Fatchett's statement, that is precisely what the House should today call on the Labour Government to do.

2.45 pm

Mr. Tam Dalyell (Linlithgow) (Lab): What could be more powerful, more moving, than the testimonies that we have heard from the right hon. Member for Maidstone and The Weald (Miss Widdecombe), my hon. Friend the Member for Mitcham and Morden (Siobhain McDonagh) and the hon. Member for Bournemouth, East (Mr. Atkinson)? Please forgive me if I stick to one issue. I personally support the plea of my hon. Friend the Member for Bedford (Mr. Hall), who initiated the debate, for a public inquiry.

I was the last Member of the House of Commons to have the miserable experience of appearing at the Bar of the House as a result of a decision of the Privileges Committee. It was in 1967, and it was to do with Porton Down. I shall not bore the Committee with all the background, suffice it to say that it was a cause célèbre that the then Home Secretary, James Callaghan, decided that he would not vote. For a Home Secretary not to support the Privileges Committee raised all sorts of questions. Other Cabinet Ministers also declined to vote on that occasion. It is of little consequence that I was nearly expelled. It is of far greater consequence that justice should be done to those who were victims at the time of my national service.

Some years later, a very honourable Conservative, the late Sir Harry Legg-Bourton—I held him in high esteem, as I believe his colleagues did—came to me apologetically and said, "I ought to tell you that it was friends of mine in the Ministry of Defence who put me up to telling the Chairman, the late Arthur Palmer, that he should raise what had appeared in *The Observer* after the Select Committee's visit to Porton as an issue of privilege." For some years, I thought that that had been done in vengeance, as I had been a terrible nuisance to the Ministry of Defence in respect of the Borneo war, east of Suez, variable-geometry aircraft, Aldabra atoll and several other issues. Later, I discovered that it was not vengeance at all. To use a Scottish expression, it was to put my gas on a peep—to stop my messing around with Porton—in case I should stumble on the terrible things that happened in the '50s and probably into the early '60s.

Harold Wilson told me after he had been Prime Minister for the second time that I was on his conscience. I asked if that was because of Porton, and he said that he would tell me one day. That never happened, as poor Harold Wilson got Alzheimer's, but I am absolutely convinced that the Ministry of Defence at the time had decided to hide the dreadful, shameful thing that it had done. Incidentally, I gave my volumes of papers to the Wiltshire police and Detective Superintendent Luckett, and I have discussed the matter with Ken Earl and many others.

The issue is not a matter of party. My hon. Friend the present Minister cannot be blamed and current officials cannot be blamed. Indeed, I told Mr. Luckett that I strongly agreed with him that there should not be prosecutions, because anyone being prosecuted would be in their early 80s at least and most would be pushing up the proverbial daisies. However, my hon. Friend the Member for Bedford is absolutely justified in asking for a public inquiry and for justice. For the people I have met, justice—a recognition that a wrong was done to them—would be more important than monetary compensation. I therefore strongly support the plea that has been made.

2.51 pm

Mr. Robert Key (Salisbury) (Con): For nearly 22 years it has been my privilege to represent Porton Down in the House of Commons. I know of nobody at Porton Down who is not deeply troubled by what happened 50 years ago and, indeed, more recently. I know of no scientist who would sign up to the accepted norms of behaviour then or who would claim that what is done today is not very much better. I have always thought that it would have been far better to hold a public inquiry than to have the matter referred to the coroner's court in Wiltshire. I support the hon. Member for Bedford (Mr. Hall) in that respect and I am glad that he has secured this debate.

The testimony of my colleagues is surely enough to move deeply anybody who was not aware of what went on at Porton Down in the past and to persuade them that there is still a lot of ground to be covered. The issue is not over. The coroner's court has made its decision and the Ministry of Defence, for legal reasons that are perhaps obscure to the layman, will pursue its judicial inquiry, so we shall not muddy those waters. However, it is my job, on behalf of my constituents, to make it absolutely plain just how important the work of Porton Down is.

What we have heard is one side of the story. However, I shall not rehearse the other side of the story, because I have no mandate to do so—I was eight years old in 1953 and have no recollection of what happened. The Father of the House is right that there should not be prosecutions of the old men who were operating under orders 50 years ago and that what is needed is an apology for the things that happened, which is even more important than any monetary compensation.

If Porton Down did not exist, it would have to be invented, and very quickly indeed. In the minds of many people the place is shadowy and mysterious—a home of the dark arts likely to generate extravagant language. Locally, however, we are proud of Porton Down. Without it, the United Kingdom would be a more dangerous place in which to live, and Her Majesty's forces globally would be undoubtedly be at greater risk. Indeed, the lives of thousands upon thousands of British servicemen and women have been saved because of the work at Porton Down over many years.

As the hon. Member for Bedford said, the issue goes right back to 1915, when chemical weapons were first deployed against British troops and the carnage was appalling. In 1916 work started at Porton Down, and by 1918 anti-gas defence and respirator development was established, as well as work on the dissemination of chlorine, phosgene and mustard gas. By 1991, however, the Chemical and Biological Defence Establishment had emerged, still in the Ministry of Defence. Next door, the Centre for Applied Microbiology and Research, which was split off in 1979, has become part of the Health Protection Agency, under the Department of Health.

and the old CBDE has evolved into the Defence Science and Technology Laboratory, in the Ministry of Defence.

Back in 1956, Britain abandoned any sort of chemical or biological warfare capability, and restricted work to hazard assessment and defence. Work continues today on developing the means of prophylaxis, therapy, rapid detection and identification, decontamination and protection of the body against nerve agents, which attack through the eyes, skin and respiratory tract.

It is important to remember that the science at the two Porton Down establishments is world class. Following the 9/11 attacks in the United States, the Science and Technology Committee, of which I am a member, undertook an inquiry into the scientific response to terrorism. We took evidence in the White House, the centre for disease control in Atlanta and the Laurence Livermore laboratories in California. Everywhere we went, Porton Down was praised for the quality of its science and the expertise of its staff. Most of the research is published and peer reviewed. Links with academia and industry are increasingly important. Spin-off applications are growing—such as the fabric coatings that were developed to protect Her Majesty's forces and are now used in aerospace, health care, sports wear, overalls and consumer and electronic goods, as well as by the military—and, recently, the development of the polymerase chain reaction process by the Defence Science and Technology Laboratory that is leading to rapid in-the-field testing for diseases such as foot and mouth, tuberculosis in cattle, genetic modifications in food at the point of sale, and tests for pathogens such as salmonella, listeria and E. coli.

All of that began with the processes that have developed at Porton Down since 1916, and none of it would have been possible without the help of volunteers from the very early days. As knowledge has increased, risks have been identified and protocols developed to protect volunteers and staff alike, and working practices have changed. For many years, no studies involving service volunteers have been conducted without the approval of the independent ethics committee, in line with the 1964 Helsinki declaration on the ethics of human experimentation. That committee has just two MOD members and nine representatives of the medical, legal and academic professions, plus lay people.

Porton scientists are at the cutting edge of blue skies research, as well as industrial innovation and clinical application. Their first duty is to Her Majesty's forces, but long before 9/11, they were Britain's front-line response to homeland defence too. When emergency service exercises take place, Porton-trained police, fire crews and ambulance staff are first on the scene, followed swiftly by scientific response teams from Porton Down. Back home, the laboratory staff work overtime, analysing suspicious substances, while their DSTL partners develop security scanners and intercept equipment such as that through which we pass at airports every time we travel.

In order to understand how chemical and biological agents wreak their havoc, and how to defend the human body, we have to understand what agents disrupt, and how nerves work. Therefore, it is not surprising that Porton scientists are also at the forefront of research into Parkinson's disease, Alzheimer's and other diseases.

Partly because of the blanket secrecy in bygone ages, there has always been confusion about four local institutions. The oldest chestnut—and, my goodness, have we heard it here today—concerns Harvard hospital, not Harnham Down, that is something quite different. Harvard hospital, which was Britain's common cold research unit, received thousands of volunteers, mostly civilian, who contributed to our knowledge of virology. It closed in the 1980s, having failed to cure our colds, but not before it had made a major, if unexpected, contribution to treatment for HIV/AIDS. There is no evidence that Porton Down ever undertook any work on the common cold.

In addition to DSTL Porton, and the Health Protection Agency Porton Down, there is the army camp at Winterbourne Gunner, at the western end of Porton ranges. Generations from all three services have been trained there, in nuclear, biological and chemical defence. The defence centre has now been joined by the police national chemical, biological, radiological and nuclear centre. Thousands of police, ambulance and fire personnel, from every force in the UK, are now fully trained first responders in their communities, and journalists working with troops on dangerous deployments, whether in Iraq or elsewhere, are briefed there too.

Mr. Dalyell: Who wrote all that?

Mr. Key: I did, based on 22 years of experience as Member of Parliament for Porton Down. This is my work, and I am very proud of it. I have to read enormous scripts of rubbish written by journalists about Porton Down, and even when one hears the BBC talking about Porton Down, it is always "the Government's top secret germ warfare establishment." I wish that people would snap out of it, get real and move into the 21st century. At the heart of Porton Down—that web of security—there are many thousands of highly motivated scientists and support staff who are part of our community in south Wiltshire. It is not some secret, behind-the-wire, white-coated colony of aliens. They are real families who shop at Tesco, sing in our choirs, join in our sport and leisure activities and bring to our local schools a high profile for science education.

That is the reality of Porton Down today. I do not for one moment detract from anything that my hon. Friends and hon. Members have said about what may have happened and what did happen in the past. I have said that I would support a public inquiry. It is infinitely preferable to the coroner's inquest, which was an inappropriate forum. An apology is due for what went on 50 years and more ago, but please do not confuse history with the reality of the modern defence of our homeland and Her Majesty's forces.

3.1 pm

Dr. John Pugh (Southport) (LD): This has been an emotional but fairly well reasoned debate, and I congratulate the hon. Member for Bedford (Mr. Hall) on having initiated it.

I pick up from the previous Adjournment debate introduced by the hon. Member for Poole (Mr. Syms). As I understand it, the ministerial response went something like this: most people know Porton Down

[Dr. John Pugh]

and therefore when going there have certain expectations; most probably knew the nature of likely tests conducted there; and, so far hitherto no clear connection has been established between the health problems that have subsequently shown up among veterans and the exact treatment that they received at Porton Down.

I got into the issue through a constituent, Mr. Kenneth Burns, who was an Army chauffeur and one of those who thought that he had volunteered to assist with common cold research. He certainly did not know what Porton Down was for, and he certainly did not know the nature of the research conducted on him. When asked to put on a gas mask, he was apparently told, and I believe him, that he was there to test whether the masks chafed—not because it was a necessary part of the experiment. None the less, a bigger dose of sarin was inflicted on him than killed Ronald Maddison. Mr. Burns described to me the departure of Ronald Maddison and the suspicious way in which his corpse was disposed of.

If I accept that over a period the causal link between the tests and subsequent ill health is difficult to establish, that the intentions of the people at Porton Down were honourable, that the risks were expected to be low, the research worthwhile and the wider benefits considerable, that the volunteer programme was justifiable, and that the current Government act in good faith when commissioning epidemiological studies and providing information, it remains the case that my constituent and others' constituents were exposed without their consent to a process that could have killed any one of them and certainly killed Ronald Maddison.

If anybody other than a Government put at risk the health of an individual in that way, there would at the very least be a case for damages, and in all probability a criminal prosecution would not be out of place either. As the right hon. Member for Maidstone and The Weald (Miss Widdecombe) pointed out well, Porton Down can be defended against that specific charge, and I have made it as specific as I can, only by branding as liars hundreds of serving soldiers who were informally briefed if not formally told that they were in fact engaged in cold research.

I met my constituent almost by accident. I was just out canvassing that day. He did not seek me out with a thirst for compensation, and I believe his side of the story. It may be said that veterans have a motive for telling their story in their way, but it may equally and probably more forcibly be said that the Ministry of Defence has a bigger motive, because behind Porton Down may lie other stories related to different incidents—Korea, the Gulf war and so on. We may be on the verge of opening an ugly can of worms. Why else would the Government challenge an inquest decision arrived at fairly?

Being casual with the lives of soldiers belongs to the past, and we all agree on that. However, there may be something worse than that, which is pretending to maintain better standards, and in doing so, stringing out investigations while awaiting the death of the complainants.

It has already taken 50 years to get the truth about the Maddison death, and there can be little excuse for further delay. The Government can either make restitution and acknowledge errors or brand a host of perfectly decent veterans as liars—there are no comfortable choices left.

3.5 pm

Mr. Gerald Howarth (Aldershot) (Con): I join the hon. Member for Southport (Dr. Pugh) in congratulating the hon. Member for Bedford (Mr. Hall) on bringing this matter before us. Like the hon. Member for Linlithgow (Mr. Dalyell), we have all heard the moving testimonies about the plight of hon. Members' constituents. Although I represent Aldershot, I am fortunate in that none of my constituents has come to me as a result of having participated in the volunteer programmes at Porton Down. However, I understand the strength of feeling that my hon. Friends and other hon. Members have described.

Like my hon. Friend the Member for Salisbury (Mr. Key), I pay tribute at the outset to the work done by the DSTL, whose headquarters are in my constituency. As he said, it does a vital job. Indeed, its work has never been more important than it is today, with the free world facing a real threat from biological warfare agents, and we must acknowledge that. I have visited Porton Down, although I suppose that I did so with some trepidation, being armed with all the warnings that one receives and aware of all the adjectives that are applied to it, which my hon. Friend mentioned. Nevertheless, I and my colleagues on the Defence Committee were impressed by the work that was being done there. The tests that were carried out in the past were essential, as are those that continue to be carried out today, and all hon. Members will want to express their gratitude to the 20,000 volunteers who, over the past 50 years or so, have assisted a programme that is extremely important to the defence of the realm and to the security of our armed forces and the wider British public.

However, veterans deserve to be told the truth, particularly now that the cold war is over. In particular, we need to know whether the scientists were acting within the bounds of the knowledge available then. To what extent were they aware of the risks to the lives and health of volunteers? To what extent were they prepared to take risks in that respect? As my hon. Friend said, the same people who work at Porton Down go shopping at Tesco, and none of us has any real basis on which to doubt their honourable intent. Were their predecessors, however, working within the bounds of available knowledge, or did they press ahead deliberately, knowing that sarin could fatally injure their volunteers? I noted from the reports of the inquest into Ronald Maddison's death that Professor Sir Ian Kennedy—as has been said, the Ministry of Defence has asked him to write a chapter on the Porton Down historical survey—said that scientists at the time were

"acting on the edge of their knowledge"

when they exposed volunteers to the "uncontrollable danger" of sarin. We therefore need to know whether the scientists were deliberately putting their volunteers at risk.

The hon. Member for Bedford made an interesting point about internal memos produced in the 1950s, which warned that the advice given to potential

volunteers was misleading. That is very serious because it suggests that some people at the top realised that risks were being run, but they were not prepared to own up to them to the volunteers who were participating.

Another problem appears to be that the records were either incomplete or have since disappeared. We need assurances from the Minister that a rigorous record-keeping process is now in place. Although the Wiltshire police force concluded that there was no evidence that the volunteers were told that they were to participate in tests for a cure for the common cold, it appears from the testimony that we heard today, which is widely available, that the volunteers were under the impression that they were participating in such a test. The onus is therefore on the MOD to answer that accusation. It cannot be that all those individuals, from a range of disparate sources, have collectively imagined those defence council instructions on their vessels and thus all provide the same testimony, even if the Wiltshire police could not find those DCIs.

We welcome the Government's funding of a medical assessment programme and an epidemiological study, conducted under the auspices of the Medical Research Council. We believe that it is right to await the outcome of that research, which, as the Minister revealed, has been concluded. The Minister indicates dissent.

Mr. Caplin: To recap, there are two studies: the historical study, to which I referred in my intervention on my hon. Friend the Member for Bedford (Mr. Hall), and the other study, to which he also referred, which will be finished in 2006.

Mr. Howarth: I thank the Minister for that intervention, which is helpful and has put the matter on the record, but swift action will need to be taken once those findings are available. These people are in advancing years, and we owe it to them to ensure that the Government make the findings available as soon as they have been reached. I hope that that Government will be Conservative, and if I should chance to be Minister, I undertake to ensure that that material will be published forthwith and that action will be taken.

It is hard to resist the calls for a public inquiry, but we should await the results of the studies that are being undertaken, and seriously consider holding a public inquiry, if such an inquiry appears appropriate in the light of findings that further work needs to be done. It is very easy to promise public inquiries when in opposition, as the Labour party did, but it has not delivered on that promise in government. The easiest thing for me to do as Opposition spokesman is to call for a public inquiry, but I will not do so until those reports have been published. If they do not answer the questions that have been posed today, however, a public inquiry is the right answer.

Mr. Hall: Will the hon. Gentleman distinguish between the health and mortality study and the quality of the information that was made available to volunteers? Those are two distinct issues. There is a study into one of them, but not into the other.

Mr. Howarth: The hon. Gentleman is entirely right to make that point, which I take on board completely. It is of great concern that full information about what happened has not been forthcoming, regardless of the medical issues.

My own view is that those who contribute to the defence of the realm need to be compensated properly if and when they sustain injury in the course of their service. The volunteers gave every bit as much service to the nation as those in uniform on the front line. Furthermore, we need to be prepared to err on the side of the claimant. All too often, the MOD seems to want to make life so hard for claimants that only the most persistent win through. My hon. Friend the Member for Bournemouth, East (Mr. Atkinson) referred to that as a negative attitude, which I have noticed is prevalent at the MOD. That culture should be changed.

I understand from what the Minister said in the Adjournment debate secured by my hon. Friend the Member for Poole (Mr. Syms) on 10 January that only 1,000 of the 20,000 volunteers have approached Porton Down since the free helpline number was initiated in 1998. That is only 5 per cent.—a very small proportion. We are therefore not talking about a vast raft of people who are claiming that their health has been impaired as a result of the service that they gave, but about a very small number of people, and we owe it to them to err on their side rather than on the side of the Treasury. We must be willing to view their concerns sympathetically.

The war pensions system provides a means of assessing individual cases with recourse to an appeals procedure. Mr. Michael Paynter, an ex-Royal Air Force clerk, took his case to the war pensions appeal tribunal last year. It ruled that his eczema and chronic fatigue were attributable to exposure to sulphuric acid and what was called fake London fog. The system is therefore in place, but it does work. The tribunals need to be seen to be the ex-servicemen's friend, not an agent of the Ministry of Defence. That is a duty that the House should expect them to assume.

3.15 pm

The Parliamentary Under-Secretary of State for Defence (Mr. Ivor Caplin): I congratulate my hon. Friend the Member for Bedford (Mr. Hall) on securing this afternoon's debate. It has been a good debate, with contributions from my hon. Friends the Members for Mitcham and Morden (Siobhain McDonagh) and for Linlithgow (Mr. Dalyell), the right hon. Member for Maidstone and The Weald (Miss Widdecombe), and the hon. Members for Bournemouth, East (Mr. Atkinson), for Salisbury (Mr. Key) and for Southport (Dr. Pugh). I shall try to refer to their views as I proceed.

I join the hon. Member for Aldershot (Mr. Howarth) in praising the work of Porton Down staff. It might help if I inform the House of Porton Down's remit. Indeed, part of its remit was covered by the hon. Member for Salisbury—who, I am pleased to note, writes his own speeches, despite provocation from others on such matters.

Porton Down provides safe and effective protection for the United Kingdom and its armed forces in the event of chemical or biological weapons being used against them. That area of research was recognised as being vital to our scientific response to terrorism by the Science and Technology Committee in its 2003 report;

[Mr. Ivor Caplin]

that, too, was mentioned by the hon. Member for Salisbury. We should not forget that although the service volunteer programme is an integral part of the overall research programme, it is only one aspect of it. Many of the technologies developed at the Defence Science and Technology Laboratory at Porton Down have applications in the civilian sector, such as in vaccines and bacterial detection systems.

It is against that background that the service volunteer programme has operated at Porton Down for almost 90 years. Volunteers have been involved in research and development that has underpinned the United Kingdom's chemical and biological defence capability, in both detection and protective measures. As recent events in the middle east and closer to home have shown, that research is as relevant today as it was when the service volunteer programme began in 1916. Since then, around 20,000 volunteers from various parts of the services have participated in the studies, with many participating more than once. I mention that because it sets in context some of the numbers that have recently been quoted.

I accept that the number of participants was highest during the 1950s and 1960s, decreasing to a total of around 5,000 over the past 30 years. Currently, between 100 and 150 volunteers a year participate in the programme. They are involved in tests aimed at ensuring that the protective measures issued to our troops to counter the threat posed by chemical and biological weapons are safe and operationally acceptable before being introduced into service.

Historically, and particularly in the 1950s, volunteers were involved in studies to evaluate the effect of small amounts of chemical warfare agents on the ability of unprotected personnel to operate normally. Other volunteers were involved in trials to develop effective clothing and medical countermeasures to protect service personnel, or in assessing the ability of personnel to function with new equipment. Some 8,000 individuals took part in studies involving mustard gas, and some 3,000 in studies involving nerve gas. However, it is important to understand that many of those individuals would have acted as controls and therefore would not have been exposed to chemical agents, and that the majority of the studies concerned the assessment of protective clothing, which would have protected the individuals from exposure to the agents.

As I said in the Adjournment debate secured by the hon. Member for Poole (Mr. Syms) in January, that work is essential. It is equally important that such measures are evaluated in the safety of a controlled environment, with full medical and scientific back-up. I remain in no doubt that our knowledge and technology in the complex field of chemical and biological defence would not have advanced without the contribution of volunteers participating in trials as part of the programme.

I am pleased to tell the House that the vast majority of volunteers who participated in the service volunteer programme are quite unconcerned about their attendance. Given the ongoing level of publicity and media coverage about Porton Down volunteers, including the establishment of the free helpline, which was set up in 1998, the House may have expected the Ministry of Defence to have received a large number of requests for information, but that has not happened. The helpline has received just over 1,000 requests so far.

The hon. Member for Bournemouth, East suggested that visits have been suspended, but that is not the case. I undertake personally to ensure that his constituent can visit Porton Down.

Inquiries are motivated by different reasons—out of curiosity, or because of publicity or health concerns—but, whatever the reason, when they are received, staff at Porton Down begin the painstaking search of numerous experimental record-book entries describing the studies in which former volunteers were involved. The resulting information, which is sometimes complicated and often difficult to interpret, is then explained in the clearest possible manner and sent to the inquirer with an invitation to visit Porton Down to view the original record books and discuss any concerns with current members of staff. Quite a few former volunteers have accepted such invitations, and some have made several visits.

When former volunteers visit Porton Down, they may be accompanied by their political representatives—I suggested to the hon. Member for Poole in the January debate that he might like to carry out that function for his constituents—legal representatives, families or friends. Such visits have been successful, not least because we have given inquirers details about the services offered by the MOD, including the mechanism for former service personnel to obtain pensions if their health was damaged as a result of their time in service. That no-fault compensation is provided by the war pensions scheme. All former members of Her Majesty's forces who demonstrate that their ill health is attributable to service will benefit from such a compensation scheme.

I am aware that many former Porton Down volunteers are concerned about the way in which the trials were conducted. This point was raised by both my hon. Friend the Member for Bedford and the hon. Member for Aldershot. The key theme that I took from both of their speeches is that it comes down to the question of whether consent was obtained: it was obtained—in accordance with the practice and procedures of the time, which was well over 50 years ago.

Mr. Key: I can confirm what the Minister says. I have spoken to the man who was in the gas chamber with Ronald Maddison who says he was aware of exactly what he was doing and that it had nothing to do with the common cold. He signed the consent form and went through with the trial.

Mr. Caplin: There are views that that is the case, but I do not want to comment specifically on the Maddison case for reasons of which the House is aware. I will come on to why we are taking the action that we are in a moment.

Volunteers were drawn principally from the three services, and were recruited through notices posted at military establishments. It appears, from surviving records, that in the 1950s and 1960s, volunteer intakes were requested from individual arms of the services at specific times of the year. The precise mechanisms for recruiting volunteers were arranged by the services themselves, not by Porton Down.

I know, from the letters that I have received from hon. Members on both sides of the House, and from former volunteers, that many veterans recall volunteering to participate in studies at Porton Down to find a cure for the common cold. However, the chemical and biological defence organisation at Porton Down never carried out work on the common cold. As the House is aware, that research was undertaken at a Medical Research Council unit at Harnham Down, on the other side of Salisbury. Extensive independent searches by Wiltshire police during the five years of Operation Antler did not locate any documentary evidence to indicate that Porton Down recruited individuals on the pretext of common cold research. In fact, during the recent inquest into Ronald Maddison's death, the Wiltshire and Swindon coroner stated that there was

"no documented evidence of any campaign orchestrated by Porton Down, or directed by them, as to the recruitment of volunteers for common cold research."

Mr. Atkinson: Will the Minister give way?

Mr. Caplin: I hope that the hon. Gentleman will forgive me for not doing so. I need to say a number of things and I do not have much time in which to say them.

The investigations by the police located documentary evidence that demonstrated that, from the 1940s to the 1960s, thousands of volunteers from the RAF and the Army participated in trials run by the Medical Research Council to assess the effectiveness of various flu vaccines.

I referred to the inquest about the late Ronald Maddison. It concluded on 15 November 2004. On 21 December, I announced to the House that I had written to the Maddison family apologising for the fact that Ministry of Supply employees at the then Chemical Defence Experimental Establishment at Porton Down proceeded with a test involving Ronald George Maddison on 6 May 1953, which led to his unfortunate death, and that the test was undertaken despite the fact that an identical test two days earlier had resulted in an adverse blood test result in one servicemen.

In my statement, I also said that the Ministry of Defence intends to challenge the inquest verdict of unlawful killing by way of judicial review. I confirm that, earlier this month, we applied to the administrative court for permission to proceed with a claim to judicially review the verdict of unlawful killing relating to the death of Ronald Maddison. The grounds of the application are the coroner's legal rulings and his summing up and directions to the jury. I also confirm that copies of the relevant paperwork have been sent to the interested parties.

I have noted the comments made by my hon. Friend the Member for Bedford and others about a public inquiry. I do not believe that such an inquiry would answer their specific concerns. I share that point of view with the hon. Member for Aldershot. Wiltshire police has spent five years conducting an independent and comprehensive inquiry into the conduct of the service volunteer programme, which resulted in a number of cases being put to the Crown Prosecution Service.

On that point, I want to reflect on what the Father of the House, my hon. Friend the Member for Linlithgow, said about prosecutions. That is an issue that I will reflect on following the debate. I do not believe that a public inquiry could address the key question of whether there are any unusual patterns of mortality or cancer incidence among former volunteers: only epidemiology can do that. For that reason, we are funding the study that has been referred to, conducted under the auspices of the Medical Research Council. The study will track mortality and cancer incidences among former volunteers and a matched control group. It will conclude in 2006. As I said in the January debate, we will publish the results of that research because there will still be a Labour Government at that time.

My hon. Friend the Member for Bedford also asked whether we will include mental health in the study. The Medical Research Council advised before the study commenced that it would not be possible to study any other health issues, as those are not recorded centrally in the way that cancer incidence is recorded by the NHS cancer registry.

Another issue concerning former volunteers is that of compensation. Some veterans are under the misapprehension that the United States and Canada have issued apologies and paid compensation to participants in their test programmes. What those countries have done is acknowledge the service of test participants and express appreciation to their veterans. We have done that for our servicemen and women for many years and it is right that we should. It is correct that Canada is making one-off payments to those who participated in chemical warfare trials. That payment is in recognition of their service and not on the basis of ill health. I believe that our policy of paying compensation in cases where injury or ill health can be shown to be attributable to service or the Ministry of Defence's negligence is the right approach.

To illustrate the debt that we owe to the many thousands of servicemen and women who have participated in the volunteer programme through the years, imagine what would have happened if, during the first Gulf war, Saddam Hussein had used the large amounts of nerve agents that his armed forces possessed. It is probable that many people would have died, but we believe that relatively few of them would have been British. That would not have been a result of good fortune but a direct result of the contribution to the defence research programme made by service volunteers for a number of years.

My hon. Friend the Member for Bedford also asked me about the Nuremberg code and its application to scientists in the 1950s. During the inquest, the coroner accepted that the Nuremberg code had not been incorporated into domestic or international law and an expert witness gave evidence that scientists in the UK in the 1950s did not believe that the code was aimed at regulating their conduct, as it was felt that they already complied with the principles fully.

Mr. Deputy Speaker: Order. We must move on to the next debate.

Fire Services (West Midlands)

3.30 pm

Mr. Jim Cunningham (Coventry, South) (Lab): I thank Mr. Speaker for granting me this debate. We take the issue of fire services very seriously in the west midlands. My hon. Friend the Member for Coventry, North-West (Mr. Robinson) will speak for about 10 minutes, and my hon. Friend the Member for Coventry, North-East (Mr. Ainsworth) also supports us. It is recognised that he cannot take part in such debates because he is a deputy Chief Whip, but that is not generally understood outside the House, which is why I wanted to make that point.

There is considerable concern in Coventry about the West Midlands fire and civil defence authority's proposals, known as integrated risk management policy. Our town looks as if it will bear the biggest brunt in the reductions in the levels of service provided. I notice that other west midlands MPs are present, and they are probably in a better position to say how the changes will affect their authorities. However, I hope that they will support the Coventry MPs in highlighting some of our concerns.

The issue is complicated, and in half an hour we cannot cover all that we would want to—we could spend two or three hours debating the subject. We want to highlight some of our concerns, and I am sure that my hon. Friend the Member for Coventry, North-West will pick up on some of the points that I make. At the end of the day, it is a team effort from the MPs representing the three Coventry constituencies.

The proposals would reduce the number of fire engines available between 12 am and 8 am, and we have considerable concerns about how cover would be provided or supplemented if there were major incidents in both Coventry and other parts of the west midlands. My hon. Friends and I have had discussions with the fire authority, and although the proposals look good on paper, they are only theory and have not been tried out. I, for one, would like to see that happen. The theory looks okay but, as everybody knows, it is in practice when the difficulties start.

We also had discussions with the firefighters. They are the people on the ground who will have to deliver the service and who really know what effects the proposals will have. We took on board some of their arguments and raised their concerns with the fire authority. As my colleagues and other west midlands MPs know, we have also had discussions as a west midlands group of MPs. That group met not only the trade unions, but the authority and its chairman. I am also aware that Coventry city council will debate the issue tonight and, as I understand it, may reach a conclusion about what it thinks about the proposals. A lot of things are happening as a result of our concerns.

It is also only fair to point out—this surprised me and, I am sure, some of my colleagues—that there had not been any real discussion between the authority and trade unions. My experience tells me that if someone is going to effect change, they have to involve people from the workplace—in this case, the firefighters themselves. Enlightened management often find that people from the shop floor can make a tremendous contribution, pointing out where proposals are workable or not.

The West Midlands fire service is probably one of the most efficient in the country. It is not our intention to knock it in any way. However, it is our intention to represent the concerns and fears of the people of Coventry about the proposals. I hope that when the Minister replies he will bear that in mind. However, we also want assurances that the remaining appliances will not increase the risk to occupants of properties and to businesses and their employees—and, equally importantly, to firefighters and the public—as a result of any implementation of the proposals. We also want to know what effect the removal of the pumps and fire engines will have on standards.

There is also the problem of community fire safety. That needs to be evaluated before any appliances are removed, particularly in high-risk areas. At present, throughout the west midlands, 62 appliances are regularly risk-assessed and tested. That has been done by chief fire officers since 1947 and Her Majesty's inspector, who carried out an evaluation as recently as 1992. The 1985 national standards of fire cover provided higher levels of service than those in the authority's integrated risk management policy plan. We found that interesting because standards seem to have changed.

We are also concerned about the level of service provided in inner-city areas. Brownfield sites have now been used in inner cities, often for high-rise flats. Some cities have had successful millennium bids, such as the millennium proposals in Coventry, which have created not only more flats in Coventry city centre, but a higher density of them. That is one of the things that happens with brownfield sites. We are certainly concerned about those areas.

When we send firefighters into such areas, given the changing circumstances, we have to take on the issues concerning their safety, although nobody wants to be too emotional about that. In fact, the Office of the Deputy Prime Minister stated that fire deaths rose by 6.5 per cent. in the first three months of 2004 compared with the same period in 2003. Fire-related injuries rose by 4 per cent. over the same period and fires increased by about 9 per cent. So the number of fires is increasing, which means that risk is increasing.

The west midlands operational procedure note 23 states that the predetermined attendance for fires in high-rise buildings is four appliances and one pump. Under the current proposals, that would leave Coventry covered by one fire appliance between 12 am and 8 am. There are some serious concerns about how the proposals will affect us. However, I would have thought that other MPs from around the west midlands would listen closely to what I am saying and apply the same tests to the level of services that they might get as a result of the proposals.

I know that the Minister's powers are limited, but I hope that he can reassure us. The situation is serious, and the proposals are being taken seriously. Overall, we need to consider the fact that it would take well over 18 minutes for a vehicle to travel in the night from Hunts Hall, on the outskirts of Birmingham, to Coventry—a lot more than the time that is proposed.

Mr. Stephen McCabe (Birmingham, Hall Green) (Lab): Does my hon. Friend agree that the essential problem is that the proposals are a step into the

unknown? I would feel much more comfortable if I could be sure that the rationale for such decisions will be made clear by the West Midlands fire authority, and that they will be subject to regular review and independent scrutiny so that we can find out whether our fears are justified. We need to know whether there are unintended consequences. Would not it be step forward to have a clear rationale, and decisions that are subject to review and independent scrutiny, so that we can see the total picture?

Mr. Cunningham: I could not agree more. I do not know whether it would be possible, but, in the light of what my hon. Friend said, there should be a trial run or pilot scheme so that we get away from theory and discover in practice what can and cannot be applied, and how we might change and improve things. He makes an important point.

Mr. Andrew Mitchell (Sutton Coldfield) (Con): The hon. Gentleman may know that people in Sutton Coldfield are also extremely concerned about the issue. At present, there is one fire appliance per 43,000 people in the west midlands. If 15 appliances are cut between midnight and 8 o'clock in the morning, there will be one appliance per 57,000 people. Those statistics are from the Fire Brigades Union. I understand that there is one appliance per 26,000 people in Tyne and Wear. Does he agree that it is the concern in our constituencies that has brought the proposals under such close scrutiny?

Mr. Cunningham: I could not agree more. In fact, the hon. Gentleman explained the situation much better than I could have. When one considers factors from different authorities, which seem to be doing different things, it becomes obvious that an overall standard has not been applied.

I said earlier that I am amazed that the fire authority has not conducted a proper dialogue with its firefighters. Other fire authorities have done exactly that and have reached some form of agreement.

3.42 pm

Mr. Geoffrey Robinson (Coventry, North-West) (Lab): I, too, am grateful to Mr. Speaker for granting this debate and to my hon. Friend the Member for Coventry, South (Mr. Cunningham) for securing it.

One thing that has been stressed in all the discussions with the Fire Brigades Union and the management association is that this proposal has nothing to do with the overall discussions. Negotiations are still taking place between management and firemen on delivering the productivity deals that were inherent in the original settlement of the dispute a couple of years ago, in which my right hon. Friend the Deputy Prime Minister was so instrumental. Those discussions are ongoing, but we are told that the issue of the night shift from midnight until 8 o'clock in the morning is separate from the productivity negotiations, which inevitably will involve changes to shift patterns and working practices, and delivery of the efficiency savings that were at the basis of the arrangement reached between the Government, the Fire Brigades Union and the Local Government Association.

As my hon. Friend the Member for Coventry, South said, and as other hon. Members indicated in interventions, it is difficult to understand the motivation for interim changes to night cover. It is said that those are purely issues of security, but it is hard to reconcile that with the fact that security performance is extremely good, integrated risk management is an unproven concept, and any change that is made must be done with great care and on substantial evidence. Indeed, the change should be divorced from questions of efficiency, productivity, shift patterns, payment systems and so on, given that it deals with life and death. However, it just does not seem to be correct—it does not ring true—that the two are entirely divorced. It is clear that cost savings are at the root of the proposals for the change in night coverage from 12 till 8 am. If there were not savings, the changes would not have been proposed. Let us not be too coy about this: at the root are cost savings, which may be right or wrong.

The problem, to which my hon. Friend the Member for Coventry, South alluded, is that it is, for various reasons, difficult to have a pilot scheme in, for example, a hospital. It might even get in the way of hospital activities that do not involve acute emergency operations. I accept that a pilot scheme might make sense in some hospitals—I argued, for example, for the change to foundation hospitals.

A pilot scheme might make sense if we could conduct it without risking life and limb, and without putting at risk things that none of us would want to put at risk. If we try to run a pilot scheme that involves changes to night security and puts people at risk, we run the risk of proving that the pilot scheme was wrong and that people have died unnecessarily. I do not believe that anyone in the House, and in particular in this Chamber, would remotely want to be put in that position, so the fundamental question is: how well proven is it that the proposed changes will not endanger life? I do not know, but I would always err on the side of caution. We are assured that it has nothing to do with cost, but we should not embark on a course that drastically reduces night cover without hard evidence and the assurance that such a reduction will not unnecessarily endanger life. That is critical.

Other hon. Members who represent west midlands constituencies are also in the Chamber today, and it makes sense to cover the whole area, but I shall be slightly partisan and restrictive for a moment. I believe that Coventry is particularly concerned about being unnecessarily exposed when it comes to night coverage. I know that illustrations are not appropriate, but the west midlands is largely ham-bone shaped, and Coventry is at the tail end. There is gap between Coventry and the nearest stations—Bickenhill, Sheldon and Solihull—of about 10 miles, which is 15 minutes, and it is clear that Coventry is exposed. That is why we are pleased to voice our concerns in a debate on the wider context of the west midlands.

There was an arson attack last year on Britannia Tyres in my constituency in the early hours of the morning, at about 2 am. It took 18 minutes for an emergency fire engine to get from the nearest centre, which I believe is Solihull. It usually takes only 10 minutes to cover that distance, but such a concept is not easily fixed in stone and cannot be relied on absolutely. There were no deaths, but great financial damage and insurance costs were involved. Nevertheless, lives could have been lost, as they are more often than not. We know that 37 per cent. of fatal

[Mr. Geoffrey Robinson]

incidents occur in this period. That is the situation, but it will worsen if we implement the reductions that will hit Coventry proportionately more than the rest of the west midlands.

I did not intend to argue specifically for Coventry, but for the whole of the west midlands. It is a cop-out for hon. Members on both sides of the Chamber to claim that this is purely a question of safety. At the heart of the matter are the overall arrangements for making cost savings and efficiency gains, to which they have committed themselves. It is putting the cart before the horse to change one part of that.

In many ways, night coverage is the worst, most exposed and most dangerous part of the package, and is separate from the rest of the package that still has to be negotiated. However, if that is what both sides want, my unequivocal view is that we cannot agree to it as parliamentarians until the overall situation is settled, because there are no proven systems behind it and no proof that we are not embarking on a course that could put lives in danger. Perhaps savings can be found elsewhere, perhaps they are not necessary, or perhaps the overall pattern of new shifts and costs can be otherwise arranged, but to prearrange things that affect the most sensitive and delicate of all the things that affect us—that is, human life—is dangerous and quite wrong. Surely what we need to do is to get the package right and, as part of that, ensure that night safety is properly taken care of.

3.50 pm

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope): I congratulate my hon. Friend the Member for Coventry, South (Mr. Cunningham), accompanied by my hon. Friends the Members for Coventry, North-West (Mr. Robinson) and for Coventry, North-East (Mr. Ainsworth), on securing this debate. We also heard contributions from my hon. Friend the Member for Birmingham, Hall Green (Mr. McCabe) and the hon. Member for Sutton Coldfield (Mr. Mitchell). Clearly the issue is of concern, and it is right that Members of Parliament have this opportunity to raise their concerns and champion the cause of their constituencies. My hon. Friend the Member for Coventry, North-West should not apologise for standing up on behalf of Coventry—it is his job to do that, and rightly so.

The overriding objective of the fire and rescue service is to save lives. Thanks to the Government's partnership with fire and rescue authorities, as well as with other key stakeholders, the fire and rescue service is changing for the better—better for the communities that it serves and for those who work in it.

Hon. Members will know that the Fire and Rescue Services Act 2004 came into force on 1 October 2004 and is the first substantive piece of fire legislation in the past 50 years. It puts the prevention of fires at the heart of the Government's agenda for improving the fire and rescue service, an important point made by my hon. Friend the Member for Coventry, South. It does so by, for example, creating a new duty to promote fire safety, as well as by providing flexibility for fire and rescue authorities to work with others in the community.

The 2004 Act also gives statutory force to a fire and rescue national framework, which sets out the Government's priorities and objectives for the fire and rescue services and what fire and rescue authorities should do to achieve them. The national framework also sets out the support that the Government will provide. The framework provides strategic direction from central Government, while ensuring that authorities continue to make local decisions. The 2005–06 fire and rescue national framework was published on 6 December 2004.

Integrated risk management plans have been at the core of my hon. Friends' contributions. The idea of prevention and local decision making is also at the heart of the move away from inflexible national standards towards locally determined integrated risk management plans. Since April 2003, the introduction of integrated risk management plans has allowed fire and rescue authorities to target resources to address local risk, as well as to make effective use of their resources in preventing fires. The introduction of integrated risk management plans has given the senior fire and rescue service managers what they have long sought: the flexibility to make decisions about fire cover based on existing and potential risks to their communities, within a strategic framework set by locally elected members.

Integrated risk management plans, including those belonging to fire and rescue authorities in the west midlands, are about reflecting local needs, targeting resources at locally identified risks in a cost-effective manner, and identifying the ways in which a fire and rescue authority can work in partnership with other authorities and agencies to deliver improved public safety. Crucially, that must be a process of consultation. Documents must be published and everyone—Members of Parliament, members of the public, employees and others—must have the opportunity to contribute to the proposals that fire and rescue authorities publish. I understand that the West Midlands fire and civil defence authority completed its consultation on a year 2 integrated risk management action plan on 1 February this year.

I sincerely hope that the views and concerns expressed today have been articulated in that consultation process. I am sure that that has happened. On the basis of the documents put out for consultation, which has now been completed, those issues and concerns will have been heard loud and clear by the West Midlands fire service.

One issue raised was the involvement of trade unions in the consultation process. It is, of course, an important responsibility of the fire and rescue authorities to consult publicly on their integrated risk management plans. It is important that all the trade unions involved, including the FBU and many others, have the opportunity to engage in that consultation. I sincerely hope that the very important opportunity for those organisations to make their views known was taken up.

Mr. Jim Cunningham: The Minister touches on something to which I referred. As I understand it, the trade unions have not been meaningfully involved in the process, whether it is called consultation or seeking their views. Their involvement was way down the scale, and not what he implies.

Phil Hope: I understand my hon. Friend's concern, but I emphasise that it is a statutory duty for the fire and

rescue authority to publish documents, consult, receive consultation responses and make judgments on the basis of the outcome of that consultation. The document on the outcomes of the consultation process that ended on 1 February will be published in April 2005. It will include any approved changes resulting from the consultation. It is important that individuals and organisations had a good opportunity to make their views heard. My hon. Friend's views will be recorded in the parliamentary record for others to see

My hon. Friend the Member for Coventry, North-West is concerned about how risk assessment operates. Risk assessment is not an unproven science. The fire and rescue authorities have tremendous experience in undertaking it. I understand that the IRMP that we are debating is based on six years of incident data and factors. That is the depth of the evidence for the West Midlands fire service, but there will be other IRMPs in other authorities. The risk assessments are taken extraordinarily seriously.

My hon. Friend mentioned an incident in which it took 18 minutes for an appliance to arrive. I understand that there is an investigation into that.

Mr. Geoffrey Robinson: That just shows how careful we must be about using figures gathered over six years. I am sure that they are useful, calculated honestly and with integrity, but whereas they are based on a 15-minute maximum, or 10 minutes in some cases, in the example that I gave, it took 18 minutes for the appliance to arrive. That is the difference between life and death.

Phil Hope: My hon. Friend is right, which is why it is important to understand why that might happen. If six years' worth of data are available, and one incident from that data is anomalous, it is important to ask what happened to cause it. That is a combination of longitudinal analysis of evidence and the specific analysis of an incident, which provides accurate risk assessments when such judgments are being made. He is right to say that we need to learn from such incidents.

I want to mention one other item. The West Midlands fire and rescue service has a very good record on community fire safety, and has led the way in tackling many things such as arson and fire safety, in running citizenship courses for young people—that can be difficult—in dealing with people who speak different languages and in engaging with different communities. The West Midlands fire and rescue service has a good track record, and notwithstanding today's debate, I hope that hon. Members will take away the message that we have a successful fire and rescue service, of which we can be proud.

Outdoor Pursuits Industry

4 pm

Lembit Öpik (Montgomeryshire) (LD): Have you ever been in love, Mr. Deputy Speaker? If so, it is probable that you have experienced all the emotions associated with uncertainty, excitement, attraction and fear of the unknown, because love is a risk and a commitment to emotions, which may backfire in your face. That risk is at the heart of some of the greatest literary, political and cultural achievements of the human race. It is an example of what I am here to discuss: the politics of risk, and why I believe that an obsessive approach to health and safety, coupled with an increasingly litigious culture is contributing to the problems that face our society.

None of us can pretend that either life, or indeed political work, is devoid of risk, yet our political climate seeks to eliminate risk—as if that were even possible. In trying to do so, we are creating a population metaphorically wrapped in cotton wool. It causes problems far greater than a sensible and measured approach to risk ever would. It means that bored children who are denied access to safe and exciting school trips and sports activities seek their kicks elsewhere, and it means that Britain's second largest teaching union, the National Association of Schoolmasters Union of Women Teachers, advises its members not to participate in school trips for fear of litigation. It means also that the outdoor and recreation industries are hampered by rising insurance premiums, choking under unnecessary bureaucracy and struggling with serious volunteer shortages.

The great scientist Professor Heinz Wolff believes that humans have a biological need for risk. I shall return to that point, but trying to eliminate risk can therefore cause harm in its own right. Indeed, juvenile crime, drug use and obesity are probably in part the result of such a futile policy. By contrast, I suggest to the Government that if we seek to manage risk instead of eliminate it, we can truly begin to address those problems sensibly.

I appreciate the Government's new approach to school trips. It is good that they intend to supply to teachers sensible guidelines on school trip safety, negotiate with local authorities to cut red tape, and launch a manifesto in the new school year for education outside the classroom. A champion to oversee their outdoor education manifesto, just as Marc Jaffrey is champion of their music in schools programme, would do wonders for that policy, so my first request to the Minister is for the appointment of such a champion. Secondly, 50 per cent. of school children have parents who cannot afford to fund their school trips and outdoor education, and only 10 per cent. of them get Government funding support. Will the Minister consider the financial shortfall experienced by the other 40 per cent.?

There is a wider problem: by focusing purely on school trips, the Government are treating the symptom not the cause of the problem. The decline in school trips is the tip of a far larger iceberg. Simply upping the required quantity and frequency of school trips without addressing the culture of unreasonable litigation will merely result in more court cases and more confusion. Guidelines for teachers are useful, but on their own

[Lembit Öpik]

ineffective, because the legal profession will just keep fishing for litigation opportunities. Without meaning to be rude to the law, if the law allows it, lawyers will follow the money. We need a cultural change—a shift back towards individual freedom and individual responsibility. Negligence must be held to account, but responsible organisers should not be punished for the mistakes of their clients.

Consider the following case in which a scout group had organised a trip to visit the popular show cave at Gaping Gill. One of the scouts noticed a small cave-opening across a stream, and asked the scout leader for permission to explore it. The leader refused permission, pointing out that caves could be dangerous. The scout moved to where his father stood and repeated the request. His father, who had heard the leader's ruling, gave permission and accompanied the boy into the cave. Inside, the scout slipped and fell 300 ft tragically to his death down a chimney leading into the main chamber of Gaping Gill. Some two years later, once the tragic boy's elder brother had reached 18 and left the group with his chief scout award, the father successfully sued the Scout Association on the basis that the scout leader should have prevented the father from entering the cave with his son, and in failing to do so he breached his duty of care. That is just one example among many of what I consider to be a litigious society gone mad. It was a tragic death, but the scout leader should not have been held responsible for it.

The important thing is the widespread public perception that a compensation culture exists. That perception shapes behaviour in several ways: more spurious legal claims; higher insurance premiums to pay for the larger number of claims; more illegitimate claims settled out of court, not fought and defeated; and more people deterred from organising outdoor activities and adventure activities for fear of being sued. It affects outdoor pursuit centres big time, and I am grateful to Pete Jones of the Red Ridge centre in my constituency for his public and vocal support of our campaign. His excellently run centre had to stop pony trekking due to crushing insurance premiums—another example of many opportunities lost to his business and to the public.

These are powerful trends, and new Government guidelines are not enough to stop them. That is why we need a good legal definition of reasonable risk, so my second question is: will the Government clarify that definition in order to address the compensation culture problem? The definition needs to recognise that accidents can happen without there being contributory negligence by instructors.

Hywel Williams (Caernarfon) (PC): Would the hon. Gentleman agree that it is paradoxical that responsible organisers are penalised in that way, including those in my constituency, while at the same time, also in my constituency, we have the Dorothea quarry pool where 21 people have drowned, yet nobody seems to be able to take responsibility for the health and safety of divers there?

Lembit Öpik: The hon. Gentleman is correct. The system does not allow for a proper balance between risk and safety measures. As a result, there are ridiculous regulations for many activities and, possibly, a degree of under-regulation for others. We must find a way to prevent the cost of defending against spurious claims from always resting on the defendant. Volunteers in all their guises, from youth work volunteers to landowners who offer their facilities, must have protection from litigation. We need to take litigation out of our culture.

At the heart of the issue is our approach to risk. I return to the difference between risk elimination and risk management. By not managing risk appropriately, we lose the social, economic and personal positives that reasonable risk-taking can bring. By treating risk as a kind of social asbestos, to be eliminated at all costs, we forget that an element of risk is a good component of all our lives—and outdoor activities are a perfect example of positive risk. In a report published in April 2004, the National Foundation for Education Research found that outdoor activity programmes improved young people's confidence, self-esteem, inter-personal and social skills, behaviour, self-image and fitness. Further, those positive effects were shown to be long lasting. Outdoor activities, therefore, improve subsequent behaviour. Other countries know that. Peadar Cremin, principal of Mary Immaculate college in Limerick, saw that at first hand in Denmark. At one pre-school play group area for children aged from six months to six years, the kids were playing outside on a sort of mini mountain, running up and down in a remarkable fashion. No adult was outside watching over them. Peadar was told that the Danish recognise the benefit of risk as a teaching tool. The Danish believe that that is a good way to help to generate a sense of personal responsibility that will last a lifetime, and I agree. However, in spite of the clear benefits of healthy risk taking, as I said before, the NASUWT, Britain's second-largest teaching union, advises its members against taking students on trips.

I have suffered at the hands of risk. In 1998, I fell 30 m, when my paraglider deflated over a Welsh mountain. I broke my back in 12 places and smashed my ribs, sternum and jaw, and I pay tribute to the NHS and the hospitals in Llanidloes, Shrewsbury and Gobowen hospitals for their life-saving efforts. A local Conservative said after my accident that I was 10 ft short of a by-election. I probably was. Never let it be said that Conservatives do not care. Despite my accident, I absolutely oppose a ban on paragliding. To ban it would deny the right to enjoy the sport, in all probability without the same consequences as mine. Besides, that experience taught me more than I can say. It underlines Professor Heinz Wolff's assertion in a lecture to the all-party group on adventure and recreation in society, of which I am co-Chair, that

"we have a biological need for risk—especially present in young people—but essential to all. If not managed well by society by providing enough legal risk—in schools, sports clubs, the arts and social & family environments—this need for risk will become mismanaged and cause risk-seeking behaviour by individuals—antisocial, criminal or simply unhealthy. A Risk in Time Saves Crime!"

He added:

"Risk prevention for the few means waste creation for all. As resources are finite, society must therefore set priorities based upon which risks are most important. The current attitude of society to many forms of risk is totally irrational, scientifically indefensible, and economically damaging: pre-occupation with safety dissipates a significant amount of national resource."

Rather than spending time and money prohibiting and then policing an activity, why not engage with it proactively and make it safer? By managing risk rather than seeking to eradicate it, we can harness the benefits of adventurous activities.

I welcome Government plans for school trips, but they need to consider the over-regulation of everyday life as a whole. Let us give people back their freedom, accepting that some of it will also mean giving people the right to make a mistake or to have an accident. That is what was promised regarding swimming, where at present in life-guarded pools, four-to-eight-year-olds have to be accompanied by one adult for two children. It means that more kids may drown because they never had the opportunity to learn to swim due to the strictness of those regulations. The Government are thinking the right way; I am asking them to think that way on a wider scale.

Reshaping our attitude to health and safety is to recognise that our world cannot be risk-free. We lose if we sacrifice healthy and beneficial activities for the unattainable goal of absolute safety. It is Professor Wolff's firm view that in the diet of life our Government thinking is causing deficiencies in one vitamin: vitamin R, for risk. Risk, when taken in sensible doses, is the difference between sterile, anodyne and artificial living versus the chance to learn, accomplish, feel alive and even to love. Is the Minister brave enough to give us back our vitamin R?

4.12 pm

Mr. Julian Brazier (Canterbury) (Con): I warmly congratulate the hon. Member for Montgomeryshire (Lembit Öpik) on securing the debate and on his excellent speech. As his co-Chair of the all-party group on adventure and recreation in society, I enjoy working with him.

I want to make two brief points to underpin my hon. Friend's powerful oration—I like to call him my hon. Friend because he is indeed a Friend. First, it is difficult to exaggerate the sheer scale of the impact that the problem of litigation is having on adventure training. Thirty thousand young people would like to join the scouts and an incredible 50,000 want to join the girl guides but cannot do so because of a shortage of volunteers. The last comprehensive survey on the matter by the Central Council of Physical Recreation in late 2003 showed that of the eight factors that act as barriers to volunteering, the blame culture and the fear of litigation is the first.

Secondly, my hon. Friend gave a striking example from the scouts of a tragic death. I cannot stress enough that this is not about perceptions. Whatever statistics may be produced—no doubt the Minister will say that the number of litigation claims is falling in society as a whole—in this area, a string of ridiculous court judgments have completely undermined the confidence of adventure training organisations. I shall give an example involving a much more minor injury, coincidentally again from the scouts, although we could site many from other organisations. The case, brought two and a half years ago, was Joseph Morrison v. The Scout Association. A scout campsite had created a waterslide on a gentle slope by laying a length of heavy-polythene on the ground and covering it with soapy water. We have all done it for our children using hoses. The supervising adults explained that people should not run or dive on the sheet but simply sit on it. They even produced helmets to use when going down the slide.

A youth leader with a party of non-scout children decided to have a go. He selected a helmet without referring to the scout leaders and dived headfirst down the slope. In the process, his face was badly cut because the helmet did not fit. A British judge—Judge Brownlee at Newtownards—held the scout leader liable. It is not just that money was involved; a British court declared negligent a man who had given many years to scouting. He was publicly derided as being negligent. That sort of message, in case after case, is undermining all those organisations that seek to bring adventure training and sport to our children.

My hon. Friend is absolutely right. We need a change in the law. It must become more difficult to bring such negligence cases. The law must recognise inherent risk, perhaps by raising the bar for negligence cases. The alternative is a growth in obesity, a decline in the spirit of adventure and teamwork, and, I am sorry to say, a growth in antisocial behaviour.

4.16 pm

The Minister for Work (Jane Kennedy): This is a timely debate. I am grateful to the hon. Member for Montgomeryshire (Lembit Öpik) for offering me the opportunity not only to try to set the record straight on behalf of the Government, but to counter the idea that the drift in society that he outlined is Government inspired. The hon. Member for Canterbury (Mr. Brazier) has long campaigned on the issue. Last year, he had a private Member's Bill on the promotion of volunteering, in which this subject would have featured. He will be aware that Home Office Ministers were broadly sympathetic to the overall aims and objectives of his Bill.

We very much wish to endorse the valuable contribution that outdoor pursuits make to a healthy society, to the rural economy and to the well-being of people in the United Kingdom. Indeed, in another debate, the hon. Member for Daventry (Mr. Boswell) and I had a friendly discussion about fast bowling and cricketing, another sport that is not without risk. The hon. Member for Montgomeryshire is known for his passion for dangerous pursuits and he described some of the consequences that can result from them. Indeed, I should like to have considered myself a keen horsewoman. There is nothing like the sheer exhilaration of riding flat out on a horse. It is a potentially dangerous occupation, but none the less exhilarating, and one that I would not have missed for the world.

Lembit Öpik: I am encouraged by the direction that the Minister is taking. At heart, I am saying that there is nothing dangerous about horse riding or paragliding: it is the Minister falling off the horse and my crashing that are dangerous. We should not blame the sports or activities for the misdemeanours of the individuals participating in them.

Jane Kennedy: Broadly, I agree with the hon. Gentleman, but the Government believe that people

[Jane Kennedy]

with a genuine claim for compensation in negligence cases should be enabled to enforce their rights. However, we have made it clear—I am pleased to have the opportunity to say so today—that we oppose the development of the so-called compensation culture. I strongly disagree with the attitude that for every mishap someone is at fault, for every injury someone must be to blame, and for every accident someone has to pay. So far, I agree with the hon. Gentleman and other hon. Members. If I am to take issue with him at all, it is over his point that we have a culture of legislation that favours risk avoidance over risk management. I shall say more about that in a moment.

We all agree that outdoor pursuits have tangible benefits for people of all ages. They promote better physical fitness, contribute to a healthier society and, in cases like mine, when I fell from my horse, knock some sense into otherwise senseless heads. They also help to develop confidence, teach the principles of risk awareness, which is not risk aversion, build social skills and set young people in particular on the path to making a valuable contribution to the life of the UK.

I agree with what the hon. Member for Canterbury said about the important opportunity that young boys can get by joining the scouts and young girls by joining the girl guides. My younger son got a huge amount out of the air cadets. That group took him into circumstances that could be dangerous at a young age, but sensible risk management by the organisers enabled him to enjoy that risk, the element of danger and the adventure. They organised it in a way that left him with enormous lessons that he will have with him for the rest of his life.

Mr. Brazier: While I strongly back the hon. Lady's support for all three wonderful cadet organisations, in my constituency, Whitstable sea cadets, which is right next to the beach and is the oldest sea cadet organisation in the country, is no longer able to sail on the sea. As a result of the fear in our culture that it cannot meet the necessary standards, it can sail only on lakes.

Jane Kennedy: It is disappointing to hear stories of that nature because, as the hon. Gentleman described, they limit the opportunities for young people to grow and to develop their self-confidence. In rural economies, outdoor pursuits can form part of the lifeblood of the community by providing valuable sources of employment and revenue. For example, in Wales, in which the hon. Member for Montgomeryshire takes a keen personal interest, activity holidays are worth more than £900 million to the economy. Adventure tourism alone accounts for £133 million each year. Those are the only statistics that I will quote.

As a result of those strong, tangible benefits, the Government are keen to promote risk and adventure in society. The Prime Minister recently said:

"Everything we do in our everyday activity in work or leisure involves an element of risk. Risk is central to the enjoyment of all adventure activities."

We know that the starting point is, for many, school trips. It is important that the concerns about risk and the so-called compensation culture do not destroy those opportunities and the benefits that they produce. Issues have been legitimately raised about the attitude taken by insurance companies towards outdoor pursuits, most notably the case that the hon. Member for Montgomeryshire quoted about pony-trekking facilities in his constituency.

For that reason, I fully endorse the recent Ofsted report, which the hon. Gentleman might have seen, on outdoor education. It concluded:

"outdoor education contributes to students' physical, personal and social development",

and

"the benefits of outdoor pursuits and outdoor education are far too important to forfeit and by far outweigh the risks of an accident occurring".

Those are important comments from important opinion formers, independent of the Government, in the sector. Teachers who lead outdoor pursuits have a key part to play. Some teachers may have been concerned about the consequences for them if things went wrong, but they should be reassured by the report's conclusions that, if they follow recognised safety procedures and guidance, they will have nothing to fear from the law.

My primary interest is health and safety. A fundamental principle of our health and safety framework is that responsibility for health and safety rests with those who own and manage the risks. That is as true for outdoor pursuits as it is for all other aspects of work. We cannot ignore the risk or the requirement to be aware of it and to manage it. However, we must manage it sensibly. In the case of adventure activities, the challenge is to regulate it sensitively so that we continue to allow those involved to be exposed to and to enjoy a level of risk that does not stifle experimentation and development. That is important.

The Health and Safety Commission is responsible for health and safety at work. It believes that a goal-setting approach is much more flexible and promotes innovation. I pointed out to the hon. Member for Daventry that the chairman of the Health and Safety Commission had an article in the *Financial Times* yesterday about that precise issue, which might be of interest to hon. Members. The HSC accepts that risks cannot be eliminated from society without disproportionate cost—if ever—and that risk elimination is undesirable except in extreme cases. It seeks instead to encourage sensible risk management and appropriate controls where required.

By virtue of what they are, outdoor pursuits are often high hazard, and should an accident occur, serious consequences may follow. The key to safety is to manage the risks appropriately. An important part of that process for adventure activities is the work of the various national governing bodies. Those organisations, many of them voluntary and with limited resources, have built up a firm base of expertise in risk management and have made a significant contribution to the safety of outdoor pursuits and to standards at both national and international level. I have wanted to get that on the record for some time, and I am grateful for the opportunity to do so.

As I said, I do not necessarily accept that we have a culture of legislation or that regulations favour risk avoidance over risk management—certainly not in the case of health and safety at work regulations. We have a culture of risk avoidance on the rules that people use to implement the goals set in health and safety regulations. Bill Callaghan, who chairs the HSC, hit out in his interview yesterday at just that issue when he attacked the heavy-handed rules covering paddling pools—a point made by the hon. Member for Montgomeryshire—gravestones, games of conkers, which we heard nonsense stories about, and even parish walks.

We need a sense of proportion in assessing hazards and an end to over-zealous red tape. The hon. Gentleman's example of the ratios of adults to children in swimming pools is one such case. There is no specific law or regulation relating to pool safety. The HSC certainly does not stipulate adult to child ratios or how many children under a given age one adult can supervise in a pool.

Lembit Öpik: The dialogue that the Minister is embarking on is exactly the dialogue that the hon. Member for Canterbury (Mr. Brazier) and I are seeking to raise in the political agenda. Is she willing to meet us to discuss specifically the kind of things that we think could make the Government proactive in managing risks? I am not blaming them, but they do have an opportunity to address the problem in that way. From what she says, I am optimistic that we may have common cause.

Jane Kennedy: I would be happy to engage in that. Indeed, we could discuss the legal definition of risk, which the hon. Gentleman mentioned. It is, as he appreciates, a complex issue. There is no statutory definition, but there is much common law. He and the hon. Member for Canterbury are at much greater liberty than I am to comment on decisions that might be taken in courts, but there is common and case law consideration of what reasonable measures need to be taken to reduce risk.

On the suggestion that we might appoint a champion of our outdoor pursuits manifesto, what I have said already shows the breadth of interest across Government on the issue, not least in the Department for Education and Skills. This is not a decision that is mine to make alone, but I will consider it further and discuss it with my colleagues.

The debate has highlighted the significance of risk as an issue of public interest, but unfortunately that discussion is often polarised. At one extreme, there are those who appear to take an excessively risk-averse approach and who want a risk-free society. I regard them as bonkers, because it happily rhymes with conkers, which they want to ban. At the other extreme, there are those who dismiss health and safety out of hand as being an unnecessary infringement of their freedom of action—one might categorise them as critics of the so-called nanny state.

The Government and the HSC recognise that there must be middle ground, and we must work to discover and uncover it. I fully agree with the comments made at the launch of the all-party group on adventure and recreation in society, when it was said that

"risk cannot be eliminated, but it can be managed."

The HSC's strategic framework takes the middle ground. Our goal is to have not a risk-free society, but one in which risk is properly appreciated, understood and managed.

Question put and agreed to.

Adjourned accordingly at half-past Four o'clock.

Westminster Hall

Wednesday 23 February 2005

[MR. FRANK COOK *in the Chair*]

House of Lords Reform

Motion made, and Question proposed, That the sitting be now adjourned.—*[Mr. Ainger.]*

9.30 am

Mr. Deputy Speaker (Mr. Frank Cook): I remind the House of its rule that debates on the Adjournment should not relate directly to proposed legislation. A Bill about the second Chamber of Parliament has been published and is scheduled for debate, possibly in the near future. I invite hon. Members—I shall insist if necessary—not to focus on that Bill in discussing House of Lords reform. More general references to reform proposals, from whatever source, will be in order.

The Chair has received notification of five right hon. and hon. Members who will seek to catch my eye, and three Front-Bench spokespeople will speak. I therefore appeal to everyone, including the Member introducing the debate, to bear those points in mind when making their contributions and accepting or responding to interventions.

9.31 am

Mr. Robin Cook (Livingston) (Lab): I am grateful to Mr. Speaker for selecting this topic for debate today. It could not be more timely, because on Monday several of us, including many who are currently in this Chamber, presented a combined report on the way forward for reform of the House of Lords. Our package has attached to it a draft Bill; I am mindful of your comments, Mr. Deputy Speaker. It is fair to say on behalf of all of us who presented the Bill that we do not have a lively expectation that it will be passed in this Parliament, but we did it as a contribution to the debate, and it is in that spirit that I shall proceed with my remarks.

Before going any further, let me say that we very much appreciate the financial sponsorship of the Rowntree Trust, which made it possible for us to produce both the report and the Bill. We also acknowledge the active support of the Constitution Unit, particularly the work of Dr. Russell, who turned our imprecise ideas into the lucid prose in the report.

It is a cross-party report, and I am pleased that hon. Members from all parties who support it are present. Perhaps my hon. Friend the Minister will forgive me, however, if I begin with a shamelessly partisan observation. At the last general election, he and I stood on a manifesto that promised the nation a more representative and democratic House of Lords and the removal of the remaining hereditary peers. He will be as aware as I am that the remainder of this Parliament can be measured in weeks and that we have only a short time in which to fulfil that manifesto obligation. I hope that he will find the report a helpful way of covering the final furlong of the progress that we promised. The package would deliver both objectives, starting with the removal of the remaining hereditary peers.

We are now well into the 21st century. It is possible for the Americans to put a man on the moon and to get him back again; it is possible for us to put Beagle 2 on Mars, even if we cannot get it back again. It is extraordinary that in this era we still have sitting in either of our Chambers of Parliament people who are there because they come from the political class of hereditary peers. Some obtained their title and privilege as a result of services provided by their male ancestors in the middle ages; a few did so because of services of a different kind that their female ancestors provided during the Restoration. We know of only one other country in the world in which hereditary chieftains still have a guaranteed place in Parliament—Lesotho. It is time that we took Britain out of that slightly embarrassing bracket. Everyone now agrees that we should break the link between heredity and the House of Lords. One change that has happened during my period in Parliament is that there is no longer any substantial body of opinion in any of the parties in Parliament that defends the hereditary principle for the House of Lords. The perplexing thing is that although everyone agrees that the hereditary peers should go, apparently no one knows quite how to achieve it.

At Prime Minister's questions a couple of weeks ago, my right hon. Friend the Prime Minister maintained that there was "no consensus" on the way forward for reform of the House of Lords. I hope that the report will help to meet that argument and show that there is such a consensus. It is signed by senior figures from all three parties, including four former Cabinet Ministers from Governments of different colours and two former leaders of the major parties—the party in Government and the party of the official Opposition. The key to the consensus that it expresses is our belief that the majority of Members in a reformed second Chamber should be directly elected. As I am conscious of the distinguished presence with us in this Chamber, I stress the word "directly". Some have argued that it might be possible to take the votes for a general election and to convert them indirectly into the composition of the second Chamber. I fully understand the good faith in which that is put forward as a compromise proposal, but all of us who signed this package are firmly of the view that if we want to have a democratic second Chamber, the people of Britain must have a vote for it—their votes for the Commons cannot be taken and translated as if they had been voting for the second Chamber at the same time.

Mr. Andrew Love (Edmonton) (Lab/Co-op): May I act as devil's advocate for a second? What does my right hon. Friend think of the idea that the merit of the proposal that he mentions is that it would achieve the consensus that has eluded us thus far?

Mr. Cook: I understand that that is the spirit in which the proposal is presented and that it has that objective, but I am not sure that it quite commands the consensus that was its objective. Indeed, in putting forward our proposal, we agreed that for us—I should like to think that we represent a significant slice of cross-party opinion—any realistic consensus must be built on direct elections, partly because any consensus must carry the public with it. We know from all the opinion poll surveys and investigations that 80 to 90 per cent. of the

[Mr. Cook]

public want a vote for the second reformed Chamber. Our proposal also locates what I once described as the "centre of gravity" in the Commons.

I will probably carry to my grave the memory of 4 February 2003, when the House of Commons voted on seven different options. As a passionate parliamentarian who will stoutly defend the Commons in all quarters, I must admit that it did not distinguish itself on that night. None of those seven options commanded a majority, but it is clear from an examination of the Division lists that a clear majority of Members of the House of Commons—336 in total—voted for a 60 per cent. elected House, an 80 per cent. elected House or a wholly elected House.

Andy Burnham (Leigh) (Lab): I was one of those who voted for an 80 per cent. elected House. My right hon. Friend may—to return to the comments of my hon. Friend the Member for Edmonton (Mr. Love)—underestimate the consensus on the indirect election model, which, among other things, enshrines and preserves the primacy of the House of Commons. That is a weakness in the report's proposals. Can he be sure that a proportionally elected Lords would not threaten Members of the Commons, who are more personally and individually accountable to their electorate?

Mr. Cook: I concur with my hon. Friend on the importance of preserving the primacy of the House of Commons. I have been in this place for more than 30 years, and I am passionately attached to it. I have no intention of doing anything to undermine its supremacy or of ending my days in the House of Lords—although given my conduct in recent years I have small chance of doing so.

I put it to my hon. Friend the Member for Leigh (Andy Burnham) that whatever we do to entrench the supremacy of the Commons, we should not do it by denying legitimacy to the second Chamber. There are many other ways in which one can ensure that the lower House is the superior one—indeed, Britain has done so all around the world. In our retreat from empire, we covered the face of the globe with bicameral Parliaments where we ensured in the constitution that the lower House was superior. It is curious that now that we have retreated to Britain we have forgotten how to do what we did in so many other countries. I am confident that as long as the Government are formed from Members of the lower House and can be dismissed by them, the lower House will, rightly, remain the superior body.

I agree with my hon. Friend on one point. If the two Chambers are to be distinct and different, it is important that the second Chamber should not be elected on the same basis as the Commons. That is why we propose that the second Chamber should be elected on a regional basis using a form of proportional representation. We are not dogmatic about what that should be, although on balance we prefer the single transferable vote system because it would avoid the difficulty of party lists, which could quickly take us back to the same problem of patronage as exists under the appointments system. I am confident that such a Chamber, with a regional rather than a constituency basis and a proportional rather than a first-past-the-post election system, would be very different from the Commons. In those circumstances, it would be up to the Commons to preserve its present supremacy by showing that it provided a more intimate relationship with and service to its Members' constituents.

David Taylor (North-West Leicestershire) (Lab/Co-op): Does my right hon. Friend agree that a significant attraction of what we will shortly be able to call the Billy Bragg proposals is that people would be encouraged to vote in greater numbers in constituencies where the result was probably a foregone conclusion because they would be confident that their vote would count indirectly towards a secondary mandate for the House of Lords?

Mr. Cook: My hon. Friend touches on the important issue of encouraging more people to turn out on general election day. We propose that the second Chamber should be elected on the same day as the Commons in a general election because that is when the highest turnout tends to occur, although I share my hon. Friend's concern that it is not as high as those of us here today would wish. I believe that our proposals would help to increase turnout because electors would have an opportunity not only to vote for a representative in the House of Commons, but to know that their votes would shape a second Chamber in which, because of the proportional system, no one party would have a guaranteed majority.

In response to the specific question posed by my hon. Friend the Member for North-West Leicestershire (David Taylor), if we are to argue that general election day is important because electors can shape the second Chamber, it is unanswerably the case that they should be given a second vote to shape that Chamber. Indeed, if there were only one vote for both Chambers, electors might well have difficulty in deciding which party to cast their vote for. For the sake of argument, I shall use the example of the Green party, as it is not represented in the Chamber and therefore nobody can take offence. There may be members of the public all over the country who are inclined to vote for the Green party but, on a constituency basis, are minded to vote for their Labour MP because there is no prospect of a Green MP's being elected. If we said to such an elector, "The vote that you cast for the Commons will also count towards the composition of a second Chamber", they might vote Green to maximise the chances of having a Green representative in the second Chamber. I see no reason why we should oblige electors to make that judgment and to cast their vote according to which Chamber they want to influence most. Surely, if we are going to say that a person's vote in a general election will determine the make-up of the second Chamber, the logic is to give them a second vote on the same day to do precisely that.

I shall return to my argument, as I am conscious that several colleagues wish to speak and I do not wish to detain the Chamber indefinitely. We propose that a majority, but not all, should be elected. We are anxious to build the broadest consensus, and I think that we have been moderate in proposing that 70 per cent. of the second Chamber should be elected, with other routes of

entry into it. That is why we propose a statutory appointments commission to appoint independent members of ability and why we recognise, in the spirit of trying to find a broad consensus, that some bishops should remain. In what is possibly an excess of moderation, we also argue that the Prime Minister should have the right to make a small number of nominations, who would comprise the Ministers in the second Chamber.

Nevertheless, the organising principle must be that the majority of the second Chamber is elected. In a free society, legitimacy comes from the consent of the public, which in modern times is measured through the democratic process of votes in a ballot box. If we want a second Chamber that is taken seriously, it must be taken seriously by the Government because it represents not their appointments but the choice of the people. Over the past few months, I have noticed that "choice" has become a very important Government buzzword, and it is impossible for a Minister to make a speech without using that word at least once, if not multiple times. No choice could possibly be more important than the public's choice of who represents them in Parliament, so if we are serious about having a modern second Chamber, it should be one in which they have that choice.

I have sketched out the major principles of the package, but I would not do it justice if I did not say that this is a comprehensive report that addresses many questions of detail, some of which took up an amount of time out of all proportion to their importance. Having agonised over the name of the second Chamber, we came to the common-sense view that it would be sensible to call it the second Chamber, although we are open to other suggestions. However, that is not a matter that should determine whether we go for reform—what the Chamber does and who sits in it are much more important than what it is called.

I am conscious that the Parliament that is about to be elected in the next few months will run almost until the centenary of the Parliament Act 1911. In the preamble to that Act, Lloyd George wrote that it was necessary to regulate the relations between the two Houses because it was "not immediately practical" to constitute the House of Lords on a more popular basis. I rather suspect that it never entered his head when he wrote those words that 100 years later it still would not have been constituted on a more popular basis.

The reform of the second Chamber has been the longest running soap opera in the west end, and it is time that we brought down the curtain. I do not imagine that the Minister will be able to do that today by endorsing our proposals; indeed, I would worry for his future were he to be so bold and innovative. I hope, however, that he will be able to welcome them as a serious contribution to the debate. I hope, too, that in future at least no one will be able to say that there is no consensus on a way forward if they really do want to find it.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. Five right hon. and hon. Members have given prior notice, and I see that no one else has joined them. That leaves us with 42 minutes before the field is opened to the Front-Bench spokespeople.

9.48 am

Sir George Young (North-West Hampshire) (Con): I begin by congratulating the right hon. Member for Livingston (Mr. Cook) on his choice of subject for this morning's debate and on the way that he introduced it. There is an opportunity now to show that there is an all-party consensus on the way forward. There is not unanimity—I respect the fact that there are dissentient voices in all parties—but there is a consensus that will break the deadlock of the past couple of years. I hope that the debate will give the Front-Bench spokesmen of the three main parties an opportunity to download their House of Lords speeches, freshen them up and explain their party policy on this important issue.

I hope that the Minister, whom I welcome to the debate, is not going to tell us that there can be no progress on composition until we have resolved the issue of powers. That would be universally seen as a cop-out, and our report would have landed on a snake rather than a ladder. We have had extensive reviews of the second Chamber and there has been remarkably little dissent about the powers. The difficult question has been that of composition. So, I hope that he welcomes the report and agrees that it shows the way forward.

I hope, too, that we will be spared one sentence that appeared in the Government's post-Wakeham White Paper, which is straight from "Yes Minister":

> "There are however a number of areas where further consideration of the practical effects of certain recommendations has led the Government to consider some modification of the precise recommendations so as to ensure implementation of the Commission's principles in the most effective way possible".

To give the debate an historical context, it is worth remembering that in 1998 the Government told us that stage 2 would be approved by Parliament by the time of the last general election. Indeed, Lord Wakeham assumed that the first round of elections to the reformed upper House would take place in June 2001. To have gone through not one but two general elections before achieving stage 2 has something of Lady Bracknell about it. Her husband was, I am sure, a distinguished Member of the unreformed upper House.

Whoever said no stage 1 without stage 2 was absolutely right: at the beginning, the fear was expressed that if we had stage 1 the momentum would stall and it would not carry through to stage 2, and a working, if imperfect, model would be destroyed. The interim House—the wholly appointed House—would, by default, become the long-term solution.

When I pressed the Government on the matter at the time, I was told by the then Leader of the House that breaking the process into two made it more likely that stage 2 would be embarked on. We were told that the 92 hereditary peers would be the grit in the constitutional oyster that produced the pearl of reform—a colourful metaphor, but one that was entirely inaccurate.

There is a second important lesson to be learned from what has happened so far. Although we should be clear where we want to end up, we should also be flexible about speed and transitional arrangements. That is reflected in the report that the right hon. Member for Livingston referred to and to which my signature is appended. It is more important to secure agreement on what sort of House we should end up with than to try to get there too quickly. Indeed, we are more likely to secure that agreement if we are flexible about how we get there.

[Sir George Young]

The main Conservative objectors to a predominantly elected House are in the House of Lords, and we should try to carry them with us. Several hundred people have been made life peers; they believed that that meant what it said. We should avoid another unceremonious dumping of the hereditaries, which was undiplomatic and discourteous. Even if it makes the journey a bit longer, we should be flexible and generous with the existing life peers, as our report proposes.

I strongly endorse what the right hon. Gentleman said about the opponents of reform, which is that they tend to treat the debate as a one-dimensional contest: if one House gains in legitimacy, credibility or authority, by definition the other must lose. It can be compared to the annual House of Commons-House of Lords tug-of-war on the Green, which the lower House has won ever since the virile young hereditaries were banished from the upper House.

The reality is that the two Chambers are partners in a joint endeavour to hold the Executive to account. Lord Wakeham put it well in his report:

"Our ambition for the reformed second chamber is that it should enhance the overall ability of Parliament as a whole to hold the Government to account. It should do this by using its particular strengths to develop arrangements which complement and reinforce those of the House of Commons."

I want briefly to address the two main arguments on what we propose—what I call the rival mandate argument and the British Rail argument, which is, "It will produce the wrong sort of politician." The rival mandate argument alleges that a predominantly elected second Chamber would challenge the supremacy of the House of Commons, a point mentioned by the Prime Minister shortly before the vote in 2003. However, the second Chamber is clearly defined as complementary and in the end subordinate to the Commons; its powers are those that are given to it by the House of Commons, which is pre-eminent, and they cannot be unilaterally changed.

There is a related argument that that settlement might be subject to a moral challenge if the upper House contained an elected element and there could be tension between the two Houses if both claimed democratic legitimacy, especially if the lower House was approaching an election and the Government were unpopular.

I disagree with that analysis. In the Commons, we are all elected on the same day for one Parliament after a vigorous campaign on the basis of a party manifesto. We are elected to the pre-eminent House that sustains the Executive and produces the Prime Minister, and we submit ourselves collectively for re-election, at which point the nation passes its verdict on us.

None of those conditions would apply to the second Chamber proposed in our report, so the premise for a moral challenge does not exist. Many of its Members would not be elected at all and would have no mandate. Those who were elected would be elected at different times and on different mandates, and it would be impossible for one party to claim that it had control of the upper House. The notion that electing some or even most Members could lead to the conversion of the upper House into a rival Assembly, where one party claimed a competing mandate, is simply unsustainable.

The second argument is the British Rail argument that electing two thirds of Members would produce the wrong sort of politician. There is a view in the upper House that it does not want the rough trade from the other end of the building. Lord Wakeham said in his speech on the matter that elections would produce

"a second Chamber that was a clone of the other place, full of professional politicians".—[*Official Report, House of Lords*, 9 January 2002, Vol. 630, c. 582.]

I am not sure how he classified himself in making that comment.

The late Earl of Longford made the point less tactfully five years ago:

"We would get the dregs."—[*Official Report, House of Lords*, 7 March 2000, Vol. 623, c. 955.]

Again, I do not agree. Behaviour in our House is less a function of the sort of people we are than of the conditions under which we operate. We are Members of Parliament in a highly political, dominant Chamber, to which we have to be re-elected. When we move from the charged environment of the lower House to the calmer one at the other end of the building, our behaviour changes. Perhaps the best examples of that are Lords Wakeham and Hurd. While MPs in our current environment, we behave as MPs, but translated to the reflective atmosphere of the upper House, where, crucially, one does not have to be re-elected and the Whips have a looser grip on discipline, people behave differently. They make shorter, more courteous speeches that are less flavoured by political invective. I disagree with the rival mandate argument.

Let me conclude with a question to the Minister. Four weeks ago, we had the bombshell from Lady Amos in *The Daily Telegraph*. Asked whether the long-awaited plan on future composition would be in the manifesto, she said:

"No. I think there is still more work to be done because if you put four different people in a room, regardless of which party they come from, there will not just be four different views but you'll probably get eight different views about composition."

Will there really be nothing in the Labour party manifesto about House of Lords reform? If there is to be a vacuum in that chapter of the manifesto, I can think of no better way of filling it than by endorsing the report introduced by the right hon. Member for Livingston.

9.57 am

Tony Wright (Cannock Chase) (Lab): Whatever else our little group of reformers can be accused of, we cannot be charged with being premature. As my right hon. Friend the Member for Livingston (Mr. Cook) said, in 1911 MPs were told that the Bill being introduced was simply a transitional measure that would be in place until they arrived at a fully popular House, yet here we are in 2005, producing yet another report on how we might reform the House of Lords.

I was talking last night to the Father of the House, my hon. Friend the Member for Linlithgow (Mr. Dalyell). When I asked what he thought about all this, he said that he made a vow 40 years ago to have no engagement with House of Lords reform. When I asked why, he said, "I was Parliamentary Private Secretary to Richard Crossman when he tried to reform the second Chamber, and I saw what happened to him." He was deserted by colleagues, and people did not go near him because of his endeavour to reform the second Chamber.

My right hon. Friend the Member for Livingston has experienced not the same thing, but something not exactly unlike it. Instead of recoiling from the issue, to have emerged as the leading continued advocate of serious reform is something that we should all acknowledge and commend.

One thing that dogs the argument and confuses our discussions on different preferred schemes is the lurking feeling, certainly in our Chamber, that whatever we do must not damage the primacy of the House of Commons, and that anything that even begins to suggest such a consequence is to be resisted. That is a fundamentally misconceived argument.

I apologise for doing so, but I shall quote just one section of a report—not the one we are discussing today, but one that the Committee that I have the privilege of chairing produced on these issues almost exactly three years ago. We tried to nail the issue fairly comprehensively:

"Reform is not a zero-sum game in which advances for one chamber are inevitably threats to the other . . . We believe that the real task is rather to increase the effectiveness of both chambers in holding the Government to account for its actions and policies. The focus should be on the capacities of the institution as a whole."

We need to understand that, and to understand what is the particular deficit in our governing arrangements that needs to be filled. It is simply this: for all sorts of reasons that we know, we have—and have traditionally had—a system of what is familiarly called strong government. The Government can pretty much do what they want, as long as they can get enough warm bodies through the Division Lobby, as someone once said.

That produces a huge scrutiny deficit and, if we are honest, we do not remedy it very well in our side of the business. We have to match a system of strong government with one of strong accountability. We can do that only if we use all the resources at our disposal in both Houses. Among other things, that means attending to matters in our Chamber too, but we are also required to find a way to give our second Chamber sufficient legitimacy to enable it to help to remedy the scrutiny deficit in our system. If we understand that, and realise that we are engaged in a common enterprise, some of those difficulties begin to fall away.

That—if I may say so in the margin—is the fatal difficulty with the so-called secondary mandate idea. I commend my friend Billy Bragg for his enthusiasm in promoting House of Lords reform over the years. He has made a huge contribution, but the fact is that the secondary mandate idea confuses the notion of a House of government with that of a House of scrutiny. Also, it assumes that a person can vote—at the same time—for two Houses with different but complementary purposes. That is a fatal flaw in that approach; the idea would collapse once it was tested. It is not appropriate to ask voters to cast the same vote for different institutions that perform different but complementary purposes. There is simply no way round that argument.

So, we must return to the fundamental point: we need an effective House of scrutiny. That House will essentially be the House of Lords, which will complement the scrutiny work that we do here. We are at the rough end of the trade, as I have often heard the right hon. Member for North-West Hampshire (Sir George Young) say. We need a different bit of the trade down there to complement the work that we do here, so that together we can do the job of providing the strong accountability that is needed.

On any test, we are talking about the biggest bit of unfinished constitutional business there is. My Government have a proud record of bold constitutional reform to their credit. I am bound to say that we did not achieve that record by giving people free votes. That is not how we got devolution for Scotland and Wales, the Human Rights Act 1998 or freedom of information; we got them by having a coherent position that we believed in and that we argued for. The truth is that we do not have that on second Chamber reform. Until we do, that reform will not come.

I am heartened that the Lord Chancellor—the Secretary of State for Constitutional Affairs—said recently that he thinks reform will have to end up taking a democratic, elected direction. If that is to be our destination, let us at least begin the journey. I think we have shown how that journey can be started. It is no longer the case that we do not know how to do that; now, we must consider the question whether we have the political will to start that journey seriously. I think that the report that a number of us have produced enables it to be confidently begun.

10.5 am

Mr. Kenneth Clarke (Rushcliffe) (Con): I share the views of those who have spoken so far with whom I collaborated on the project. I am surprised that we are still debating such a subject in 2005. I was a student of politics when Harold Wilson's Government agreed with Edward Heath, the then Leader of the Opposition, on an approved package of reform of the House of Lords, and I watched with amusement when I saw it destroyed by a strange combination of Michael Foot and Enoch Powell, who did not agree on the ultimate fate of the second Chamber. However, I, like those members of the public who think about such matters, expected that the process would have been resolved, and the anomaly of the present House of Lords dealt with, long before the end of the 20th century.

Given the way in which this Parliament started in 2001, I thought that it would see the whole matter completed. At the time, all three political parties stood on platforms that commended, in slightly daring terms, the election of an upper House and the final reform of the House of Lords. Such reform was particularly urgent because the first stage that was carried through before 2001 had left the House of Lords in, if anything, an even odder position than it was before.

I was one of the few Members of Parliament who voted against the extraordinary arrangement brilliantly negotiated by my noble Friend Lord Cranborne, whereby we still had an hereditary element in the upper House but they were elected hereditaries. As we have seen from various by-elections for that distinguished position, we have created something that is even more Gilbert and Sullivan than the original notion of hereditary membership. It seemed obvious that we were about to go on to the second stage, and it is very much to be held against this Parliament that we have not completed it, given that we are about to have another election.

[Mr. Kenneth Clarke]

The right hon. Member for Livingston (Mr. Cook) was a reforming Leader of the House who gave a strong lead on the matter in line with the policy of the Government of whom he was a member. I agreed to join a Joint Committee of both Houses, which we were satisfied would pave the way for a consensus to emerge on a Government Bill in due course. The whole process was then halted in an extraordinary way by the vote in the House of Commons, which did not distinguish itself and failed to produce a majority for anything. I must confess to playing a part in that. My right hon. Friend the Member for Richmond, Yorks (Mr. Hague) and I were abroad at the time, in different countries. Had we been here to take part in the Division, the 80 per cent. option would have been lost by a majority of one.

The idea that because of that vote the process should be delayed—or, if we were not careful, suspended—did not cross my mind even then. It has been said that there was no difficulty in proceeding and that, if the momentum of reform had picked up, our House would have reached a conclusion. The problem was, however, that the Prime Minister astonished all his colleagues by revealing hitherto unexpected serious reservations about whether he wanted an elected House. However, I shall not inject a partisan spirit into the debate; the Prime Minister is certainly a parliamentary democrat, and perhaps subconsciously feels that a stronger upper House might be something that he would like to see after his own period of office and holding of Executive powers.

Mr. Oliver Heald (North-East Hertfordshire) (Con): No doubt my right hon. and learned Friend acknowledges that the Prime Minister wanted such a process before he became Prime Minister, as he said in a major speech in 1994:

"The House of Lords should be replaced by an elected Second Chamber."

Mr. Clarke: I am sure that people who have the opportunity of exercising great power see the case for restraining such power more strongly before they take office and again when they leave office. Several of us in this Chamber have held office, and I am sure that we have all experienced frustration when those who hold us democratically accountable do not properly understand what we are trying to do.

I strongly suspect that the Prime Minister is in a minority in his own Government. Conservative Members have been restrained by the understandable reluctance of life peers from our party to contemplate such matters, at too early a stage, as the end of their being legislators for life. As my right hon. Friend the Member for North-West Hampshire (Sir George Young) explained, they will be phased out generously and their distinguished position in the Chamber will not be seriously threatened in the short term.

The purpose of producing the pamphlet and the draft Bill to which passing reference has been made was to breathe life into the subject and, most immediately, to ensure that the three political parties reaffirm their commitment to a democratic upper House during the next general election. Whoever wins that election, I hope that this unfinished business will be completed and that our constitution will be sorted out during the next Session.

Mr. John Bercow (Buckingham) (Con): Will my right hon. and learned Friend give way?

Mr. Clarke: I am conscious of the time, but I shall give way.

Mr. Bercow: My right hon. Friend the Member for North-West Hampshire (Sir George Young) urged generosity towards the remaining hereditary peers and existing life peers, and my right hon. and learned Friend seems to concur with that view. Perhaps I am missing something, but is not the danger of that approach that it will take too long to achieve the proportion of elected Members that we seek; or, alternatively, that the Chamber will artificially have to be made much larger than it would otherwise be?

Mr. Clarke: The pamphlet tries to address both those relevant points. As I said, in the past the country could hardly be accused of rushing to reform the upper House. It is true that phasing in a fully reformed House of Lords with 70 per cent. of its Members elected and the remaining Members appointed would mean that it would not come fully into effect for 12 years. However, there are some merits in a transitional period. Not least, too rapid a change might affect the best qualities of the House's traditions and the amending powers that it tries to exercise at present. There is no doubt that the current life peers are distinguished people who have many years of public service before them, and it is not necessary to embark on the precipitate removal that occurred in the case of the hereditaries.

I said that one purpose of the pamphlet is the immediate one, but I wish to remind hon. Members of much more important purposes that ought to inspire us: the strengthening of Parliament; the restoration of a proper system of effective democratic accountability for the Executive of the day, whichever party is in power; and the restoration of public confidence in our political system and the belief that the public must have that there is a proper system of checks and balances, as well as various ways in which, by voting, they contribute to its being affected in the right way.

The modern Executive are becoming more powerful year by year, and there is a greater need to ensure that proper democratic constraints are in place. Undoubtedly, the role of Parliament in our public life has decreased in recent years. As a revising and delaying Chamber, the upper Chamber is an important aspect of effective parliamentary control, but its authority is fatally weakened by doubts about its legitimacy and the continuing lack of any direct link with an electorate of its own. Although there is agreement on the general principles, it seems that delay must continue as there is still work to be done on its powers and difficulty in reaching a consensus, as illustrated by the recent comments of Lady Amos that were quoted by my right hon. Friend the Member for North-West Hampshire.

The existing powers of the second House are perfectly satisfactory and could be exercised with more legitimacy and effectiveness were its membership improved. They

are being exercised more than they were in the past because without the hereditaries the semi-reformed House of Lords feels more confident in doing so. We will discover in the next few days whether it will exercise any restraint on the Government on a very controversial matter, but it will be constrained—and no doubt criticised, if it pushes its powers too far—by its lack of basic legitimacy. An elected House would still have only delaying powers, because the Parliament Act will remain in place. It would not be able to block Government business, but would perform an even more valuable function when exercising its powers if it had a different membership.

We sought to achieve consensus in the publications that we have put before the House. Although not all the proposals will attract universal consent, there is a consensus that would easily get a majority in principle from the present House of Commons, and probably from any House of Commons that is likely to be elected in May this year.

The Billy Bragg solution suggests that it might be preferable to appoint people in line with the vote on general election day. That argument is open to serious objection. Reform should set out to create a different type of Member of the upper House. They should not be people who can go straight to the House of Commons when they have finished their period of office; indeed, there should be a delay before they are even eligible to go to the upper House to ensure that they are not just trying to find a way into the Commons. They should be people who are a little apart from the party game, and not pursuing ministerial careers but interested in the public service of having a platform to hold the Government to account and to delay legislation where necessary.

A separate ballot paper would give people the opportunity to reflect on who they wanted in the upper House and would attract a different sort of candidate who was not dependent on party patronage. On the eve of the election, I might point out that it is always a mistake to treat the electorate as though they are complete idiots. Many people would contemplate dividing their vote if there were two separate ballot papers. Perhaps they would look for a different sort of personality in their regionally elected representatives in the upper House as compared with those whom they were electing to the Commons. Someone with the sort of personality not to make a natural, party political, House of Commons man might be able to emerge through a separate ballot held on the same day in a way that would not happen if there were one vote and the parties nominated a particular set of people to take the places in the upper House.

I commend reform to the House as, no doubt, have hundreds and hundreds of Members of Parliament over the years. I am astonished that it has taken so long. The most important point is that we are not just tidying up an historical accident. We are not merely dealing with an anomaly or undertaking a routine piece of modernising reform—it is an important step towards strengthening Parliament at a time when our parliamentary democracy as a whole is in a fairly unhealthy state. Public confidence is at a very low level, cynicism is widespread and all three of the political parties are among the most unpopular institutions in the United Kingdom. No one knows quite what kind of political institutions they wish to see or what kind of politicians they want to re-inspire their confidence. Sorting out the institution of the upper House will be an important step in sorting out parliamentary democracy and making it more capable of holding the Government to account and securing public confidence.

10.18 am

Andy Burnham (Leigh) (Lab): As a former Government special adviser, and the perfect embodiment of the wrong kind of politician, it is perhaps appropriate that I have a chance to contribute. I welcome the debate and the report. What is encouraging, as evidenced by so many Conservative Members speaking up in favour, is the fact that a democratic solution is where the momentum is, and there is clear travel in that direction.

We have an opportunity to carry through Lords reform because there is more that unites people who want a more democratic House of Lords. We must not allow that opportunity to be broken down, leaving us unable to find the compromise that has eluded us. Compromise is the watchword, because everyone will have to compromise eventually if we are to have a workable solution.

Even since the vote in the House that has been mentioned, feeling has swung decisively against an appointed House, which is clearly no longer an option. The broader context involves asking why this matter is important, and the right hon. and learned Member for Rushcliffe (Mr. Clarke) referred to that. Some people say, "Why is House of Lords reform important? There are more significant issues to deal with." However, it is right to put things in that broader context.

We live in an increasingly anti-politics era. There is a feeling out there that this place is not particularly well connected to the constituencies that we represent. The north-east vote on a regional assembly is the most obvious demonstration of that fact: people do not want more politicians, political institutions or structures; they want those that they have to work much harder and more cleverly for them. Everyone in this House and in the other place has to think about that and about how what we do here in going forward can be much more connected to the people who we seek to represent. If we fail to do that, it will damage our democracy in the long term.

We need a second House that is fit for purpose. I am absolutely confident that we could get much better value for money from the £66 million a year in tax pounds that we spend on running it if it was more democratic and regionally constituted so that the voice of the regions rang out through this place.

I am wholly committed to a more democratic second Chamber, and I am committed to one that may unsettle the way that we operate in the Commons—a Chamber that may push us and challenge established practice. Such practice can be flabby and some things that we do in the Commons can be too disconnected. Such change would be a good thing. This is the nub of the question that we are considering and which reformers have to deal with.

There is consensus in favour of election and in favour of preserving the primacy of the Commons. There is probably also consensus on the powers as they stand

[Andy Burnham]

today being roughly appropriate. The issue involves the relationship between the two, and the way that Members are elected to the Lords will dictate how that relationship plays out.

Five parliamentarians or more have put their names to the report, and there are others here today who have far more experience of this place than I have. Reference has been made to people leaving office, but I would say to those who made that point that I have hopes to be in this place for some time yet and I do not necessarily want to be a Member of a House of Commons that is undermined, challenged or perhaps constantly threatened by the House of Lords. I refer people to page 11 of the report that has been issued this week, in which the committee acknowledges this point:

"However, there has been concern amongst some that the second Chamber could become 'too' legitimate, with the result that it challenged the House of Commons too frequently. Despite the existing safeguards to Commons' primacy, we acknowledge there is some foundation to these concerns."

The proposed system threatens to destabilise the balance and threatens the primacy of the House of Commons. People could argue that it would be more proportionate and, therefore, more democratic—that it would more reflect the will of the people. Therefore, when votes were passed in that place, they could be considered more legitimate. That presents problems to us as politicians, individually and as people who are accountable to their electorate.

The Achilles heel of the system we are considering is that it seriously threatens the primacy of the House of Commons. Any compromise solution must deal directly with that point. As I said in my intervention on my right hon. Friend the Member for Livingston (Mr. Cook), I believe that the secondary mandate solution is the right compromise around which people can unite and that there is more support for it than has perhaps been reflected in the comments made so far in today's debate.

Richard Burden (Birmingham, Northfield) (Lab): I am following what my hon. Friend says with care. Does he understand that a number of objections that many of us have to the secondary mandate principle, although we appreciate the sincerity of those who make that proposal, relate to the fact that it does not represent election at all? It represents a system of appointment, whereby the proportions in which people are appointed are decided through a vote, but there is no election at all, direct or indirect.

Andy Burnham: I do not believe that that is necessarily correct, because it would be for the parties to decide which of their members was placed on a list of candidates. The challenge for our political parties is to ensure that the right kind of people—not the wrong kind—are on those lists and that they are elected to this place. That is a challenge to the political parties to strengthen the vibrancy of their internal democracy to ensure that there is good competition and a healthy vote on putting people in a certain order on the parliamentary list for the second Chamber. I do not accept my hon. Friend's argument at all.

I do not accept some other arguments made against a secondary mandate, either. My hon. Friend the Member for Cannock Chase (Tony Wright) made a point about the two institutions, but let us think about that for a second: we are electing Parliament, which does the job of passing legislation, and we could argue that it is one institution. There are two separate parts to that institution, but we elect one Parliament.

On tactical voting, I think that what I am proposing would make it much more likely that people used their votes more wisely and thought even harder before casting their vote, so I do not accept that argument either. *[Interruption.]* I see Mr. Deputy Speaker looking daggers at me, so I shall conclude.

We must not let this opportunity pass; as democrats, we must seize the opportunity to create a more democratic House. My final plea is that we should let the Commons decide on three options: appointed, indirectly elected—according to the secondary mandate—or directly elected. Then we would have our answer.

10.26 am

Mr. John Maples (Stratford-on-Avon) (Con): The hon. Member for Leigh (Andy Burnham) has been grappling with one of the real difficulties, but I think I will be the only dissenting voice in today's debate. I take some comfort from the fact that there is another dissenting voice, which is that of the only person who really matters in this argument—the Prime Minister. As long as the two of us agree, we will probably get our way. I am sorry to dissent from a list of people with whom I normally agree, but I take that as proof that if one puts a group of incredibly clever people together they can come up with a pretty ridiculous answer from time to time.

One talks about horses designed by committees, but this camel seems to have wings and flippers, and it can lay eggs too. It has a little something for everybody. We want an elected House of Lords, but one that is just 70 per cent. elected. There is a very good argument for not having any Ministers in there, but we will let them stay. The Prime Minister should not have the power of appointment, so we will let him appoint four people. There is no real argument for there being any bishops in there, but let us just cut the number from 26 to 13. As for the Law Lords, perhaps they should stay, but perhaps they should not.

There is a strong argument for a wholly elected House of Lords and a strong argument, which I shall try to put, for a wholly appointed House of Lords, but there is no argument for a halfway house compromise of this kind whereby we try to give a little to everybody. There are some fundamental problems with it.

The hon. Member for Leigh is right: an elected House of Lords—one that is 70, 80 or 100 per cent. elected—would challenge the legitimacy of the House of Commons. There would be times when it was more in tune with public opinion, perhaps when it had a more democratic mandate at the fag end of the term of an unpopular Government who were trying to push through controversial legislation. In the long run, such a second Chamber would not be satisfied with the powers proposed for it, but my real objection is to the way of electing Members to it.

Proportional representation leaves the lists in the control of parties. Is that what we really want—a second Chamber full of people who make it on to a party list?

Two characteristics that we say we want in the House of Lords are independence and expertise. It has those, I would argue, although it does not have legitimacy and it is not representative. Parties do not put such people on their lists. The former Foreign Secretary, the right hon. Member for Livingston (Mr. Cook), would not get on his party's list, nor would the interesting people in the House of Lords get on a party list.

Also, those on a list would be people who cannot get elected to the House of Commons for their party. The standard of intelligence—or of industry and ability—needed to get into the House of Commons are not of Olympic proportions, as we all know. So, the people who would get into the House of Lords, or whatever we were to call it, would not be good enough to get into the House of Commons, but who had the *Good Housekeeping* seal of approval from their party.

The argument for a democratic House of Lords, which sounds wonderful in theory, falls apart when we think about how we would elect it. Of course, if we did not have proportional representation and people were elected in single-Member constituencies using first past the post, the second Chamber would look exactly like the House of Commons and we would say, "What on earth is the point of having it?".

That is the main, fundamental objection to such a system, but I also hate the idea of an appointments commission. Why should legislators be appointed by some committee of former permanent secretaries and senior partners in KPMG, or whatever the Government would come up with? I would rather the Prime Minister did it. Then at least we would know who was making the appointments. If he appointed people who gave his party a lot of money or his drinking buddies or complete cretins, we would know who was responsible for it. If we ended up with some committee of the great and the good, nobody would be responsible and it would come up with even more milk-and-water people than parties would for their lists.

I do not believe that there can be two classes of Member: either people are democratically elected or they are not. If there were two classes of Member in the House, one group would have a democratic mandate and people would start to add things up. They would say, "Okay, there was a majority in the House of Lords. Was the majority of the elected Members or did it rely on the Prime Minister's appointees, the remaining bishops or whatever?" There would be two classes of Member with different degrees of legitimacy. Sooner or later, it would challenge the House.

There is an argument for a fully appointed House of Lords, which I have made on many occasions, including this one, albeit briefly. There is also an argument for a fully elected House of Lords, but may I make this plea? If the Prime Minister and I eventually lose the vote—we will not lose the argument—and we are to have an elected House of Lords, let us make it both fully elected and a proper legislature. Let us have no Ministers there; let there be no patronage.

The two things that the House of Commons does not do well are detailed examination of legislation and holding the Executive to account. We are too busy to carry out detailed examination and we do not hold the Executive to account because most Government Members who are not in the Government want to be, so they are reluctant to hold the Government to account. Those are things that would be done by a wholly elected House of Lords, so if we are to have an elected House of Lords let it be wholly elected and let us ensure that there are no Ministers there so it behaves like a proper legislature.

The problem with the House of Lords is that it works in practice but not in theory. That is anathema to intellectuals so they have to come up with an alternative, but it works pretty well. I once met an American scientist, a physicist, who said that he could prove pretty conclusively that anything that had the shape and configuration of a bumble bee could not fly. Fortunately for the bumble bee, it could not understand the equations and it happily flew away. The House of Lords is in that category as something that works. Let us not fix it.

10.32 am

Mr. Paul Tyler (North Cornwall) (LD): This has been an interesting debate, and I hope that those who signed up to the report, which includes people who are listed here as well as the five of us, feel fully justified in—we hope—renewing interest in the subject.

The hon. Member for Stratford-on-Avon (Mr. Maples) described our committee as having designed a camel. He went slightly further and described some of the camel's characteristics. I must plead guilty, in that I was the facilitator for the group and I brought together my four colleagues from the different parties. I feel fully justified in so doing, not because we have designed a curious animal, but because at long last we have got this subject back on the agenda. The contributions made today, not least that from the hon. Gentleman, show how important it is to try to clear the field of some misnomers and misunderstandings that have surrounded the issue for so long.

Let me address one point that the hon. Gentleman made: we do not advocate a list system and we do not advocate giving patronage to the parties. We advocate STV precisely because it takes power away from the parties and gives it to the elector; the elector has a great deal more choice. The chances of the right hon. Member for Livingston (Mr. Cook) going to the reformed second Chamber, should he wish to do so, would thereby be greatly increased, as would be those of the hon. Member for Stratford-on-Avon. There is no question of adopting a list system. Unfortunately, far too many people think that proportional representation means list systems and that list systems mean proportional representation. That is not true and we address that issue.

My principal contribution today is to be brief, because so many of the arguments have been so well handled by my colleagues, but perhaps I can deal with one or two myths. The first, which has been perpetuated quite regularly, is that the House of Commons came to no conclusions whatever and could never achieve a consensus on this issue. It is true, as has been said, that in February 2003 we did not manage to go through the same Lobby on the same issue, but there was a consensus in favour of majority election to the second Chamber.

I plead guilty, as I was a member of the Joint Committee that decided it was necessary to put a number of options to the House of Commons. Clearly,

[Mr. Paul Tyler]

that was not the best way to achieve any consensus or conclusion. The hon. Member for Leigh (Andy Burnham) is right: there must be some opportunity for the House of Commons to express its support in principle for what is to happen to the House of Lords, before we go on to the second stage.

It is also true that on that fateful evening the House of Lords achieved no consensus whatever. There are Members of the House of Commons who retreat behind the idea that, despite the need for pre-eminence of the Commons, the House of Lords should somehow or other be enabled to retain its veto over any reform. I do not believe—I hope that all Members of this House agree—that turkeys should have a veto on the timing of Christmas. If we believe that the House of Commons should be the predominant House, it should have the last word on this issue. It would be ridiculous to allow the vote of the House of Lords to be pre-eminent.

The pre-eminence of the Commons is a constant concern, which we address in the report. I fully accept the point made by the hon. Member for Leigh, who said that we should examine that concern carefully. We did. Gathering together four very distinguished Members of the House of Commons and acting as their convenor taught me a few lessons about how the House of Commons operates. I can assure the hon. Gentleman that there is no question of those four Members, or those on the long list of other distinguished Members, seeking in some way to subordinate the House of Commons to a new second Chamber.

We propose an election system with a very limited regional link, rather than a constituency link. Some Members—particularly, perhaps, those from Scotland and Wales—have understandable anxieties about there being two layers of Member for a constituency. However, I believe that that would be an important distinction between the two Houses and would enable the Commons to retain its pre-eminence.

Andy Burnham: Does the hon. Gentleman not think that the secondary mandate would make people think harder when they cast their vote at a general election? Does he accept that one potential weakness of his system is that the vote for the second Chamber could become a real repository for frivolous protest voting and that that Chamber could end up being strangely constituted?

Mr. Tyler: As a democrat, I have some difficulty with the concept that the elector who makes a choice that does not suit the conventional party machines is being frivolous.

I shall come to the point about the so-called secondary mandate in a moment, but for now I shall continue to point out the difference between the two systems. There would be continuity, as under our proposals the second Chamber would be elected in three tranches. There would be no sudden swing from one party to another and the second Chamber would have no role whatever in the selection of a Government. The point made by the hon. Member for Cannock Chase (Tony Wright) is absolutely right: the two Chambers have two distinct roles, as is true of most bicameral systems throughout the world. I strongly endorse the point that we need two Houses that work in co-operation, rather than competition, and enhance the strength of Parliament as a whole to hold the Government to account.

I have real problems with the so-called secondary mandate. Anyway, that is a misnomer: if somebody is forced to do two things with one vote, that is a primary, not a secondary, mandate. We would be trying to persuade the elector to do two quite distinct things at the same time, on the same day, in the same circumstances and in the same polling booth. That seems to be a recipe for voter schizophrenia.

It would be extremely difficult for any member of the public who sought to use his or her vote intelligently for tactical voting for the Commons to know what to do. Once we had tried to adopt the principles of a secondary mandate, it would be extremely difficult to argue against having two ballot papers. If we are to have two ballot papers, why not go the whole hog and adopt the system we suggest?

The secondary mandate would inevitably give more power to the parties and more patronage to the party leaders, who would effectively be able to say precisely who would be on which list, in which region and at what point in that list. That would damage the process that we are trying to enhance.

I am grateful for the thoughtful contribution made by the hon. Member for Leigh, who said—I paraphrase him—that consensus requires compromise. I agree; I have compromised. I think I can speak for all those who have signed up to the document: in different ways we have all compromised, because that is the parliamentary tradition. I am very surprised at the reaction of the hon. Member for Stratford-on-Avon, who seems to want either a fully appointed or a fully elected House. He wants perfection in one leap.

The hon. Gentleman is a Conservative—I am not—but as a reformer I simply do not believe that that is how Parliament works. My background is in history, not political theory. I have studied the history of Parliament, which has developed by a slow process—a very slow process, in this particular case—by compromise and by developing consensus. That is what we did in the group.

I have not achieved in this document everything that my Liberal Democrat colleagues and I would wish to achieve, but I believe that the report has provided the centre of gravity that the then Leader of the House, the right hon. Member for Livingston, was seeking two years ago. I believe that all those who, in the best traditions of Parliament, want to try to secure some agreement and progress can focus on it as a way forward. The current House of Lords is a halfway house and, in effect, illegitimate. It will do the health of our democracy no good if it remains in that state for much longer.

I pay great tribute to the right hon. Member for Livingston for how he introduced the debate and for keeping the issue alive, inside and outside Parliament. He referred to this as a long theatrical performance. It is indeed a Whitehall farce that has gone on for 90 years. It should be brought to a conclusion before it reaches its centenary.

10.40 am

Mr. Oliver Heald (North-East Hertfordshire) (Con): I start by congratulating the right hon. Member for Livingston (Mr. Cook) and his colleagues on their initiative, which I welcome. He was right to say that it is extremely helpful in trying to build a broad consensus on the way forward.

It has long been my view that a smaller substantially elected second Chamber is the way ahead. My hon. Friend the Member for Stratford-on-Avon (Mr. Maples) was rather unfair on the camel, which is a highly sophisticated, useful animal. If it had the wings and flippers that he suggested as well, it would be a fantastic beast.

The Conservatives propose 80 per cent. directly elected Members for long terms, with no re-election and no right to proceed to the House of Commons. It is important to ensure freedom from the insidious pressures of deselection and the Whips, and to have the independence that my hon. Friend the Member for Stratford-on-Avon mentioned. The important scrutiny role requires expertise, too, and the hon. Member for Cannock Chase (Tony Wright) made that a feature of his remarks.

Let me consider the principles that we think important. No reform is acceptable unless it carries consensus. The House of Commons let down the right hon. Member for Livingston in 2003 when he pushed forward with proposals that seemed the right way ahead. A reformed House must be at least as effective as the present one. We would wish the Executive to be held fully to account, which means that although there should not necessarily be new powers for the other place, there should be no loss of its the existing powers. It requires broad public consent in using its powers, and that would happen only if there were a direct election for the substantial body of the new Chamber.

A largely elected House of Lords would not take away the right to cast a vote in person for which generations fought and died. It is on that basis that the Conservative party proposes 80 per cent. direct election, with long terms and no re-election. We do not suggest that the proposals should necessarily come in at one go; there is a case for the transition period to which my right hon. Friend the Member for North-West Hampshire (Sir George Young) referred. It is important that the Cross-Bencher element of the House of Lords should remain.

The hon. Member for Leigh (Andy Burnham), Billy Bragg and others have suggested an indirect election, but that would create confusion. Billy Bragg and, perhaps, the hon. Member for Leigh are supporters of tactical voting, and it is difficult to see how there could be effective tactical voting in a general election for the House of Commons with a regional party list system in the same election. That does not take full account of the role of independents.

Andy Burnham *rose—*

Mr. Heald: I do not have time to take an intervention.

One need only think of what happened in Wyre Forest in the last general election to see that an independent candidate can gain considerable support. In such circumstances, those votes would not necessarily count for the party that an individual voter supported for the region.

The hon. Members for Birmingham, Northfield (Richard Burden) and for North Cornwall (Mr. Tyler) mentioned the different considerations between the two Houses, which is important. We would certainly not support an indirect election and would have considerable doubts about proportional representation, as my hon. Friend the Member for Stratford-on-Avon said.

Personally—this is not party policy—I think that there is a lot to be said for having a franchise based on counties and cities. People say that America has a very strong Senate, but there is much to be said for the American system. For a start, there is less legislation. We push through vast reams of legislation these days, much of it of poor quality. The United States has managed to be quite a powerful country while having a pretty bizarre mathematical franchise for the Senate. We should consider the way in which people identify with particular areas and regions. Many people in this country have a much more genuine recognition of the city or county in which they live than of some region. In the eastern region, as it is known, Hertfordshire has little in common with some of the other counties, particularly those to the far east, and I think that that is true of other regions—people do not identify with them. In building a consensus for the proposals that I have outlined, there might be a case for a Speaker's Conference.

As my right hon. Friend the Member for North-West Hampshire said, we are determined that Lord Irvine's commitment that the remaining 10 per cent. of hereditaries will go only when stage 2 has taken place should be adhered to. We would not want anything less than that.

I want to say something about the Prime Minister's position. Before he became Prime Minister, he was very clear that the House of Lords should be replaced by an elected second Chamber. We are now told that he is not in favour of that and that the matter is subject to Cabinet battles in which the Leader of the House and the Chancellor are in favour of an elected second Chamber and the Prime Minister and others are against it. It is worth reflecting on why the Prime Minister might have that attitude. He has created a House of appointees and has made it clear that he wishes to have a mainly appointed House; one need only consider the fact that he has personally appointed two thirds of the Labour peers and 310 peers overall—that is, 45 per cent. of the other place. Henry VIII would have been proud of a record like that. It is not surprising that the Prime Minister, who has enjoyed and still enjoys all that patronage, wants to continue with it, but it is not the best way forward for our country.

I would be suspicious if, in addition to what has already happened, the Prime Minister continued with his recent policy of appointing even more Cross Benchers. That is causing wide concern. Can the Minister confirm that there is a firm limit on the number of Cross Benchers that the Prime Minister will appoint in addition to the Labour nominations? If not, a bad trend could be made significantly worse.

I welcome the initiative and say all power to the elbow of the right hon. Member for Livingston.

10.49 am

The Parliamentary Under-Secretary of State for Constitutional Affairs (Mr. David Lammy): I congratulate my right hon. Friend the Member for

[Mr. David Lammy]

Livingston (Mr. Cook) on securing the debate and endorse the comments made by my hon. Friend the Member for Cannock Chase (Tony Wright), who commended him on the persistence with which he has taken up this case month after month, year after year.

My right hon. Friend has been passionately supported in the debate by the right hon. and learned Member for Rushcliffe (Mr. Clarke), the right hon. Member for North-West Hampshire (Sir George Young) and the hon. Member for North Cornwall (Mr. Tyler), all of whose views are on the record. On this occasion, they are supporting the document published on Monday, but they have contributed to the debate over many months and years. We also heard my hon. Friend the Member for Leigh (Andy Burnham) speak in support of the secondary mandate; and even though he numbered only one, the hon. Member for Stratford-on-Avon (Mr. Maples) made the case for an appointed Chamber with much force.

My right hon. Friend said that one of his main purposes was to stimulate debate in advance of the expected general election. Clearly, the number of Members who wanted to contribute today—and, I suspect, in the days remaining as we head towards a general election, whenever it is called—suggests that the document and the debate will do that. I very much welcome the considered and measured tone of the paper published on Monday, which recognises the difficulty of the issues that need to be addressed and the way in which others, including the Government, have wrestled with them.

Mr. Love: Does my hon. Friend agree that at the general election it will be important for the Government, and the Labour party, to put forward a manifesto that includes reform of the House of Lords?

Mr. Lammy: My hon. Friend knows that it would be wrong of me to pre-empt any part of the manifesto. However, he contributes to those discussions, as do I and all members of our party, and we look forward to seeing the manifesto when it is produced.

My right hon. Friend the Member for Livingston and his colleagues have produced a serious contribution to the debate which deserves, and I am sure will get, appreciative consideration even from those who do not agree with its conclusion. My hon. Friend the Member for Leigh was right to say that we have to move forward on the basis of consensus. I do not think that my right hon. Friend would seriously expect me to say that the Government can commit themselves to the proposals that he has put forward, and I am grateful for that. However, we have made it clear that we will return to the subject in our manifesto.

The proposals have the support of hon. Members across all parties. That is important. One ongoing difficulty is that House of Lords reform does not divide opinion on party lines. It would probably be possible to put together a cross-party coalition in support of an alternative set of proposals, including proposals for a wholly appointed House, but it is important to have regard to the seniority of those who have endorsed the recommendations before us. I note that the hon. Member for North Cornwall has introduced a private Members' Bill to give effect to the proposals outlined by my right hon. Friend the Member for Livingston.

The starting point for the proposals, as one would expect from Members of this House, is the need to ensure that the reform of the Lords does not undermine the primacy of the Commons. Members also recognise that it is important not to undermine the relationship between each MP and his or her constituents. The two Chambers of Parliament must be distinct, and the one must not simply be

"a pale imitation of the other",

to quote from my right hon. Friend's paper.

The Government entirely agree; indeed, how best to reform the House of Lords and still respect those propositions lies at the heart of the debate about the composition and powers of the second Chamber. It is important that increasing the powers of the House of Lords is not done at the expense of those of the House of Commons. It is also important that the powers of the second Chamber are given to it by the Commons and cannot be changed unilaterally by the second Chamber, although they can be changed unilaterally by the Commons. Another point made in the paper is that even after reform, the second Chamber will continue to respect the primacy of the Commons because its electoral mandate will be much more dilute than that of the Commons. My right hon. Friend underlined the point that the way in which the second Chamber operates will continue to be less political than the Commons because its atmosphere will continue to be different.

Mr. Heald: Is the Minister still committed to a more representative and democratic House of Lords?

Mr. Lammy: The hon. Gentleman knows that the Government stood on that platform in our last manifesto following the proposals of the Wakeham commission, and he knows what was the position of the House at that time. We await the position of all parties at the next general election.

Andy Burnham: Does my hon. Friend share my surprise at the Conservative party's new-found zeal on the matter, given that it did absolutely nothing about its inbuilt unelected majority in the House of Lords for many decades?

Mr. Lammy: I did not want to be too partisan, but I agree with my hon. Friend. Much has been said about the powers of my right hon. Friend the Prime Minister, but much could also be said about the official Opposition's recent position, which they were not prepared to take on hereditary peers. Let us try to continue the debate in a mode of consensus.

Such a radical change in composition will undoubtedly have some effect on the second Chamber, so the critical issue is getting the change right. The statutory powers of the House of Lords are not the issue. Of course, those powers are less than those of the Commons and the Lords cannot increase them unilaterally, but it does not use them much and rarely presses an issue to the point at which they become relevant. If it did so routinely, the business of the

Government would soon become impossible. The Lords normally operates under voluntary and non-statutory constraints—those, not the Parliament Acts, make the system work. The potential vulnerability of those constraints to a radically changed composition needs to be taken seriously. Will a House that is 70 per cent. elected take the constraints of the Salisbury convention as seriously as an appointed House, even if some of the elections took place 11 years previously? If it will not, is the answer to let it exercise more power, or is it to do what every other country with a bicameral Parliament does by spelling out in detail, and in statutory form, the powers that the second Chamber should have? If we did that, how far away would we be from a written constitution?

As for how political the second Chamber will be, there is a legitimate question about whether those of its Members who had to get the approval of their party to be put forward for election will be inclined to adopt the gentlemanly behaviour of the Lords, especially if they were elected by single transferable vote. The hon. Member for North Cornwall said that this is not about the list system, but the fact that candidates would have to fight for first preference in their party would lead to certain kinds of Member. That gives rise to legitimate questions about how the nature of the people who end up in another place might change.

Mr. Deputy Speaker: Order. We must turn our attention to the next topic for consideration, which is consumer protection and the safety of gardening equipment.

Gardening Equipment (Safety)

11 am

Mr. Brian H. Donohoe (Cunninghame, South) (Lab): I first thank Mr. Speaker for giving me such an early date for this debate on the safety of gardening equipment and consumer protection. *[Interruption.]*

Mr. Deputy Speaker: Order. Would right hon. and hon. Members please leave the Chamber quietly to enable us to continue our debate?

Mr. Donohoe: I see that my hon. Friend the Under-Secretary of State for Trade and Industry, the hon. Member for Bradford, South (Mr. Sutcliffe), is in his place. I look forward to his contribution and trust that it will be positive. I also recognise that the right hon. Member for North-West Hampshire (Sir George Young) is in the Chamber. If he wants to, he can intervene at any point in the debate, because I know that he has a constituency interest in the matter.

By way of background, I shall say something about the gardening industry in the United Kingdom. It may come as a surprise to many people to hear what the industry is worth. It has a turnover of some £5 billion a year, so it is a buoyant and—if hon. Members will pardon the pun—a growing industry, employing some 200,000 people. In addition, 20 million people in Britain regularly participate in gardening. That industry and recreation is enormous and growing by the year; growth looks set to continue for many years to come, as more and more young people become interested in the pastime of gardening. It is therefore highly important to look at the question of consumer protection and the safety of gardening equipment in a different light.

I have said on many occasions that the industry is a sleeping giant that requires a voice, and I hope that right hon. and hon. Members can start that process in the Chamber, and show that there is a need to focus attention on safety in gardening. It would be right, Mr. Deputy Speaker, for me to declare an interest: I am the secretary of the all-party group on gardening and horticulture. I am, some say, mad, but I am a keen gardener—so keen that I was out cutting my grass at the weekend, unlike, I would have thought, many other Members—and that gives me first-hand knowledge and information on how urgent the issue is and why focusing attention on consumer protection and safety of gardening equipment must be debated.

The purpose of the debate is to ask the Minister for reconsiderations and suggestions, as well as to look afresh at some of the initiatives that have been taken in his Department. One such initiative was the introduction some years ago of a statistical evaluation of household and gardening safety—known as HASS, which stands for home accident surveillance system. I know many people in the industry who were extremely disappointed when, in May 2003, the Department of Trade and Industry announced that it would no longer collect such statistics, and that that work was being terminated and passed out of the Department. That is, quite simply, wrong. I cannot understand the decision to terminate what was almost the bible of the industry, particularly given the increased activity in gardens across the land.

[Mr. Donohoe]

I do not like to use a lot of statistics, but sometimes, as in this case, they are important. Let us consider the fact that 1.5 million householders in 2005 will attempt to cut their hedges using a ladder as a work platform, probably with a powered cutter but without acknowledging any safety requirements. I would argue that that is a dangerous practice. The statistics show that at least one person per week is likely to die as a result of falling off a ladder, and urgent action on that is required. If hon. Members consider that 337,000 individuals in one year have attended accident and emergency units because of accidents in the garden, they can understand some of the reasons behind my arguments. The use of powered equipment is growing. If we consider that hedge-trimmer accidents have increased by more than a half in the past five years—that is shown by extrapolating old statistics—we start to see the problem that I am trying to address. I would not argue that we should unnecessarily introduce any level of the nanny state.

Mr. Jim Cunningham (Coventry, South) (Lab): Would my hon. Friend describe some of the injuries that can be sustained as a result of such accidents? One that comes to mind is electrocution, but are there other injuries that people can suffer?

Mr. Donohoe: The list is endless; my hon. Friend is right. As he was at the vanguard of the campaign on the issue of high hedges—legislation has now been introduced, which I will touch on later—he is aware of some of the inherent dangers in cutting down high hedges. I know that he secured some debates around the subject.

In 1996, the Department of Trade and Industry undertook a garden safety campaign and produced a leaflet on the question. It was a fantastic leaflet, embracing all the hazards that one could find in the garden. My hon. Friend has already asked where else there would be accidents. As well as step ladders, there are all sorts of new electrical tools, while barbecues take place in almost every garden in the summer. There are swings in gardens, and fences—the list goes on and on.

I ask the Minister at the very least to have his Department consider reinstating the leaflet and putting it in all garden centres. To back that up, it is also important for the home accident surveillance system statistics to be reinstated. Instead of being reactive, the Department should become proactive on the subject of garden safety. There is no doubt that there is a need to protect the public. The DTI is responsible for public safety, but it does not seem to demonstrate itself. The data that we had, which were useful in the Department and even more useful outside, would be used by many in the industry. They highlighted some of the dangers in the garden, but the focus of that has been lost. What we are getting is a growing number of people in danger.

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): I want to clarify the position on the HASS statistics. They have not ended, in the sense that the Royal Society for the Prevention of Accidents is now taking over the responsibility. That is in light of work carried out in the Department of Health. I will mention that more in my speech, but I did not want my hon. Friend to run away with the idea that the statistics are no longer available. They are available, but not through the DTI.

Mr. Donohoe: But sometimes if we pass on information such as that, it tends to get clouded and lost. It is that aspect that we need to address, and that I ask the Minister to address. There does not seem to be a proactive approach.

The use of ladders in gardens will inevitably increase. I mentioned the legislation on high hedges that will be introduced in the autumn; such hedges mean that the use of ladders—a dangerous practice—will become more likely. If people prop up a ladder against a hedge, pick up a hedge trimmer that needs two hands to operate, balance on the ladder, and then lean back to cut, that is an illustration of all the things that are wrong and that need to be addressed. It is crazy for people to do that.

I believe that the Minister was involved in industry, as I was. I started as an apprentice in 1965 in a shipyard and was educated about the need to wear a hard hat and gloves, and tight clothing. All of that was drummed into people. Increasingly, however, young people have never been in that sort of environment. In the 1960s and 1970s the people who gardened may have been from the shipyards, the dockyards, the mines and the factories, but we are now dealing with a public who, for the most part, had never had a tool in their hands before they started gardening. Moreover, they have had no instruction in how to use such tools; no one takes them on courses. It is that fact, more than anything, that leads me to suggest that tighter regulation should be introduced and applied. I do not want restrictions to be placed unnecessarily on the individual. However, for common-sense reasons, we must examine the industry and its practices, as well as the householder who uses the equipment. Change is required, but the whole issue must be addressed.

In conclusion, I will make a few pleas and ask a specific question. There should be an obligation on the DTI and the Government to ensure greater protection of consumers in this area. I ask for a reinstatement of the Government use of the HASS statistics and an assurance that the statistics are to hand in-house. I would like the garden safety leaflet, which was issued so successfully in 1996, to be reissued, and I would like the Department to take a more proactive stance on the whole issue of garden safety.

11.13 am

The Parliamentary Under-Secretary of State for Trade and Industry (Mr. Gerry Sutcliffe): I congratulate my hon. Friend the Member for Cunninghame, South (Mr. Donohoe) on securing the debate, and welcome the fact that he has brought this matter forward. It is an important issue, and he eloquently made clear the effect on our constituents. As the Minister responsible for consumer affairs, I am greatly interested in the points that he raises. I may not today be able to give him all that he seeks in relation to the issue of garden safety, but I will certainly take away and consider many of the things that he asked me to do.

We should reflect on my hon. Friend's important airing of this issue in the context of his involvement in gardening throughout his time as a parliamentarian.

Hon. Members will know that gardening is a subject that is close to his heart. He helped to ensure that the BBC's "Gardeners' Question Time" was broadcast from the House of Commons Terrace and, in 1997, he named a new variety of rose after the then Speaker, Betty Boothroyd. He is also, as he said, the secretary of the all-party group on gardening and horticulture. I recognise the good work that he does to foster better communication between the industry, Parliament and our constituents. He was right to point out the effect of the industry—it adds £5 billion to the economy—and the employment opportunities that it creates.

The timing of the debate is appropriate. As we move towards the end of February, many people's thoughts inevitably turn away from winter, when we are more inclined to survey our gardens from the comfort of our own homes, and towards the warmth of spring, which is a time for preparation and sowing—and ultimately to summer, when we can enjoy the fruits of our work. Already, here in London, we can see the first shoots of green that will, in a short time, become bright yellow daffodils. As nature refreshes its own palate, the gardeners among us look forward to the next project in our everlasting quest for the perfectly manicured lawn, the neatly coiffured hedge and the reddest roses—although, as I represent a Yorkshire constituency, perhaps that should be the whitest rose.

As my hon. Friend said, the garden is a place to be enjoyed, a place to leave behind the stresses of day-to-day life and, given the time, a place to snooze with the Sunday newspapers—not that my hon. Friend would do that. As he said, the lawn does not cut itself, the hedge does not get trimmed by looking at it and the roses need regular tending. Regular maintenance is not seen as a chore by the gardener, but as part of a relaxation process. With common sense, all those jobs can be undertaken swiftly and safely by the enthusiastic amateur, and a whole industry has grown up, as my hon. Friend said, around the activity to supply the right tools, the hardiest and most beautiful plants and any manner of garden accessory that it is within the capability of man to design.

Despite the idyllic picture, it is sadly a fact, as my hon. Friend says, that accidents in the garden can and do happen. Based on the most recent available figures from the home accident surveillance system data, it is estimated there were about 2.7 million accidents in homes in the UK in 2002, some 300,000 of which occurred in the garden. Approximately half of those accidents involved people aged between 15 and 64 and about a third involved children aged up to and including 14 years old. By cause, the highest proportion of accidents—about two fifths—involved slips, trips and other falls. About one quarter of injuries in the garden occurred as a result of being struck by a moving or other object, and three in 20 resulted from pinches, crushes, cuts, tears or punctures.

As I know that my hon. Friend is particularly interested in ladder safety, let me record that the proportion of garden accidents resulting from falls from ladders was minimal at around only 2 per cent., or approximately 6,000 accidents, which in the context of a population of 60 million is one person in every 10,000. However, I am aware of the horrendous cases that have come before us regarding how people use ladders and it is right that my hon. Friend raises that issue with us.

Generally, it is estimated that about 15 per cent. of all garden accidents—44,000 in total—involve the use of garden tools or equipment, and high on the list were lawnmowers, strimmers, hedge trimmers, spades, shovels and forks, secateurs, shears and even the humble flowerpot. Detailed research undertaken in 1996 showed that few accidents involved the use of garden chemicals. It is estimated that in 2002 poisoning and the effects of chemicals accounted for just over 1.5 per cent. of all home accidents.

It is easy to get carried away with such statistics. The fact that HASS recorded injuries from hedge trimmers and flowerpots in the same categories shows the enormously wide range of accidents that can occur, from the potentially dangerous to the not very serious. Raw numbers do not tell the whole story. Some of the accidents in the statistics reflect the fact that children at play will and do fall over and bang into things, and that will continue regardless of the precautions that are taken by the most safety conscious parents.

Some accidents in the garden, as in all walks of life, are avoidable and stem from the adoption of poor behaviours and bad practices. Garden accidents are thankfully mainly minor, with the most serious generally being fractures sustained during a fall. However, there is no doubt that the greater use of gloves would avoid some of the cuts and abrasions and other injuries, as would protective footwear.

The nature of a small number of garden fatalities, which are predominantly among young adults, varies from year to year. Many of those result from the use of accelerants on bonfires and barbecues, but some involve tragic child-drowning accidents in garden ponds and pools. My hon. Friend is right to raise such issues from the aspect of consumer protection and it is in that vein that I will be considering the many things that he raised with me.

My hon. Friend wrote to me last year, enclosing a letter from Mr. Kitching of Haygate Engineering Co. Ltd, manufacturer of the Henchman range of access platforms, who expressed concern about a fatal gardening accident that was reported in the *Daily Mail* on 5 August; that was a particularly horrific accident involving a chainsaw and a ladder. A man with a chainsaw still running fell from a ladder on to his wife who sadly died of her injuries.

Mr. Kitching has also been in direct contact with the Department about advertising for ladder safety devices that shows ladders being used in the garden to gain access to the top of hedges for the purpose of pruning them with two-handed power cutters, which he maintains is an unsafe practice. Like my hon. Friend, he argues that the Department should reissue the guidance and notes that it previously published on the safe use of ladders and stepladders.

I have personal experience of cutting the hedge with a power tool while on a ladder. Had it not been for the safety circuit breaker, I might not be here to respond to my hon. Friend. Clearly, I am concerned about how accidents can occur in the simplest of situations. The message in the 1996 basic safety guide remains the same, and the "Ladder User's Handbook" and its companion "Stepladder User's Guide" are both still available on the

[Mr. Gerry Sutcliffe]

Department of Trade and Industry website. Again, I shall consider what my hon. Friend has asked me to do in respect of that.

Sir George Young (North-West Hampshire) (Con): I am the MP for Mr. Kitching, to whom the Minister referred. The Minister says that the information is available on the website, but the proposition put to him by the hon. Member for Cunninghame, South (Mr. Donohoe) was that the leaflets should be available in the stores that sell the equipment. Will he consider that option?

Mr. Sutcliffe: I am grateful to the right hon. Gentleman for making that point. I shall come on to the role of producers, shops and so on. He is right—that route should be considered, and every product should be sold with safety advice on how to use it.

Mr. Donohoe: This morning, I took the opportunity to go on to the Royal Society for the Prevention of Accidents site. I spent a good half hour looking for the information and statistics but have still to find them. I was able to get them dead simply on the DTI website, but it is almost impossible on ROSPA's site.

Mr. Sutcliffe: I am sorry to hear that. The decision to move the HASS statistics was based on a resource issue when the Department of Health was producing statistics about hospital and doctor visits. Royal Society for the Prevention of Accidents wanted to take on HASS. In the spirit of my hon. Friend's request, I shall investigate further and find out what the problem is.

I hope that I, as the Minister with responsibility for consumers, and the all-party group on gardening and horticulture will develop a relationship and deal with some of these issues in a practical way that helps consumers and the industry. I agree with my hon. Friend that we do not want to issue regulations that burden and restrict the industry, that stop people enjoying their gardening or that prevent products that people want to use from being introduced. I know that he wants to strike a balance.

I was talking about the handbooks that are available on the DTI website, which I am sure my hon. Friend will access straight after the debate. As I said, they were not designed to deal with every specific use of ladders but are general guides that bring together expert advice on choosing and using ladders and stepladders. They aim to lessen the risks to individuals from ladders and other products in the marketplace—for instance, the other options that were available to the constituent who had the nasty accident.

In particular, the guides set out the importance of choosing a ladder that is the correct height and strong enough for the task being undertaken. They point to the benefit of leaving one hand free to hold on while working, and to the dangers of over reaching, to which I referred earlier. The guides also focus on the importance of proper setting up to ensure that the ladder or stepladder is in the correct position and that it is secured, generally by tying it to a stable fixed object. They are a useful tool for the public, and we must ensure that there is maximum awareness of the issues.

Several guides that cover safety in the garden more generally are available on the DTI website. "Guide to DIY Safety" and "Painless DIY" are two publications that offer helpful advice on, for example, the use of residual current devices that will protect the user—me, for instance—from an electric shock in the event of accidentally cutting through a trailing electric lead with a lawnmower or other cutters. There is further guidance on ladder safety and on the use of chainsaws, hedge trimmers, shredders and brush cutters, and there are pages on "Gardening without Tears". "Sowing the Seeds of Safety" identifies 10 tips for keeping children safe in the garden, and our garden safety guidance offers more hints and tips, in particular on the safety benefits of keeping the garden tidy, putting tools away after use, locking the garden shed and maintaining pathways, and on the risks associated with barbecues, bonfires, ponds and paddling pools—all of which people would want to use but which can be dangerous if not used properly.

In this area where ultimately guidance and the Government can go only so far—safe behaviour cannot be learned from a quick flick through a leaflet—common sense has to come into play. Guidance helps us, as do safety instructions provided with the tool or ladder, but we cannot pretend that the DTI issuing leaflets will lead to an end to accidents in the garden or in the home. It will not. We must accept that only through changed behaviours and the responsible use of equipment are we likely to see a reduction in avoidable accidents.

We must ensure that consumers have rights and that they are protected. We also need to ensure that consumers understand that they have responsibilities too. However, I accept that some gardening accidents may result from products that are inherently unsafe. All consumer products placed on the market are required by the General Product Safety Regulations 1994 to be safe in normal or reasonably foreseeable conditions of use in keeping with the characteristics of the product. The regulations also require that warnings are provided where the risks that the product presents are not obvious.

Enforcement authorities, which are usually local authority trading standards departments, can act to suspend unsafe products from the market and prosecute the producer or distributor for the breach of the general safety requirement. We are currently consulting on revised regulations that implement the 2001 EC directive on general product safety. One of the main changes is that in future the authorities will, as a last resort, be able to order the recall of dangerous products from consumers. In future when any product, such as a tool, that is designed for professional use comes on to the general consumer market, its safety in a consumer's hands will be judged against the General Product Safety Regulations.

That covers the point that the right hon. Member for North-West Hampshire (Sir George Young) raised that producers of tools should be more aware of the information that consumers need. The DIY leaflets at B&Q, for example, show how to deal with a tool in a particular circumstance. I suppose that we should try to move towards safety leaflets being available alongside tools that are for sale in such outlets. That is where the development of consumer protection will move forward. My hon. Friend may be aware of Consumer

Direct, which is a telephone hotline. I attended the opening of its call centre on the island of Lewis. People can ring for advice about products, product safety and consumer rights.

There are already moves in the DTI to highlight the issue of safe products and consumer safety. That reflects the changing role of the DTI. I do not want to score any political points or to make this matter partisan, but other parties want to end the DTI. That would be a bad step for consumers. We have changed the role of the DTI in consumer protection over the past two years. From 1999 to 2002, the Department mounted a major safety campaign, "Slips, Trips and Broken Hips", highlighting the problems of falls, particularly of elderly persons, and worked to raise awareness of the risks and consequences. That work was taken over by Help the Aged, with seedcorn funding from the DTI in 2002. There are also our annual firework safety campaigns.

The spirit in which my hon. Friend has raised the issue will get us to look again at certain matters. I am not sure that the HASS statistics can be reinstated. I will be happy to meet my hon. Friend to talk through the reasons why we did what we did on that and where we believe the figures are available, notwithstanding his comments about the ROSPA website. We will look seriously at the question of the leaflet. There may be resource issues, but there may be other ways of achieving the same end. Again, we will explore what can be done. I agree with my hon. Friend that we have to be proactive rather than reactive.

11.30 am

Sitting suspended until Two o'clock.

Milton Keynes/South Midlands

Mr. Deputy Speaker (Mr. Frank Cook): This is an occasion on which I must apply Mr. Speaker's recent ruling that, when topics are of a particularly local nature, the time for wind-up speeches by the main Opposition parties' spokesmen is reduced from 10 minutes each to five minutes each. The Minister still retains his right to 10 minutes, which may not please him. One of the Conservative Members must inform their spokesman if, and when, the hon. Gentleman arrives.

2 pm

Mr. David Lidington (Aylesbury) (Con): I am grateful to be able to bring this issue to the attention of the House today. I am glad that my hon. Friends the Members for South-West Bedfordshire (Andrew Selous), for Daventry (Mr. Boswell) and for Mid-Bedfordshire (Mr. Sayeed) are here, as well as the hon. Members for Milton Keynes, North-East (Brian White), for Milton Keynes, South-West (Dr. Starkey) and for Bedford (Mr. Hall), who also represent the affected area. I welcome the Under-Secretary of State, Office of the Deputy Prime Minister, the hon. Member for Corby (Phil Hope), to the debate. He can claim to be wearing two hats today: that of the spokesman for his Department and that of a local constituency Member, although he is probably not allowed to speak in the latter capacity.

Two years ago, the Government published their sustainable communities plan, which designated four regions of south-east England for large-scale residential and other development. The term "Milton Keynes and south midlands sub-region" was invented to describe what I still regard as a pretty disparate area covering most of Northamptonshire, Bedfordshire and Buckinghamshire. As the panel appointed by the Government to assess their sub-regional strategy commented,

"The area chosen for the Sub-Region was somewhat arbitrary".

The most recent figures to have emerged from the Government's planning process predict that, under their sustainable communities plan, there will be a further 169,890 new homes in the Milton Keynes and south midlands area by 2021 and, more provisionally, an additional 103,100 new homes in the subsequent decade to 2031. It will come as no surprise to the Minister that I have been sceptical about the Government's approach from the start, but I want to make it clear to the House that I am not opposed to all development. In fact, it is difficult to find anyone, even among conservation organisations, who claims to be against all development.

One of the ironies about the debate is that places such as Aylesbury, Milton Keynes and Northampton were already, before the sustainable communities plan was published, planning at local level for significant new housing and commercial development in the years and decades to come.

Mr. Tim Boswell (Daventry) (Con): Like some professional commentators, I have found the whole process bedevilled by the need to unpick the figures for planned and incremental growth. It has been difficult to

[Mr. Tim Boswell]

work out from the overall aggregates how much development was already in the pipeline and how much the present initiative has added to it.

Mr. Lidington: My hon. Friend puts the point well. In recent months, that complication has been aggravated by the publication of the Barker report and the south-east England regional plan when, once again, we have to distinguish between new growth already in the pipeline, growth provided for by the Government under the various stages of the sustainable communities plan, and growth planned now under the post-Barker recommendations.

Brian White (Milton Keynes, North-East) (Lab): Does the hon. Gentleman accept that one of the reasons why the Government, rightly, tried to bring some order to the matter is that, had it been left to them, market forces would have forced development on the areas that he is talking about? That is why infrastructure is so vital.

Mr. Lidington: I do not wish, and never have wished, to leave things entirely to market forces. I would rather put my trust in local communities through their elected representatives, who, particularly in the areas that we represent, have shown themselves able to judge correctly the balance between growth and conservation that is suitable for their town, district or county. They do that much more skilfully than the regional or central bodies that have been given so much power in recent years.

Andrew Selous (South-West Bedfordshire) (Con): Does my hon. Friend agree that if local authorities of any political colour do not meet their local housing need, they will not be re-elected? The Government do not seem to realise what pressure there is on Tory local councils to meet housing need. Those councils want to meet it.

Mr. Lidington: My hon. Friend is absolutely right.

I find it odd that the Government have sought to address the challenge of high housing costs in the south of England by concentrating development—it seems to me—in towns where house prices have been in general lower than average for the south-east region.

Mr. Kelvin Hopkins (Luton, North) (Lab): The hon. Gentleman spoke about trusting local authorities. What would be the situation in my constituency, where the local authority has run out of land and will have to build or find housing outside the borough? That cannot be done without mutual agreement between authorities or some kind of Government intervention.

Mr. Lidington: The hon. Gentleman puts his finger on it when he talked about the need for mutual agreement between local authorities. It seems to me that we need to have a sensible coming together between those authorities that want to provide additional housing and those that are responsible for the transport and public services that will be required if such housing is to lead to successful and sustainable communities. That has not been happening during the Government's implementation of their sustainable communities plan.

Dr. Phyllis Starkey (Milton Keynes, South-West) (Lab): I understand the hon. Gentleman to be saying that growth is expected to occur in places where house prices, as he pus it, are lower than average. Is he aware that the Housing Corporation says that an income of £40,000 is required to afford a house in Milton Keynes? Does he think that that is acceptable? What would he say to the many people in my area who have incomes well below that?

Mr. Lidington: I have never denied the need for more affordable housing. My point was that the areas in the south-east of England singled out by the Government for concentrated growth are not those where housing costs are highest. As I shall explain, one consequence of that approach is the real risk that the proposals will generate not sustainable communities, but a lot of extra road-carried commuter traffic, taking people from the new developments to work in other areas where housing costs remain high.

One of the things about the proposals and the Government's approach that I worry about is that the focus on building on the edge of existing towns risks not only drawing resources away from inner-urban regeneration, but making many villages even more exclusive than they are at the moment. I have a lot of time for the proposals coming from the Rural Housing Trust: one of the things that we need is small-scale developments in a large number of English villages of a type that suits the needs of those parishes and local communities.

Brian White: Is the hon. Gentleman not aware that one of the reasons for locating growth in urban areas was the fear that otherwise lots of villages would get swamped by development? Is that not what the hon. Gentleman is advocating?

Mr. Lidington: No, I am advocating what the Rural Housing Trust has been advocating: if small-scale developments were made possible, in some cases there could be as few as six, 10 or 12 additional homes in small villages. Those homes could be for people with a local link—perhaps they are employed in that village or have family members who are employed there. The villages would be sustained as balanced communities and we would avoid the need for so many people to drive in and out of them. We would be able to keep the countryside as a place where people are able to work and not just as a place to which well-off people are able to retire.

However, I want to concentrate not so much on those objections of principle, which I wanted to make clear in advance, but on whether the plan as it has developed in the past two years is likely to achieve what Ministers said they wanted to happen. From the start, the Deputy Prime Minister claimed that the sustainable communities plan is about far more than just more house building. The White Paper of February 2003 stressed the need for a flourishing local economy, good transport systems and high-quality public services. The Government assure us that they are determined not to repeat the planning disasters of the 1960s—indeed, the term "sustainable" implies that the development will

qualitatively different from and better than past growth, and in particular that development will reflect environmental limits and not just economic pressures.

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope) *indicated assent.*

Mr. Lidington: I see the Minister nodding. He thinks that I am giving a fair summary of how the Government stated their case.

Let us look first at the environmental impact. It is undeniable that the plans for the Milton Keynes and south midlands area will lead directly to the loss of greenfield land, and in some areas—south Bedfordshire is a case in point—to the loss of green belt land. The development proposed in the sub-regional strategy for the area to the south of Aylesbury threatens to build on green fields and lead to the coalescence of the town with villages such as Wendover, Weston Turville and Stoke Mandeville. In Kettering, about 80 per cent. of new build will have to be on greenfield sites and in Northampton about 27,000 out of 49,000 homes will be built on greenfield sites. I believe that the plan for Milton Keynes is to build not just within the existing urban area but on greenfield sites on the edge of the city.

Andrew Selous: Does my hon. Friend agree that the Minister could usefully explain what the Deputy Prime Minister meant when he said in a letter to the *Daily Mail* on 6 February 2004,

"Your article on Wednesday mentioned threatened Downing Street plans to allow thousands of homes on Green Belt land. There are no such plans. No Ministers are demanding the rules on Green Belt must be relaxed."?

Mr. Lidington: My hon. Friend speaks from experience of the real threat to the green belt in the communities that he represents.

The second issue is that of pressure on areas of particular environmental importance and sensitivity. I will speak at greater length in a moment about the Chilterns area of outstanding natural beauty, which covers a large part of my constituency, and the wider Chilterns area. The impact of these plans on the Nene valley in Northamptonshire is something that has caused anxiety to the Royal Society for the Protection of Birds.

Inevitably, housing growth on the scale proposed will lead to an increased tension in rural neighbourhoods between the demands of conservation and those of recreation—each a legitimate demand. The strain will become greater. There is also the matter of the indirect environmental impacts of the proposals, which include the traffic generated by the new growth; the carbon dioxide emissions that the study commissioned by the Department for Environment, Food and Rural Affairs found would be one result of the Government's house building plans; the added burden of refuse collection and disposal; and the impact on water supply and sewage treatment.

Dr. Starkey: Although I do not dispute that development has an effect on the environment, has the hon. Gentleman seen the interesting survey of Milton Keynes' biodiversity compared with that of the low-grade agricultural land that preceded it? There is greater diversity of flora and fauna in Milton Keynes than there was before, which shows that building does not necessarily damage the environment; it can create good, new, managed environments.

Mr. Lidington: The hon. Lady has just added an interesting item to my long reading list. I do not quarrel with her basic point, but, first, the forthcoming reforms of the common agricultural policy are in part designed to restore biodiversity to rural areas; and, secondly, one consequence of the Government's decision to encourage greater density of house building, which was taken for understandable reasons, will be to limit biodiversity in areas where there are plenty of green spaces and gardens within an urban development.

The hon. Lady's comments bring me to the third point that I wanted to stress in my remarks—the need for an environmental assessment to be done. The Government have hitherto refused to carry one out. If one considers what various agencies have said—I am not talking about Opposition politicians but about the Government's own watchdogs—there is no doubt that there is real concern about environmental impact.

In September last year, the Environment Agency's annual report on the state of the environment in south-east England said that development plans

"could set off an environmental time bomb".

The agency's director for the Thames region, which covers much of the area that we are discussing, declared that

"in some parts of the region we are reaching our environmental limits. Unless the environment is built into plans for development now we will seriously threaten the quality of life in the South East."

I therefore find it dismaying that the Government have still not carried out any serious assessment of the environmental impact of their plans. Back in April 2003, the Select Committee on the Office of the Deputy Prime Minister called for such a review. All that has been done is that the Department for Environment, Food and Rural Affairs commissioned one consultancy study, which had to be completed within six weeks. That is a completely inadequate response to proposals that will generate change of the order that we are debating today.

A report published last month by the Environmental Audit Committee was frankly damning. I remind hon. Members that that Committee has a majority of Labour members. Paragraph 47 said:

"ODPM seems to have taken the approach to sustainability and the SCP that by simply calling it 'sustainable' and mentioning the environment occasionally . . . the Plan is inherently and obviously fully compatible with the principles of sustainable development. This is clearly not the case."

Paragraph 52 stated:

"It would appear to us that many of the efforts directed towards achieving sustainability within the SCP are little more than a window-dressing exercise. This is unsatisfactory and bound to have severely detrimental consequences in the long term."

I ask the Government to do three things. The first is to carry out, even at this stage, a proper environmental assessment of the sustainable communities plan. Perhaps it could follow the approach outlined in the EU strategic environmental assessment directive. The second is to secure explicit recognition in the plan of the need to protect the special qualities of areas such as

[Mr. Lidington]

the Chilterns area of outstanding natural beauty The third is to acknowledge, to a greater extent than Ministers have done so far, the relationship between the environment and the plans for housing, jobs and transport. The Chilterns is obviously the area of which I have the greatest knowledge.

The Secretary of State's proposed changes to the sub-regional strategy, especially paragraphs 48 and 59, imply that housing in Milton Keynes and the south midlands will help to meet demand among employees working in the Heathrow area and the western corridor. If that is the right interpretation of the Secretary of State's proposals, it would mean a massive further increase in commuter traffic along the inadequate roads that run right through the middle of the Chilterns area of outstanding natural beauty. It also places a question mark over the Government's claim that the plan will deliver employment as well as new homes.

Brian White: Is the hon. Gentleman looking at net inward commuting into Milton Keynes as part of the future growth of the city?

Mr. Lidington: The hon. Gentleman makes the point based on his experience of Milton Keynes. Looking at my constituency, Aylesbury already has a serious imbalance of housing over jobs. The number of jobs in the town has fallen in recent months and I think that the same is broadly true of south Bedfordshire. However, the latest version of the Government's plan includes figures that show a lower ratio of jobs to homes—at least for the Aylesbury area—than in the proposals as they were first published. I urge the Minister to look again at this issue.

There is real concern about infrastructure and public services, even among those people and organisations that are less sceptical than myself and generally support what the Government are trying to do. In September 2002, an independent study by Roger Tym and Partners predicted that £8.3 billion would be needed to provide the roads, railways, water and sewage treatment and public services to cope with the Government's development plans for the Milton Keynes and south midlands sub-region. A more recent study of the Aylesbury area by the same company last October concluded that for Aylesbury alone—the town and its surrounding area, not that part of Aylesbury vale district that abuts Milton Keynes—those costs would be in the region of £768 million. The original Tym study in 2002 stated that

"unless an adequate programme of funding is programmed it is doubtful whether the scale of growth envisaged should be contemplated at all".

Let us consider what is, or is not, happening in respect of particular needs, dealing first with transport, specifically railways and the east-west orbital rail link. The letter that I received from the Minister's colleague, Lord Rooker, on 29 October 2004 made it clear that the Government do not regard the orbital rail link as a priority for public funding, despite the fact that the local authorities in the areas affected by it believe that the development of that route is critical to the future transport infrastructure. Lord Rooker wrote:

"we must look to alternative funding routes to contribute to East-West and other infrastructure projects in the growth areas. Developer funding is clearly a critical area and this needs to be fully investigated, alongside the other calls on it and we would also expect a contribution from local authority resources." "Local authority resources" tend to be a euphemism for a further rise in council tax.

Let us consider the rail link from the centre of Aylesbury to the Berryfields development to the north of the town. A letter to me from the managing director of Chiltern Railways, dated 1 December 2004, made it clear that some public funding would be needed if the project was to go ahead, but that the company was still in discussions with both local authorities, the Strategic Rail Authority and the Office of the Deputy Prime Minister to try to identify possible sources of funding. I hope that the Minister will give me some good news today and say that he has been able to knock heads together to ensure that this much needed and much wanted scheme can now go ahead. It is ironic that, at a time when we are talking about the need for enhanced rail services, the development of the sustainable communities plan has coincided with severe cuts to commuter rail services in Milton Keynes. I am sure that the two Members of Parliament for the city are able to confirm that.

On roads, I make my pleas again for my local area. We will need bypasses for villages like Wing and Rowsham, yet according to the Government's projections, the upgrades needed for roads like the A418 and for the M1 near Milton Keynes are not likely to happen until after the additional houses have been built. Little thought seems to have been given to the high-capacity road links that will be needed to cope with the extra freight and business travel that the development will engender—for example, there will have to be some link between the Aylesbury area and the M40, for which various options and routes might be considered. I thought that I was pretty unshockable after 13 years in this place, but I was shocked when I contacted the Highways Agency about its 10-year route strategy for the M40 and was informed that it was completely unaware that that was an issue and did not really think that it was relevant to its strategy document.

As for water and sewage treatment, Thames Water tells me that the sewage treatment works in Aylesbury will struggle to cope with the expansion set out in the local council's plan, let alone the sustainable communities plan. There is no money in Aylesbury's Ofwat allocation for new technology in the area until 2010 at the very earliest, and if a new sewage treatment works is needed, it will probably not start operation until 2016 or 2017. It is little wonder that the director of the Thames region of the Environment Agency wrote to me on 9 December last year to say:

"We have looked at the impact of the Government's plans for additional housing. As a result we have serious concerns about accommodating growth at Aylesbury in an environmentally sustainable manner."

He continued:

"We are presently pursuing Government funding to carry out this work, which is additional to that covered by our current budget."

I emphasise that that is a Government agency—one that happens to be chaired by a former senior Labour councillor, and one whose chief executive takes the Labour Whip in the House of Lords. It is the Government's official watchdog and enforcement body on the environment that is commenting in those critical terms.

On public services, I have heard the hon. Member for Milton Keynes, South-West say before that Milton Keynes general hospital is pretty stretched to deal with the existing population of the city, let alone the additional population that would come under the Government's plans. In Buckinghamshire, the Vale of Aylesbury primary care trust, like all other PCTs in Buckinghamshire and Milton Keynes, is running at a significant financial deficit. In education, it seems likely that there will be a gap of between 18 months and two years between houses being built and new schools opening.

That does not add up to development that can legitimately be described as sustainable. The time scale for the planned development does not match with that for infrastructure and services and there is no clarity about levels or sources of funding. Frankly, the idea that £8.3 billion or anything like that will come from developer contributions is fanciful. I can find no serious observer on any of the local councils, from any political party or from an outside agency who thinks that developer contributions of that scale are possible. The Government need to engage in some joined-up thinking.

Mr. Boswell: Does my hon. Friend agree that one of the difficulties in the whole scoping of this exercise has been the Government's tendency to assume that developers are a given and will simply come forward? If the plans are to succeed in any sense and are to become genuinely sustainable, is it not essential that there be a real demand on the part of developers, and that they can carry out their development and get returns from it? That is not assured merely by Ministers saying that they want that to happen.

Mr. Lidington: I agree completely. There is a danger in Ministers' statements about developer contributions. They are like children waiting for the tooth fairy. I see no evidence that developers will be willing to cough up money on the scale needed.

Mr. Hopkins: Will the hon. Gentleman give way?

Mr. Lidington: If the hon. Gentleman will forgive me, I want to conclude my remarks. Then he and others will have a chance to catch your eye, Mr. Deputy Speaker eye.

Underlying the problems is the undemocratic nature of the entire exercise. Power has been taken from local councils and given to regional bureaucracies or bodies such as English Partnerships, which are accountable directly to central Government. If the Government are determined to pursue their policies through the planning structure that they recently created, they should be able to do far better in terms of public consultation. From what I have seen, consultation as it affects my constituency has been rushed and scanty. Most parish councils and local community groups, for example, were excluded completely from the panel hearings on the plan that were held in Northampton last spring.

There is too much central prescription of the detail of the Government's plans, even if we accept their basic structure. For example, the plan says that new development around Aylesbury should be to the south of the town—the implication being that it should be on greenfield sites between Aylesbury and Wendover and based around a southern relief or distributor road. However, those matters should be entirely for the local council to determine. If the Government want to win over sceptics not only in Parliament but in the communities that we represent, they must show that they trust local communities and are prepared to change their plans from time to time in response to strongly felt and well argued local opinion.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. I see six hon. Members seeking to catch my eye but, even with the application of Mr. Speaker's new ruling, we have only 40 minutes available before the Front-Bench winding-up speeches. I hope that in making their contributions and in accepting and responding to interventions, hon. Members bear the time constraints in mind.

2.31 pm

Dr. Phyllis Starkey (Milton Keynes, South-West) (Lab): In view of the time constraints, my contribution will be somewhat telegraphic. I am confident that if my hon. Friend the Member for Milton Keynes, North-East (Brian White) is called, he will fill in the gaps that I leave.

I am proud to be one of the MPs who represent Milton Keynes, which is a highly successful example of planned growth. It has a hugely dynamic economy and a pleasant environment, as everyone who lives there knows. Milton Keynes has excellent facilities, notably, our theatre, indoor ski slope, the first multiplex cinema—it has now been superseded by another—the Milton Keynes Dons football stadium and the shopping centre. Enormous numbers of people come from the surrounding region to use those facilities.

Everyone in Milton Keynes—the business community, the general population and the council—understands that further expansion of Milton Keynes is essential. It is essential for two reasons. First, there is an excess of jobs relative to the number of houses available for people to live in, such that, according to the 2001 census, the net number of people commuting in daily is 16,000. Many of those people would live in Milton Keynes if they could afford to do so. Businesses frequently complain to my hon. Friend and me that they cannot expand as fast as they want to because they have extreme difficulty in filling vacancies as there are not enough people available.

The second issue is the lack of affordable housing. I alluded to the Housing Corporation claim that a salary of £40,000 is required to be able to afford to buy housing in Milton Keynes. I suspect that that figure is slightly out of date. Many constituents complain to me about the lack of affordable housing to buy or rent. Consequently, many people live in overcrowded and unsatisfactory accommodation or live outside Milton Keynes and commute in because they cannot afford to buy there.

[Dr. Phyllis Starkey]

Most people in Milton Keynes—certainly the business sector and the council—therefore welcome expansion and the fact that it is to take place within an overall planning framework. They broadly welcome the structures that the Government have set up: the Milton Keynes partnership and the inter-regional board, which will oversee that growth and try to ensure that all the public bodies that will be affected by the expansion build the necessary provision for it into their forward plans. People welcome the commitment that has been given by Lord Rooker on many occasions that infrastructure will be provided in parallel with the new housing. All that is broadly welcomed, although there are many disagreements on detail, which I do not want to skate over, but which I shall not go into in the short time available to me.

It is not surprising that many people in Milton Keynes remain suspicious about whether infrastructure will be provided in parallel with housing. That suspicion is largely based on their experience, accumulated mostly under Conservative Governments. There was huge underinvestment and poor performance by the Conservative Governments in providing infrastructure. I need cite only the hospital to demonstrate that: everyone in Milton Keynes knows that what was planned was not delivered. That is the root of the many problems that we have had thus far, and we have been able to catch up with the population growth only recently.

I am not surprised that people who have had such experiences remain suspicious of whether the infrastructure will be provided. They also recall that during the entire period of Conservative Government, the funding for the national health service and local government lagged behind the population figures. I was incredibly pleased to hear in the recent announcement by my right hon. Friend the Secretary of State for Health that NHS funding for Milton Keynes and other growth areas will be provided on the basis of population projections. That is the first time that that has happened, and it has happened under a Labour Government.

Also under the present Government, significant capital sums have been spent on upgrading provision at the hospital, including at the beginning of this year the opening of the £12 million treatment centre with its four extra operating theatres, which has won plaudits from all and sundry, including unsolicited letters in the local press. There has also been provision of new GP surgeries on the eastern and western sides of the city, where growth is happening, and in the older parts, as well as funding for a new health centre at Wolverton.

Contrary to the experience alluded to by the hon. Member for Aylesbury (Mr. Lidington), since the Labour Government were elected, the local council, whether it has been Labour or Liberal Democrat controlled—as it is now—has never made a request for money for school building that has not been met. On some occasions, the request has come through a bit late, which is why the funding has been late. I suggest that if the hon. Gentleman is having problems, he speaks to his local authority and asks it to get its planning in sync so that it knows when to ask the Government for money for new schools, instead of just complaining when it does not turn up. The local authority has received an extra £9 million for growth and the third largest increase in percentage terms of any local authority in England both this year and last.

The first issue that I want to highlight is rail. There is a problem with commuter services on the west coast main line, which I have been working closely with the new rail user group, the partnership board and the council to address. I am confident that Ministers will respond soon to the bid to put in an extra platform at Milton Keynes Central station, which will deal with the overall problem.

I am glad that we have already built more than 1,000 affordable houses over three years, 516 of them for key workers, and I want that development to continue. I have major concerns about the detail of the local plan process and how it is being handled by the council. In particular, I am concerned about the quixotic decision by the local inspector to include area 11 and exclude area 10.4 from the local plan for 2001 to 2016. I am very annoyed that the Liberal Democrat-controlled council went along with the decision when it had perfectly good planning reasons to ignore the inspector. I will continue to work with local residents on that issue to ensure that we get back to what the local plan said and do not go with it as it is at present.

My final point is about the extraordinary suggestion by the hon. Member for Aylesbury that all the growth can be contained by expanding villages and providing jobs in them. How many of the firms in Milton Keynes is he proposing should move out into villages around the city? How many villages will have to be expanded to make up the houses needed for the 16,000 jobs already in Milton Keynes that are filled by people from outside?

2.39 pm

Mr. Jonathan Sayeed (Mid-Bedfordshire) (Con): May I first congratulate my hon. Friend the Member for Aylesbury (Mr. Lidington) on securing the debate? Like many of us, he is aware of the sheer anger felt locally at the Government's plans. I am sorry to say that I do not think that the Government are aware of it. My hon. Friend talked about Government plans up to 2030. Fortunately, by then there will have been a series of Conservative Governments who have listened more carefully to what local people have to say and have not ridden roughshod over their views.

I intend to confine myself to the rather narrow margin of the next decade. Even now, the Government are planning some 67,000 homes for the Bedfordshire, Luton and Milton Keynes area by 2015, and the Deputy Prime Minister has said that it may be appropriate to revise those figures upwards. Some 40,000 of those homes are planned for just north of Luton. In one very small, already congested area—from Milton Keynes to Woburn, Aspley Guise and Toddington—3,230 homes are proposed. That does not make sense.

I realise that there is pressure for homes: there are changing living patterns and a lack of rental accommodation, which is much more suitable for many people. However, the Deputy Prime Minister's motivation should be called into question. When he first talked about his plans, he said that one of the problems was that people in the north-east and north-west of England could not find jobs there, but that there were jobs in the south-east, so we should build more homes in

the south-east to attract people from the north-east and north-west to leave their homes there and come down here.

Such a proposition is back to front, like some of the Deputy Prime Minister's sentences. He has got it wrong. What he should have said is, "Let's provide more work in the north-east and the north-west of the United Kingdom", but he did not do so. We must consider why so many people in Milton Keynes are interested in expanding towards the south and the south-east of the town, when there is already a considerable development area further to the north and north-east. We know that if the town developed towards the north and the north-east, that would be welcomed by people in Rugby and Warwickshire, who are undoubtedly worried about the sink effect of Milton Keynes attracting industry and commerce away from them.

Why are the plans being proposed at all? Why are they being proposed for an area where they are opposed by the East of England Development Agency, which is a Government quango? Why are the Government deliberately misinterpreting the regional development plans and ignoring—despite what the hon. Member for Milton Keynes, South-West (Dr. Starkey) said—the need for affordable housing by expanding into an area that is the most expensive part of the expansion area of Milton Keynes? Why are they ignoring the already overstretched infrastructure, as well as local opinion? The answer is very simple: the reason is money. If Milton Keynes develops towards Aspley Guise, Woburn and into the vale of Aylesbury, where land values are high, property values will be high; as a consequence, the community charge take by the local authority will be higher. Local authorities will receive more income. That is why the Government want the expansion there.

The hon. Lady said that there are more jobs in Milton Keynes than homes, and I accept that that is the case. She also talked about very high house prices in Milton Keynes. If house prices are very high in Milton Keynes, the answer to that is to build where house prices would be lower because the land cost is lower. That is not to the south and south-east of Milton Keynes, but to the north and north-east. If there are more jobs in Milton Keynes than homes, and if more homes need to be built, they should be built to the north and north-east, rather than the south and south-east. The plan is deliberately designed to increase local authority council tax take and to provide commuting jobs in an area from which commuters travel to London, and where infrastructure is already overstretched. The easiest way for people to oppose the Deputy Prime Minister's plans is to get rid of him and the present Government.

2.45 pm

Brian White (Milton Keynes, North-East) (Lab): A key point in answer to the hon. Member for Mid-Bedfordshire (Mr. Sayeed) is that market forces are driving investment in the area. If one did nothing, that investment would still happen. Milton Keynes has been a success because it was planned. If housing growth is unplanned, we get housing without infrastructure, as happened around Bracknell and Basingstoke. At junction 13, in the hon. Gentleman's constituency, the Tory-controlled local authority is putting in businesses, expecting Milton Keynes to sort out housing, and then complaining that there is growth. The authority is trying to have its cake and eat it, as the hon. Gentleman tried to do, but that will not wash. His comments do not add up.

My hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey) has covered a large number of the issues. Other key factors are time scales and, more specifically, the number of houses built per annum. I am concerned that we keep to a level of housing growth of about 2,000, which is what Milton Keynes has been able to deliver. I urge the Government to aim for and accept that activity level.

There is a problem with the interaction of the different political parties, in that regional planning is controlled by the Conservatives and the local authority is controlled by the Liberal Democrats. However, beyond that there is a key role for developers, and the role of English Partnerships in delivering the Government's agenda has to be addressed. It is important that the Minister gives clear guidance to English Partnerships to operate in an environmentally sustainable way, so that issues such as zero-carbon houses are taken seriously. The transport issues that my hon. Friend referred to in relation to railways, which would apply equally to roads, should also be taken into account.

If my hon. Friend the Minister needs money, he could get it by scrapping the widening of the M1. He could invest that money in the infrastructure of Milton Keynes and the south midlands. I strongly urge him to do so, but I suspect that he will decline. Widening the M1 will not solve the problem, but if that money were used to widen the A421 from Bedford to Milton Keynes and to invest in local infrastructure, it would help with the existing development plans.

One of the problems with English Partnerships, local authorities and regional government is the way in which they communicate, which the hon. Member for Aylesbury (Mr. Lidington) mentioned. A large number of those bodies communicate in professional language—professionalese—that goes over the heads of ordinary people. For example, developers put out a development brief on an estate in Caldecotte in my constituency; they thought that they had reached an agreement, but in fact the language had gone over the heads of the residents. When local people saw what was happening on the ground, the developer encountered a massive reaction against it. That happened because the developers, the local council and regional bodies used planning language instead of plain English. It is important to use planning language when developing an interaction, but getting ordinary people on board and explaining what is going on is critical to success. I have suggested that the Milton Keynes partnership committee holds a daily blogging exercise through which people can interact with it. However it happens, the language must be right and information must flow.

There has been much concern about high-density development, mainly because in the 1960s it was associated with poor-quality development, but that does not have to be the case. I urge the Minister to say specifically that high density must be high quality. There are a number of issues relating to the local plans on the eastern flank, but it is not appropriate to raise them now as other hon. Members wish to speak. There are issues relating to the infrastructure. We have to get the development briefs right and not wait for the detailed

[Brian White]

planning permissions; we have to get the developers on board at an early stage, so that the genuine fears in the community can be addressed.

Most people want the 1,500 families in Milton Keynes who are in temporary accommodation to be housed. They want their children to have houses and jobs. Those are the people whom the plans will benefit. Local people also want the rural areas in the north of my constituency around the Ouse valley to be protected, which is why it was made an area of attractive landscape. I was interested to hear the hon. Member for Mid-Bedfordshire suggest that there would be no problems going into the Ouse valley. In fact, there would be real problems.

There are a number of important issues, but there is not sufficient time to go into them in detail. Milton Keynes can deliver on the Government's sustainable agenda if the support mechanisms are in place. The different levels of government must get it right, the communication has to be right, and growth must be backed up with the infrastructure money that is starting to come through and must continue.

2.51 pm

Andrew Selous (South-West Bedfordshire) (Con): I recognise that there is local housing need in my constituency and I defer to no one my desire for it to be met. All my colleagues who have problems with the sustainable communities plan want their local housing need to be met, but they disagree with the scale of the actions that the Government have proposed. I have wide cross-party support in my constituency. A petition was presented, signed by 17,000 people, backing our local objections to the plans, and leading Labour and Liberal Democrat councillors supported it.

I shall talk first about local jobs. The problem in south Bedfordshire is the reverse of the situation in Milton Keynes. Only half the residents of south Bedfordshire have jobs within the county: 12,923 people commute out and 1,083 are unemployed. The Government's figures predict that by 2031—admittedly quite a way ahead—an extra 100,000 people will come to south Bedfordshire, bringing about 70,000 cars. The Government want to turn south Bedfordshire into a dormitory town for London and elsewhere. That is the wrong approach. The Government are ramming far too much housing into the four areas in the south-east. A more organic approach is needed. It would be better to spread growth more widely.

If we have those numbers of jobs, people and cars, our already poor transport infrastructure will be further burdened. Our trains are full to bursting going south. The M1 is gridlocked, and even with the fourth lane it will still be blocked. The Translink proposals have been forced upon us by the Government and we have lost the opportunity for a proper east-west link across south Bedfordshire, perhaps going from Leighton Buzzard all the way to Welwyn Garden City.

Bedfordshire county council has calculated on a very scientific basis that for every extra 1,000 houses built, the Government should provide £38 million of infrastructure support. We have nothing like that on offer. The East of England regional assembly—a body that I will not be sad to see disappear—has itself criticised the Government's plans for the whole of the east of England as wholly inadequate in terms of infrastructure and transport.

I have several specific questions to ask. For some 20 or 30 years, Leighton Buzzard, my largest town, has been trying to get a community hospital. It is one of the largest towns in England not to have a hospital facility. I ask time and time again whether all the extra housing will mean that Leighton Buzzard gets a community hospital, but the answer I receive is no. The people of Leighton Buzzard think that the Government's promises are hollow.

A bypass is being built around Linslade. It has been planned for a long time and there is bitter controversy about it. I have problems with the route—I think that it is too close to Linslade—but what are plans for housing around it? All too often, new roads are used as an excuse to ram a massive amount of extra housing into areas where it is not appropriate.

Reference has also been made to the lack of local democracy. It is ridiculous that Members of Parliament are the only people able to hold a Minister to account about essentially local issues. Trust the people, please. Conservative councillors will get thrown out if they do not provide adequate housing for the families and young people in the districts that they represent. That will happen; it is how democracy works. What the Government are doing to local democracy is scandalous.

On the environmental front, there are massive concerns. Two Labour-dominated Select Committee reports have heavily criticised the Government's plans on the environmental and transport fronts. I noticed the headline in *The Guardian* of 14 October:

"Homes plan 'will swamp' countryside. Building 500,000 new houses risks water and roads crisis, says report."

The Government are being criticised from all sides—from the East of England regional assembly, *The Guardian* and elsewhere. Criticism is certainly not coming just from the Opposition Benches.

There is an alternative to the plans: scrapping regional planning and bringing back local control. We should not ram all the housing into four areas around London, but spread it more widely across the south-east and London. We should also, as my hon. Friend the Member for Mid-Bedfordshire (Mr. Sayeed) said, consider rebalancing the whole of the infrastructure across the United Kingdom. We could also look at shared ownership, to bring housing affordability back to many of our constituents who have genuine difficulty getting on to the housing ladder in our constituencies.

I say to the Minister that there is very real anger and concern. Seventeen thousand people is only slightly fewer than elected me to this House in the first place. I hope that the Minister realises that.

2.57 pm

Mr. Patrick Hall (Bedford) (Lab): I shall confine my remarks to a fraction of what I would have said if I had had the time. I am glad that the hon. Member for Aylesbury (Mr. Lidington) has raised these issues, which are of great importance to his constituents, to mine and to many others, as can be seen from the

number of people in the Chamber. He is right to express concerns about the delivery of the growth area and about infrastructure. I, too, wish to see the proper provision of road and rail investment. However, I also want proper provision of health and education services, police, leisure and jobs. All that has to go together. The balance between homes and jobs is crucial. If we get that right, we will be able to diminish reliance on commuting, which is one of the most unsustainable features of modern life.

The hon. Gentleman is honest about his views. He says that he supports some locally determined development, but that he does not support the growth area concept with its national and regional strategic dimension. I happen to think that those dimensions are crucial. Any Government would have to address them. Although I join the hon. Gentleman in wanting the necessary investment in infrastructure, I differ from him in principle because I support the growth area as the practical way of delivering what is needed.

I believe that the growth area is necessary in our part of the world to meet not only population growth, but the increase in the number of single households that means that household growth as a strong feature of modern life will continue. As my hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey) said, it is also needed to give more people the chance of an affordable home to buy or rent. There is a shortage of housing for rent and of social housing. We need more homes.

The truth is that many of the plans embraced within and enlarged on in the growth area are not new. This should not be seen just as a narrow party political battle, as too often it is, because that stops people listening to the serious issues that affect everyone's quality of life. Some of the plans have been around for a long time—in structure plans in Bedfordshire and Marston Vale, under different party political influences in the Government and in Bedfordshire county council. It is therefore unfortunate that there has been an attempt to stir up negative and emotional fears among local constituents. If we approached matters differently, our constituents would be willing to look at some of the issues—which I accept are difficult—and might see that doing nothing is not a solution. That was not quite what the hon. Member for Aylesbury said, but it is not a proper approach to say that growth can happen, but not in our area.

I see the growth area not as a threat, but as an opportunity. We would all be wise to look at it in that way. There are, of course, challenges and difficulties, but it should be an opportunity not just for the new communities that move in in the future, as is planned, but for the existing communities—the people whom we already represent. If we are to have new villages and towns in the area, that will put demands on the existing facilities, such as Bedford town centre, which needs to prepare. Indeed, those matters are being considered, and I am pleased that there are a number of initiatives—I am not pleased, however, that I do not have time to mention them now.

My hon. Friend the Member for Milton Keynes, North-East (Brian White) mentioned that it is better to adopt a planned approach than to pretend that planning is not a good thing, which was the ideological position of the Conservative Government in the 1980s. At that time, development was delivered, but usually by councils refusing planning applications for housing estates and the applications then being granted on appeal, with the planning inspectorate having only a weak ability to add legal agreements. The conditions imposed were unsustainable and not balanced, and all sorts of opportunities were missed through that approach. I believe that the current approach is much more positive.

There needs to be leadership in difficult matters. People might initially say, "Oh, we don't want this", but we have to carry such matters through, even though sometimes that is not a popular or easy task. We have to do it for the benefit not only of those who are yet to come, but of those who are here already. We should take that important aspect into account when we consider planning.

In Bedfordshire we have some positive news on roads. In December, there was the announcement of the A421 dualling between the M1 and the A1, which is essential for the eastern part of the growth area. We have a refreshing initiative on the funding of the Bedford western bypass—a pump-priming agreement, with most of the money coming in later from the private sector. There is some disappointment—if my hon. Friend the Member for Luton, North (Mr. Hopkins) had been able to speak today, I am sure that he would have mentioned it—about the east Luton corridor. That is very important for the region, for Luton post-Vauxhall and for the development of Luton airport. Perhaps my hon. Friend the Minister will acknowledge that disappointment and be prepared to think again.

My hon. Friend the Member for Milton Keynes, South-West mentioned the totally new approach to funding health services, which involves looking ahead rather than playing catch-up, as has been the traditional way. I hope that my hon. Friend the Minister will take on board that enlightened approach from the Department of Health, for which his Department has been working hard, and apply that approach to capital and revenue funding for education, police and leisure services.

I also ask my hon. Friend the Minister not to regard the concerns of residents about quality of life, environment and biodiversity as nimbyism. Nimbyism exists, but people are right to have concerns about quality of life, their economy and their environment. We are all entitled to have such concerns. Issues such as water supply must be taken seriously, and I hope that my hon. Friend the Minister will address them today and on other occasions. This is an opportunity to be positive, not negative.

3.4 pm

Mr. Tim Boswell (Daventry) (Con): In a recent debate on the establishment of the West Northamptonshire urban development corporation, my position was surprisingly accurately and rather felicitously described by the Minister for Housing and Planning as one of pragmatic acquiescence. That same is true of the two district councils in south Northamptonshire and Daventry that I represent. We have an interest in making sure that, if development is coming to our area, there is a proper provision of infrastructure. That was emphasised by my hon. Friend the Member for Aylesbury (Mr. Lidington) in his masterly introduction to the topic; I merely re-emphasise it to the Minister today.

[Mr. Tim Boswell]

I wish to suggest a technique to the Minister. Each time there is an announcement, such as the recent welcome announcement about primary care services, it is important that Ministers not trip themselves up by not explaining how the additional need that they are creating by that announcement is designed to be met. They may give some thought to the idea of an annual expression of an infrastructure budget for the region that could be explained to people and which we can take to our constituents.

I now have some brief comments to make on some of the specific impacts that might not have received the attention that they should have received. They were not dealt with in the Department's initial planning, but still need to be taken into account. The first impact to which my hon. Friend the Member for Aylesbury referred was that of water resources. I return to that point because it is important to remember not only the capital cost, but the land budget for the provision of reservoirs and the whole process of planning and its acceptance.

I have an interest in the second impact of flood defence. Believe it or not, I was the Minister with responsibility for flood defence immediately prior to the present Minister at the Department for Environment, Food and Rural Affairs. We have had lethal floods in Northampton, and our significant local problems will obviously be expanded by additional development. The Minister will be familiar with the study carried out by the Association of British Insurers entitled "Making Communities Sustainable". I have carried out a quick head count on its calculations in respect of the major towns in the region that we are discussing this afternoon. It suggests that more than 4,000 houses would be built

"in significant flood probability areas",

which is something that will have to be taken into account.

My third observation concerns the supply of aggregates. The second draft of the Northamptonshire minerals local plan is under review and will be contentious. One of its aims is to protect the Nene valley, to which my hon. Friend, has referred, by moving into glacial deposits, which is highly difficult because of environmental sensitivity. Given that the new proposals are not explicitly keyed into the plan, the danger is that we will end up with both the exploitation of glacial deposits and further works in the Nene valley.

I have two final and more general points to make, one of which is prompted by my discussion about aggregates. My constituency has an immediate boundary with that of the hon. Member for Milton Keynes, South-West (Dr. Starkey) and my gravel deposits are next to her city. If we are considering the matter globally, it is a little difficult to see how such matters can be conducted in silos between the various local authorities, as if the rest of the region did not exist. I have merely flagged up the matter as a concern; it is certainly not an offer or a bid. I suffer such an experience bitterly and constantly. Being from the same long and thin county, the Minister and I both know that everything is on the boundary of somewhere. We cross three regions. There are other important regions such as the west midlands on my boundary. The Minister needs to assure us today and during his continuing dialogue with us that cross-regional issues are being dealt with properly.

Alistair Burt (North-East Bedfordshire) (Con): Is not the point of my hon. Friend's argument the fact that so many concerns have been expressed and that it is the process by which the decisions have been reached as much as the individual decisions that have caused those concerns? More time and more consideration, as various reports have asked for, would do much to help the Government's case rather than doing it damage as is happening now.

Mr. Boswell: My hon. Friend is, as ever, spot on. I shall conclude with a positive remark, which I offer to the Minister for nothing. I have—again in a previous capacity—some experience of national forest and community forest. I hope that, even within a structure that should not be driven by a huge planning mode, the Minister will consider, working with local authorities and the agencies that he has available, whether we can achieve some positive and fairly high-profile environmental impacts. I hope that he will also address the concerns that we all rightly share.

3.10 pm

Richard Younger-Ross (Teignbridge) (LD): I congratulate the hon. Member for Aylesbury (Mr. Lidington) on securing the debate. It is important that regional planning matters are fully debated. One of my criticisms is that, by and large, they are dealt with away from the public eye by quangos and other partly elected groups rather than by democratically elected groups. Pleasing him on that point is about as far as I am going to go.

My constituency is in glorious Devon, but I know the area that we are debating because I used to live in Oxford and my wife used to work in Aylesbury. We drove up to Aylesbury regularly and from there went to Northampton, where we had friends. I am not too sure whose constituency it is in, but I remember that there is a village called Hinton-in-the-Hedges. It is in a beautiful place and quite clearly the hon. Member for Daventry (Mr. Boswell)—although he did not use this line—is trying to illustrate that soon it will no longer be Hinton-in-the-Hedges but Hinton-between-the-brick-walls.

Local people obviously have such fears when any development is proposed, but that is the point at which I begin to disagree with the Conservatives. They argue, "Leave it to our local authorities. Everything will be all right. If we do not provide housing for the homeless, the Conservative councillors will be thrown out." I have been in politics a long time and I know that it does not work as simply as that. When a development is planned, an action group is instantly formed to oppose it. In my constituency there are proposals for developments and an action group to oppose each one. I agree that most of them have valid arguments and I have ensured that their cases have been properly put. We have a vast amount of growth in our area and there is an argument that we do not need any more. Where there are action groups, the difficulties come with the fact that a few votes may be lost on the homelessness side but a lot more will be lost if one stands up and says, "I want to build houses on this green field", because the number of people affected is greater.

We are in part debating the decision-making process. Clearly, decisions should not be made by quangos. I do not believe that the Government have gone about their plans in the right manner or that there has been adequate consultation with the public and adequate public debate. The hon. Member for South-West Bedfordshire (Andrew Selous) made a comment about regional assemblies. They are deeply flawed, but if we had democratically elected bodies where people could debate such matters on a regional or sub-regional basis, we could have full public consultation and proper debate and we could come to a democratic decision.

Alistair Burt: What about county councils?

Richard Younger-Ross: Our party fought to ensure that county councils retained their voting and debating rights on planning matters, which the Government were going to take away from them.

When discussing infrastructure, the hon. Member for Aylesbury hit on a good phrase. We do things the wrong way round—back to front. Common sense and good planning dictate that we should put the infrastructure in and then build to it. The hon. Member for Milton Keynes, North-East (Brian White) made that point too. We do not do that—we say to developers, "We want to build some houses. We will allow you to build them and we will then charge you for section 106 agreements. You will pay us the money and we will then do the road improvements." That is a deeply corrupt and immoral way of dealing with the matter. It is also the wrong way round. If we want to develop an area, we should say what the infrastructure needs are, debate them, whether they be extra rail links or hospitals, and ensure that the investment is there to develop them. We cannot have the situation, which we have had too often in the past, in which development is allowed to continue without adequate schools, hospitals, roads or rail networks being built.

The hon. Member for Milton Keynes, South-West (Dr. Starkey) talked about plain English. We need community architects; we do not need developers who use only technicians. Plain English and proper community architects are very important.

3.15 pm

Mr. Bernard Jenkin (North Essex) (Con): I am delighted to follow the hon. Member for Teignbridge (Richard Younger-Ross) because it gives me the opportunity to put on record a proper interpretation of what he said. He thinks that he knows better than the Members of Parliament present about what is better for their area. He wants a mechanism so he can impose his decision through an unelected regional chamber instead of leaving it to the local representatives who are democratically elected to serve their communities.

I will take a slight risk and mention my own constituency. I have a Conservative council in Colchester, which has provoked a major row by imposing a small-scale development of social housing in a village. That has caused a lot of controversy, but it is an example of a local council taking responsibility, as my hon. Friend the Member for South-West Bedfordshire (Andrew Selous) mentioned. If people are given the responsibility, they rise to it. However, what we are debating is not just one, but three regional assemblies—which underlines the ludicrousness of the process—imposing their will on the communities that they pretend to represent but do not because they are not democratically elected.

The regional agenda continues to be pursued by a Government who have had it roundly rejected in the north-east. They thought that that would be the area in which an elected regional assembly would be most popular, but it turned out to be deeply unpopular, rejected by 78 per cent. to 22 per cent. None the less, they are continuing to pursue regional structures so that central Government can take more and more decisions away from local communities. If there is one fundamental difference between the Government and the official Opposition, it is that they will carry on creating a regional bureaucracy so that Ministers and officials in Whitehall can impose their decisions on local communities, whereas we will scrap the lot, save the money and give the power back to local communities.

On a more conciliatory note, I shall briefly draw the threads of the debate together. I have not heard one hon. Member speak today who is not concerned about the issues facing their local communities. That includes a desire in all parties for social housing and proper development. I have heard no hon. Member say that they are against development in principle, and I advise the Minister against picking a fight with the Opposition over social housing. I could mention that the Conservative Government had a much better record on building social housing in England than the present Administration, but I will not mention that, because I want to concentrate on what unites us, which is that we are all fundamentally concerned about the same things. What divides us is the constitutional question of who decides.

The hon. Member for Bedford (Mr. Hall) said that we can solve the problems only if there is leadership, but where does that leadership come from? Does it come from some eagle's lair at the top of a Government Department where a Minister and his officials decide, or do we look to try to create a society in which leadership comes from the local community? I am the first to accept that the trend of removing civic leadership from our communities has a long history, going back a hundred years in which the ability of communities and their elected councils to lead their communities and take decisions has been removed. There are stories of planning applications being turned down by local councils that are then overruled by public inquiry and a Minister's diktat—that is not the way forward. No other country in Europe sets national housing targets or creates a national planning framework in the same way as we do. We live in the most centralised country of all the European states, and if we are going to be—dare I say—a modern country, we need to consider radical decentralisation.

The flaw in the Barker process is glaringly obvious if we consider what it is: a Minister appointing an economist to plan where people should live and what sort of houses they should live in, based on a spurious analysis of the most vague collection of statistics. Not even Stalin would organise his agriculture or tractor production on that basis. Why should we have Gosplan for housing in the south of England and a housing policy based on expanding housing provision in the south and

[Mr. Bernard Jenkin]

contracting it in the north in order to attract even more economic overheating in the south of England than we have at present? That is the rut that the Government have got themselves into. The next Conservative Government must give power back to local communities so that the society in which we choose to live reflects what our local communities want.

3.21 pm

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope): I congratulate the hon. Member for Aylesbury (Mr. Lidington) on securing this extremely helpful debate. Thanks to you, Mr. Deputy Speaker, there have been 11 contributions and interventions in a very short time, which is a measure of the importance that hon. Members attach to the issue.

I am sorry that the Conservative spokesman, the hon. Member for North Essex (Mr. Jenkin), decided to have another anti-regional rant. I remind him that the Conservative chair of the East of England regional assembly said that

"there will still be a requirement for effective regional planning functions, provision of democratic mandate for the regions and effective scrutiny of other regional bodies—a role in which the assembly and other chambers have shown themselves to be extremely competent."

Mr. Jenkin: On a point of order, Mr. Deputy Speaker. The lady in question was misquoted by the *Local Government Chronicle*. She wrote to the publication making that point.

Mr. Deputy Speaker: That is not a point of order for me.

Phil Hope: On the fundamental question of who decides, I was a county councillor before becoming a Member of Parliament. I remember the 7 per cent. cut in grants that we had to endure under a Tory Government. There was little decision making, other than on making cuts because of the failure of the Conservative Government to fund local authorities. The £35 billion cuts that the Conservatives announced will decimate council services or push council tax through the roof. I do not need to take lessons from the Conservatives on who decides and on support for local government.

Returning to the Milton Keynes and the south midlands growth area, let me try to deal with the important points raised by hon. Members. First, there has been a thorough democratic process of consultation over the past three or four years. I will not rehearse all the details, but it included an independent study by Roger Tym and Partners in 2002, which made it clear that the area had potential for growth. Other independent growth area assessments were published in 2003 for all the towns where it was recognised that there was potential for growth, including Aylesbury. There was a 12-week period of public consultation, ending in October 2003, on the regional assembly's draft planning document, and the independent panel was appointed to conduct an inquiry and a public examination of all aspects of the proposals. That took place over an unprecedented five weeks during March and April 2004. The independent panel report endorsed growth for Aylesbury and other towns and made recommendations.

The Deputy Prime Minister expects to publish the final sub-regional strategy and alterations to regional planning guidance in the spring. I am trying to point out, in a few seconds, that there has been substantial opportunity for the local authorities and communities in the area to express their concerns before the strategy is finalised. It will then be for local councils to produce detailed proposals to implement a sub-regional strategy through their local development documents. If we left it only to local authorities and did not have a sub-regional strategy, we would not be able to cope with the issue of boundaries between different local authorities. The hon. Member for Daventry (Mr. Boswell) was absolutely right to suggest that we needed a regional or a sub-regional strategy to deal with boundaries and connections between different authorities within the growth area.

It is important that the growth area policy deals with the serious under-provision of housing—no one disagrees with that. Every hon. Member present has said that there is a lack of housing, especially affordable housing, in their constituency because of the high demand. The question is how we solve the problem. Do we let market forces do so, or adopt a planned approach that takes into account the need for sub-regional infrastructure?

Mr. Hopkins: Will my hon. Friend give way?

Phil Hope: I give way to my hon. Friend the Member for Luton, North (Mr. Hopkins), because he did not have the opportunity to make a speech.

Mr. Hopkins: Does my hon. Friend accept that the market will not provide the houses that we need in Luton? It will provide large executive homes for people working in London, not thousands of council houses for the people of Luton to live in.

Phil Hope: My hon. Friend is right: we are not going to meet the housing needs of the sons and daughters of the constituents represented by the Members of Parliament here today unless we deal with the problems of high demand and a lack of affordable housing.

Mr. Sayeed: Will the Minister give way?

Phil Hope: No. The hon. Gentleman spoke in the debate.

There has been a systemic failure over the past 18 years and it is important that our approach puts that right. The idea that the strategy is only about growth in Milton Keynes and Northampton is clearly wrong. It is absolutely important to have adequate housing, good-quality jobs, and good infrastructure for all areas throughout the sub-region, to ensure that we build sustainable communities. That is the essence of what we are trying to achieve.

I shall pick up on two or three other key points raised in the debate. On health funding, there has been an amazing and important announcement from the Government in the past couple of weeks. There has been

excellent news for health planning for my hon. Friend the Member for Milton Keynes, South-West (Dr. Starkey), taking into account projected population growth to meet both capital and revenue funding needs. That is an important step forward to ensure that our communities see that the infrastructure—health infrastructure in this case—is there to match the population growth that goes with housing and jobs.

The subject of the environment was highlighted, particularly by the hon. Member for Aylesbury. Let me be clear about that: there was extensive environmental assessment throughout the planning process. Indeed, it was a key feature of the process that I hurriedly sketched out a moment or two ago. The original studies that informed the strategy considered the possible impact of growth on the environment, and a sustainability appraisal was prepared alongside the development of the draft strategy. The five-week period of public examination in March and April last year considered possible impacts on the environment. Crucially, we are committed to protecting our countryside and green spaces. We looked at brownfield sites before greenfield sites and we examined how good design—an important point raised by one of my hon. Friends—and higher densities could reduce the land take of any growth.

We have already met our target of building 60 per cent. of additional or new housing on previously developed land, and densities are increasing in the south-east. It is important to point out that we have added 19,000 hectares of green belt since 1997 in Great Britain: that is a huge contribution. There are some green-belt reviews proposed in Bedfordshire—that is recognised—but if any green belt is lost, an equivalent area of green belt will be required to replace that loss. That is an important part of not allowing the markets to rule, but having a planned approach that delivers what our local communities want.

The hon. Gentleman also described concerns about whether it was fanciful to say that the developer contributions would arrive. The newly created delivery vehicles, such as those operating in Milton Keynes, are working on a more strategic approach to securing section 106 contributions. They are a key element of the planning process, ensuring that we capture from developers and from increases in the value of land opportunities to provide infrastructure. That will be developed in Milton Keynes through a long-term framework. Developers are actively participating in discussions, recognising the benefits of long-term certainty. We look forward to Milton Keynes and other areas realising the benefits of enhanced section 106 contributions towards infrastructure.

I realise that I have not been able to address all the points that hon. Members have raised. We are particularly keen to build sustainable communities. Our aim is not solely housing growth: we shall not repeat the mistakes of the 1960s, or ignore the problems of the 1980s. Our approach will build housing for the sons and daughters of our communities who need somewhere affordable to live, with education, health, and transport infrastructure provided alongside a planned approach to protect and preserve the environment. I believe that that is the best way forward.

Forestry Commission

3.30 pm

Mr. Roger Williams (Brecon and Radnorshire) (LD): I am very pleased that we have the opportunity today, albeit in a short debate, to discuss the important issue of forestry. I thank the Minister for attending and contributing to the debate. In terms of land use, forestry is probably second only to agriculture. This debate is important and timely given the current Forestry Commission consultation, the quinquennial review of Forest Enterprise and other political parties' proposals to alter the structure of our national forests and how their governing bodies operate.

Forestry has always been important to the UK. When the defence of the realm was dependent on the construction of ships of oak, timber was at a premium and there was always a concern that there was not enough of good enough quality with which to build those ships. It was said at that time that the final contribution that retired admirals could make was to go round with bags of acorns and plant them in the hope that they would grow into trees of the size and quality necessary to build ships. In the first world war, it was regarded strategically that we did not have enough timber to produce pit props and as such the coal production that was necessary for the war effort was being curtailed.

Things have moved on, but forestry is still important. There has been a considerable amount of political upheaval and change and some financial difficulties for the forest industry lately. I welcome the devolution of responsibility to the nations, but even with that we still trade across the borders. One of the most important saw-mills in my constituency—BSW Timber in Newbridge—sources its timber not only from Wales but from throughout the south of England. The policies that the Forestry Commission and Forest Enterprise are operating in England are important for the devolved authorities, too.

Forestry is also an important industry for my constituents, a number of whom are timber producers in the sense that they own forests and woodland, and for those who are involved in extracting and processing timber from those forests. I have, from time to time, heard complaints locally that Forest Enterprise does not operate its business in a way that helps those small businesses on which the rural communities are so dependent. Some of the complaints have been about contracts being offered in very large amounts of more than 5,000 tonnes, which the smaller gangs find it difficult to cope with and which brings in the multinational companies with their more industrialised type of harvesting. Such harvesting may bear down on costs per tonne, but it does not necessarily lead to better quality logs being presented for processing. Some of the smaller saw-mills say that timber is coming to them in a worse condition now than for many years. I will talk more generally about Forest Enterprise in a minute or two.

Lembit Öpik (Montgomeryshire) (LD): Does my hon. Friend agree that one reason why this is such an important issue in our shared county of Powys is that much of the local economy depends on small and

[Lembit Öpik]

medium-sized businesses, which are disproportionately affected when the large companies come in and effectively squeeze them out of the forestry business?

Mr. Williams: I thank my hon. Friend for making those comments, and I associate myself with them. It is sometimes said that Wales is the most efficient spruce factory in the world, as growing conditions are very good. The small companies and businesses in the timber business are very important to supporting the rural communities in England and Wales that they serve.

A great feature that has affected not only Forest Enterprise and the state forest but private timber-growers has been the collapse of commodity prices in recent years. Some of the best logs at roadside would have reached perhaps £55 a cubic metre in the past, but are now selling at roughly £33 a cubic metre. The private and public sectors have had to take account of the reduction in commodity prices.

I welcome the fact that a number of the Baltic nations have realised the recklessness of their activity in the world market, and want to go up a quality and not just compete on price. They are looking again at their trading relationship with Britain and considering whether it can be put on a more commercial basis, instead of their dumping timber in this country at very low prices. I am concerned at some reports from Russia about forests not being managed sustainably. There are reports that certain harvesting has taken place to release cash for people who have come back into land after the fall of communism. Some people have come into private ownership but have no traditional skills in forestry management, and as such have seen the harvesting as a cash benefit. The Government should take countenance of that, and ensure that the timber coming into this country has been produced from sustainable sources.

Given that background, it has been difficult for the Forestry Commission and Forest Enterprise to balance the social and environmental side of their remit with the obvious need for economic viability. I have some sympathy with them; that is not an easy balancing act. I commend much of the work that has gone into producing the public goods—that is, the work that has gone into access, recreation and conservation issues. In light of the recent pronouncement of the Minister for Rural Affairs and Local Environmental Quality on the use of mechanically driven vehicles on public footpaths and rights of way, perhaps forest land could be a suitable place for those more intrusive types of recreation.

It is important to note that although current timber prices have hampered both public and private forestry, the UK timber industry comprises producers and processors employing nearly 30,000 people. It is estimated that £2 billion will be invested in saw-mills and paper and board-mills in the next 15 years, and that will add to that employment.

Investment is taking place in my constituency, and the firm involved informs me that it really values the presence of Forest Enterprise, as it guarantees a flow of product into its saw-mills. A number of people question the way in which Forest Enterprise is managed, and I have no doubt that suggestions will have been made. Some have suggested to me that Forest Enterprise should be privatised, and could be run better by private individuals or companies. When the UK Forest Products Association met recently, it certainly reinforced the view that Forest Enterprise plays a valued role in providing continuity of supply of commodity and therefore enables saw-mills and other processors to plan their investment on the basis that they have assured throughput. That is the conclusion that I have come to, too.

The social and environmental benefits of forests are clear. Research carried out for the Woodland Trust in its report, "Making Woodland Count: its Contribution to our Quality of Life", shows that forest areas meet 11 of the 15 Government headline quality-of-life indicators for sustainable development. They provide opportunities for recreation, wildlife and physical activity, which are so important to making our young people fit and healthy.

It is also important to consider UK forestry in economic terms. It is right that the Forestry Commission is partially funded through the sale of timber from public forests. However, it is important that Forest Enterprise takes into account the effect that its sales will have on the market price for domestic timber producers. Given the already depressed state of timber markets, it is vital that the market price is not adversely affected by sales from Forest Enterprise that are designed to balance its own books. It is important that efficiency is not confused with the over-simplistic goal of turning a short-term profit or short-term cash flow. The criticism has been put to me that Forest Enterprise has been going into stands that are not mature—not ready for felling—and as a result producing timber of not very good quality, which further depresses the commodity price.

The Forestry Commission has recently increased its emphasis and spending on non-core business activities while neglecting, some would say, its core business of timber production. It must consider commercial timber production as a key element, because we will not be able to finance the public goods unless the core business is profitable. The situation that I have described is down to the direction of Government. I support the intentions of the policy, but its implementation has sometimes been counter-productive. It is vital that a real commitment remains to supporting domestic commercial forestry, as that is the surest way of achieving the social and environmental aims of the Forestry Commission.

I welcome the proposals to reform the powers of the Forestry Commission. The strengthening of ties with the private and voluntary sectors is vital for the health of the industry. That will allow for the provision of public goods, rather than leaving the fate of the industry to depressed timber prices. The issue of restocking orders is also important for sustainable practice. I draw the Minister's attention to the excellent work carried out in that regard by the Welsh Minister for Rural Development in 2003. He made the important point that the quality of restocking should be considered with particular emphasis on the expansion of ancient woodland, especially in areas where that would have a direct effect on local communities.

Having said that, I have heard criticisms about the proposals to have at least 50 per cent. of land in continuous cover—that is, people do not go in and

clear-fell but have trees of different age groups in a plantation. This issue is of great importance. We believe that rushing into that will have a deleterious effect on the quantity of timber produced and the continuity of supply, so we would like it to be considered again.

In the few minutes remaining to me, I shall outline the Liberal Democrat proposals for the future of Government involvement in forestry in the UK. That can have only limited scope in the recommendations for Scotland, Northern Ireland and Wales. First, it is vital that a viable and sustainable public forestry service is maintained. That not only preserves the valuable public assets of woodlands and forests but benefits the industry as a whole—processors and saw-mills. The role of the service should encompass acting as a facilitator to private forest concerns through the grants system operated by the Forestry Commission and through the responsible activities of Forest Enterprise. Short-term losses should not lead to panic decision making; rather, it is through considered strategic thinking that the Forestry Commission will best serve the needs of the industry and the public.

Timber growing and processing is vital to the economy of the UK, but it is also important for communities and the environment. Competitiveness is compatible with sustainability, and the Government should be playing their part in ensuring that the forestry in this country achieves that.

3.44 pm

Lord Commissioner of Her Majesty's Treasury (Mr. Nick Ainger): I congratulate the hon. Member for Brecon and Radnorshire (Mr. Williams) on securing this debate. We do not often have debates on forestry or the Forestry Commission, and I hope that I can address some of the points that he raised.

In the hon. Gentleman's opening remarks, he touched on the history of the Forestry Commission and how it developed originally from a wartime need over many centuries to provide wood for our ships. When the commission was established in 1919, the commissioners were charged with the general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber. Later, a general duty of promoting the establishment and management in Great Britain of adequate reserves of growing trees was added to the commissioners' duties.

In 1967, the Forestry Act consolidated previous legislation and is the basis of the Forestry Commission's activities today. It was not until only 20 years ago that the commissioners were required to achieve a reasonable balance between the creation of new forests, the management of existing forests, the production and supply of timber and, most importantly, the conservation and enhancement of natural beauty and the conservation of our natural environment. After more than 60 years of focus on timber supply, the commission had a duty to change, which it has embraced with ever-increasing enthusiasm. Today, the Forestry Commission, in both organisational and activity terms, is unrecognisable from what it was only 20 years ago. I know that some people are still trying to catch up with the dramatic change that has been made.

The woodland resource created in the last century now has the capacity through enlightened management to deliver a wide range of social, economic and environmental benefits and make a positive contribution to sustainable development. The pace of change has increased, and today forestry is a devolved issue, as the hon. Gentleman mentioned. The Forestry Commission is responsible separately to Ministers in England, Scotland and Wales, and collectively on Great British functions. The current structure of the commission reflects those changes.

Much of the commission's work is with private woodland owners, to whom it provides grants and advice, but a significant part of its work is delivered by the commission's Forest Enterprise agency. More than three quarters of the commission's staff based in England work for Forest Enterprise, and the agency is the manager or steward of the national forest estate. It is a unique national asset. Its current range of activities vividly illustrates how much it has evolved, and I will give some examples of how it has developed.

The agency is England's largest provider of countryside recreational opportunities. It offers a vast range of activities, from open access for walkers and cyclists on all its freehold land to activities such as horse riding and motor rallying in selected woodlands. Forest Enterprise manages more than 100 self-catering cabins in woodland sites, which make a significant contribution to local economies. In 17 campsites across England, it provides nearly 5,000 pitches, generating additional income of more than £2 million a year.

The cabins at Keldy in the north york moors have recently received a major facelift in Forest Enterprise's largest ever investment in recreation. Some 62 superb new cabins are equipped to top-quality self-catering standards and built from sustainably produced timber, over half of which was grown in the UK. They will provide an additional 50,000 bed nights each year, as well as contributing £1.5 million to the local economy.

The business overall is profitable. In 2002-03, it showed a net surplus of nearly £800,000 and earned a real rate of return on capital invested of 8.5 per cent. In 2003-04, the surplus rose to £1.3 million. The commission is now developing a public-private partnership that will ensure that the returns on the investment can be sustained at no cost to the taxpayer. However, it is not only in fields of recreation and leisure that Forest Enterprise has been playing a leading role. The public forest estate has been independently certified for sustainable timber production. Indeed, it was the first state forest service anywhere in the world to have its operations certified in that way.

Enhancing biodiversity has equal importance to timber production. Great efforts are being made to improve the ancient woodland on the estate and to bring all 41,000 hectares of sites of special scientific interest on the public forest estate into favourable condition. That was the point that the hon. Gentleman was making about clear-felling. Clearly, different management systems are now required to meet the aims and obligations. In England, clear-felling and continuous forestry systems have their place, but they should be site-specific. The precise choice is for the managers in the region, taking account of the relevant environment gains and standards.

The process of dedicating the whole of the freehold national forest estate to public access under the provisions in the Countryside and Rights of Way Act

[Mr. Nick Ainger]

2000 is under way, and will be completed next year. That will help to ensure that public access will continue to be available in perpetuity. However, it is not just in our countryside that the Commission's expertise is providing real benefits. It has also been very active in delivering social, environmental and economic benefits for our towns and cities. It is at the forefront of work to restore former industrial land, and to create a green infrastructure for future developments.

There have been good examples of this new role in three of the 12 community forests. In Thames Chase to the east of London, in the Red Rose forest near Manchester and in the Mersey forest, a £9 million Treasury-funded capital modernisation fund project has enabled Forest Enterprise to create 1,300 hectares of new woodland. Forest Enterprise has bought land, planted trees and created footpaths through the new woodland. Local people have enthusiastically played their part, helping to design and develop the new woodland. There are many more similar projects right across England.

If the commission is to continue to be an effective delivery body, it needs to operate within clearly defined policy frameworks. In our rural strategy, published last year, we made a commitment to transfer responsibility for strategic forestry policy in England to the Department for Environment, Food and Rural Affairs, and that has now been done. That is allowing the Forestry Commission to broaden its responsibilities as the lead delivery body for forestry; that includes taking on responsibility for community forestry and the farm woodland premium scheme.

The new forestry policy unit in DEFRA will act as an advocate for forestry in Government, contributing to all the cross-cutting policies in which forestry does, or could, play a part. One of the first tasks of the policy unit will be to undertake a review of the England forestry strategy that we published in 1998. The strategy set out a five to 10-year vision of our priorities and programmes for forestry and has been a very successful framework for support for forestry in England. However, with the changing policy and delivery landscape, now is an ideal time to refresh the strategy. The new forestry policy unit and the commission will work closely with each other.

We are not, however, looking at forestry in isolation. One of the key elements of the draft Natural Environment and Rural Communities Bill, published two weeks ago, is the establishment of an integrated agency to help protect and improve our natural resources. The commission will become a close working partner of the new agency, ensuring that there is a comprehensive and coherent approach to land management, whether woodland or not. That alignment of the Forestry Commission will build on the success of partnerships that the commission has established with English Nature, the Countryside Agency and the rural development service.

The Forestry Commission provides grant support for the management of existing woodlands and the creation of new woodlands through the woodland grant scheme. Owing to exceptional demand the commission closed the scheme to new applicants in June last year, and an additional £3 million of funding for the current year was announced last October on top of the £18.5 million already in place. The success of the scheme means that more than 24,000 hectares of new woodland was established between April 2000 and March 2004. The Forestry Commission is well on the road to meeting the England rural development programme target of 30,000 hectares of new woodland in the seven-year period ending in 2006. The replacement England woodland grant scheme is expected to open for applications in July and will provide a framework for the delivery of public benefits through incentives for the stewardship of existing woodland and the creation of new woodland.

The hon. Gentleman made a couple of points about timber markets and imports, and it has been suggested that Forestry Commission timber production is depressing the timber market for private growers. The Forestry Commission regularly publishes production forecasts and details of its planned production. That assured supply has been one reason for continued investment in the UK processing sector. One of the hon. Gentleman's points was that that supply is seen by many producers, particularly processors, as the basis for their investment and future investment. About 85 per cent. of the UK's wood supply comes from imports. Timber from UK sources has to remain competitive with those imports, which could easily increase. That means that the world market, and not the level of Forestry Commission production, sets prices for UK-grown timber.

By their very nature, the economics of forestry arouse a great interest in many people. It is a complex area in terms of assessing the relative costs and benefits, which are often interdependent. That is the nature of multi-purpose forestry—action taken to implement one objective frequently delivers benefits for many objectives. They are complex matters that I cannot do justice to in this debate. In April 2003, an economic analysis of forestry policy was commissioned by DEFRA and the Treasury. I will arrange for a copy of the final report to be sent to the hon. Gentleman and for copies to be placed in the Library.

We have a sustainable procurement policy supported by the UK Timber Trade Federation, which implements a responsible purchasing policy through its members. I am pleased to note that all Forestry Commission woods are certified together with an increasing number of owners' woodlands. We estimate that more than 70 per cent. of all wood produced from UK forests is now certified, and 50 per cent. of the output from UK saw-mills is also certified. That independently verified assurance of their sustainable management provides a real advantage in the competitive marketplace.

Mr. Roger Williams: I thank the Minister for the points that he is making. However, it is sometimes said to me by timber growers that certification is an expense: it produces public goods but little economic benefit for the timber producer, because people pay nothing more for it. As there is a public good, would the Government consider subsidising or paying for certification of private woodlands?

Mr. Ainger: As the hon. Gentleman knows, there are various farm assurance schemes for agriculture, which are in the interests of the producer. The Government do not subsidise farm assurance schemes, and I cannot see their subsidising timber production at this stage.

The hon. Gentleman raised a good point about the size of contracts for felling and clearing timber. I know that the issue is being examined, and I will bring his comments to the attention of the chief executive to see whether we can make further improvement and make smaller contracts available for smaller, local businesses.

The Forestry Commission has a long and varied history, throughout which it has demonstrated that it delivers the policy priorities of the day. As the needs of society have changed, so has the role and structure of the Forestry Commission. As we enter an exciting period for delivery of rural policy, with the publication of the draft Natural Environment and Rural Communities Bill, I am sure that the Forestry Commission will continue to adapt to the changing demands placed on it, and I am equally sure that it will continue to deliver good value for our country.

International Criminal Tribunal (Former Yugoslavia)

4 pm

Mrs. Alice Mahon (Halifax) (Lab): I asked for this debate for three main reasons. When the tribunal was established, I was firmly of the view that it would not heal wounds or bring people together. On the contrary, I thought that it would drive communities in the former Yugoslavia further apart, that it would be conducted on a low threshold of evidence and that it would pit neighbour against neighbour.

I have travelled extensively in the former Yugoslavia, before the various wars and since. I took a great interest in the truth and reconciliation commission established in South Africa. My second reason for securing the debate is that it seems to me that after something as vile and vicious as apartheid, or as vicious as a civil war, such a commission is more likely to succeed than a criminal tribunal.

My third reason for asking for the debate is that it is time to draw a line under the tribunal at The Hague and allow individual countries to arrest, charge and punish their citizens if they believe that they have committed crimes against the community. I notice that the occupying coalition in Iraq, led by the United States, has decided to allow the Iraqi people to try Saddam Hussein and his former Government; there are to be no charges against the warlords and no tribunals in Afghanistan. Yugoslavia seems to be singled out for this kind of treatment, and one must ask why. The United States was one of the main countries to set up the tribunal, and it gives the tribunal money, yet it refuses to sign up to the International Criminal Court. So a lot of double standards hang around the issue.

I have followed the tribunal at The Hague very closely. It is my belief that it delivers a biased system of justice and that the decisions taken by the chief prosecutor are largely based on the nationality of the accused, rather than on what evidence there is against them. In short, the tribunal has turned out as I said it would: it is a victors' court, set up mainly to punish one nationality—the Serbs.

A few years ago, I visited the tribunal with Mark Littman QC, a Serbian colleague who opposed, as I did, the illegal bombing of Yugoslavia. I am pleased to say that we were granted an interview with Carla del Ponte, the chief prosecutor. We were able to raise some of our concerns about how the indictments had been issued and why there was such emphasis on the Serbs. After all, there had been a civil war in Yugoslavia. When I went to The Hague, I had just returned from Croatia, where I had been looking at the plight of Serb returnees. We were shown mass graves there. In Operation Storm, there had been a lot of fighting; the Croatian army had driven out about 200,000 Serbs, and that was the first mass ethnic cleansing of the various wars. I was very up to date on what had gone on there, and I raised the issue of the mass graves with the prosecutor. We took photographs that matched up with the people who were missing. Carla del Ponte was not interested and said that she was short of resources.

I also raised the issue of Nasser Oric. With another organisation—not the NATO Parliamentary Assembly—I went to the siege of Sarajevo and visited

[Mrs. Alice Mahon]

not only the Muslim areas but some of the predominantly Serb villages. All the evidence there was about Oric and his raiding band, and how they had killed lots of people. He was, by any standards, a war criminal and there were videotapes and lots of evidence. Members of this House who went to the same area also know that. The chief prosecutor said that she had no plans to indict him and would not discuss the issue. However, she admitted that the whereabouts of that man were known. Only now, in the face of overwhelming protests and as a result of people putting evidence forward, has he been arrested. He has now been sent for trial at The Hague, but until then he had led rather a pleasant life. I think that there were double standards operating in that case.

In the same year I visited Banja Luka with the NATO Parliamentary Assembly. I was chair of the sub-committee at that time. We talked to many people and, in particular, to a policeman who worked for the chief prosecutor at The Hague. Interestingly, the policeman came from Preston, in the north of England, not very far from where I live. When he was questioned closely he told us that he had instructions to go after Serb war criminals only. Moreover, on the wall of the office of the prosecutor at The Hague—she is supposed to be impartial and to look for war criminals from every ethnic group in the former Yugoslavia—there was a big cartoon showing Serb criminals wanted for war crimes. Those war criminals probably do need to end up in The Hague, or being tried in their own country, but it seemed to us that the prosecutor showed an overwhelming bias.

We asked about the crimes of one or two of the Kosovo Albanians—Hashim Thaci, Agim Ceku and Ramush Haradinaj, who is now the Prime Minister of Kosovo—but no indictments have been published for them. Everyone agrees that those people took part in some very unpleasant practices during the bombing of Yugoslavia; newspaper articles are written about it, and no one bothers to deny it.

The Croatian general, Gotovina, has recently made it known that he has no intention of surrendering himself to the tribunal at The Hague, although he is willing to appear in Zagreb and be questioned by the tribunal. It is clear that there are laws for some participants in the civil war and not for others. Let us imagine the outcry if Belgrade had hung on for so long to a war criminal or an indicted person who was living openly in Belgrade or one of the other cities. Let us imagine what would have been said in a case similar to that of the general.

The more closely one examines the decisions taken by the chief prosecutor and the conduct of the hearings at the tribunal, the more it becomes clear that the tribunal is not a triumph for law and justice. It is a court founded by the west, funded largely by the west, and staffed at very senior levels by the west.

Many senior professors of law and others take the same view as me; I shall quote only one of them because I have so much material from people who share my view. Robert M. Hayden, from the Woodrow Wilson International Centre for Scholars, in the United States, commented, in relation to the tribunals, on the

"failure of the ICTY Prosecutor to indict NATO leaders for the use of cluster bombs. This prosecutorial standard was set in July 1995, when Milan Martic, president of the self-proclaimed Serb Republic in Croatia, was indicted for violations of the laws and customs of war on the grounds that he had ordered the May 1995 missile attack on Zagreb."

He continues:

"According to the indictment, what made the bombardment a war crime was that the missiles had been fitted with cluster warheads. Seven civilians were killed and many more wounded, and damage was done to a home for the aged and to a children's hospital.

Why, then, have there been no indictments of NATO's May 7 attack on the city of Nis, where cluster bombs fell on the market, killing fifteen people, and hitting also the city's main hospital? It is not acceptable to say that NATO was only aiming at military targets and missed; after all, Martic maintained that he was aiming at military targets in Zagreb . . . While the Prosecutor says that Martic targeted cities intentionally, this is also true of NATO generals, especially the American ones, who were even complaining that French politicians did not permit them to attack more sites in Yugoslav cities."

I stood on the last bridge over the Danube—the railway bridge—at Novi Sad the night before it was bombed by NATO. That was a civilian target, because the bridges bring water supplies and other things across to the other half of the city. There was no doubt that that was deliberately targeted by NATO—it took out all the bridges. I visited the Crvena Zastava car and tractor factory and spoke to the workers just a few days after they had been bombed. That civilian target was hit by 21 cruise missiles. Many people were injured and I have photographs in which there is blood on the floor from the sit-in. The workers did not want to be bombed and they sent their stated position to every country in NATO. I do not know how they survived—people were only injured and not dead—because it was such a complete mess after the bombardment. From my hotel bedroom window I watched NATO bomb the oil refinery at Pancevo. I visited people who were grieving for colleagues who died. There are no charges against NATO for any of these offences. NATO took action that did not have the approval of the United Nations.

In late 1999 the tribunal prosecutor said that she was investigating NATO's conduct during the Kosovo war, including the question of the use of cluster bombs, but within days she produced a preliminary document that to my knowledge has never been published—and I have been trying to get hold of it. There was a press release, of which Robert M. Hayden said:

"The prosecutor had said that if the report indicated that NATO broke the Geneva conventions she would indict those responsible; however, four days later she issued a press release stating that NATO is 'not under investigation by the Office of the Prosecutor . . . There is no formal inquiry into the actions of NATO during the conflict.'"

It was never going to happen. Carla del Ponte, like her predecessor the Canadian, Louise Arbour, is a creature of NATO. Just listen to what Jamie Shea, the official press officer, said in answer to a question about NATO's liability for war crimes before the court at The Hague:

"NATO is the friend of the Tribunal. NATO countries are those that have provided the finances to set up the Tribunal, we are among the majority financiers."

The ICTY was set up to try to convict Serbs. Serbs resisted the western Governments who had taken sides.

Mr. John Randall (Uxbridge) (Con): Does the hon. Lady agree that whatever the motives for setting up the tribunal, it is now perceived in the region—particularly in Serbia—as more of a hindrance to advancing democracy, because of the feeling of victimisation?

Mrs. Mahon: I certainly do agree with that, and I will be coming to that. The decision was taken that the Serbs had to be punished collectively and that a veneer of legality would be provided by—in my view—an incompetent tribunal, not one where justice is handed out freely and fairly. If the people in South Africa, Iraq and Afghanistan can try their own people, why cannot the people of the former Yugoslavia do exactly the same?

I turn briefly to the ongoing trial of Mr. Milosevic, and note that paragraph 58 of the newly produced Foreign Affairs Committee report on the western Balkans says:

"we also heard that the badly run Milosevic trial permitted the former leader to present himself as a martyr for Serbia."

Whether he does that or not, I agree with the comments about the trial being badly run; anybody who follows those events will be horrified.

Mr. Milosevic wants to conduct his own trial. The right for somebody to conduct their own defence is a basic right in all our national systems, it is identified as a basic human right in most international conventions and it is explicitly granted in the International Criminal Tribunal for the Former Yugoslavia. There is a precedent for imposing legal counsel when people are so violent that they would disrupt proceedings. However, there is no precedent for imposing legal counsel for ill health. Mr. Stephen Kay, the British lawyer, has tried to get himself dismissed, but has now been imposed by the court. The whole matter has developed into a farce.

Mr. Milosevic, who has been preparing his case for almost two years, will not co-operate with Mr. Kay. Most witnesses refuse to co-operate with what they regard as a fraudulent process. However, Mr. Stephen Kay, despite voicing misgivings about conducting a case against a client's will, has accepted a position of imposed counsel. Mr. Milosevic has been preparing his case with the help of two legal advisers. He has now seen the whole case handed over to a British lawyer who was not involved in the preparation. The timetable is tight. It was an unlimited timetable for the prosecution, but not for the defence. What kind of justice can anyone expect when such legal chicanery is allowed in a court to which we have put our name?

The agony for the Serbs is continuing. I have looked briefly at today's Foreign Affairs Committee report. On page 27, under the heading of "Co-operation with The Hague Tribunal", it refers to criticism once again of the Government of Serbia. I desperately want the whole region to be regenerated. I want a good, safe democratic future for all the people who live in the former Yugoslavia. The tribunal in The Hague is a festering sore at the heart of Yugoslavia. It is preventing any progress from being made for all its people.

I wish to quote Professor Jianming Shen at St. John's university in Canada. He argues that the tribunal system

"is a lopsided one. Whom to indict, when to indict, and what evidence to collect and use, are all under the control of one single individual"—

in my view, a very incompetent and biased individual—

"and there is no checking and review mechanism except for the judges of the chambers of the Tribunal who in theory may reject a prosecution."

He concludes that the tribunal should not be placed in the hands of one prosecutor and goes on to suggest ways in which that could be overcome. I want a complete end to this process.

The cost of administering the tribunal is absolutely staggering. The 2004-05 budget was nearly $3[illegible] million. For incompetence and bias, the countries in the west are paying out such money. Let us just consider how much better that money could be spent regenerating the area. It should go into Serbia, Montenegro, Macedonia and Kosovo, where people have been without electricity in some of the Serb villages for a couple of months. People are still being murdered there. It still has a war criminal that the tribunal refuses to indict. Much better use could have been made of the money. It could have rebuilt the bridges over the Danube that were destroyed deliberately. It could rebuild some of the hospitals.

I spent the weekend in Brussels with the NATO Parliamentary Assembly. I was surprised and a little shocked when, on receiving a report on Afghanistan, senior NATO politicians and members of the military, discussing the warlords, the poppy trade and opium, said that, for the good of Afghanistan, there must be no trials, but that they must bring in the warlords. They said that those people had committed mass murders and killed thousands, and that they must be brought into the civic and political process. The double standards when applied to Serbia and Montenegro are absolutely breathtaking.

The tribunal should be abolished and then all the people of Yugoslavia could start to heal the wounds that separate them. The children are now being punished. The next generation will have to bear the guilt. Let us ensure that the children—the young people—can take their place in the heart of Europe where they belong.

4.20 pm

The Minister for Trade and Investment (Mr. Douglas Alexander): I congratulate my hon. Friend the Member for Halifax (Mrs. Mahon) on securing the debate and on raising this important subject today.

This year marks the 10th anniversary of the Dayton accords and the end of the bloodiest conflict in the former Yugoslav Federation. We should remember that in the past 10 years so much has changed for the better. Free and fair elections have been held throughout the region, large-scale conflict no longer threatens and the European Union and other international partners are united in working with the region to maintain stability and create prosperity. The dark days of the early 1990s thankfully now seem a distant memory.

However, a shadow remains and will do so as long as the truth is suppressed and denied. It is cast by the war crimes committed during the bloody conflicts in the early 1990s and it will not be removed until those

[Mr. Douglas Alexander]

responsible for the appalling atrocities committed during the conflict are held to account. That is why the United Kingdom remains a firm supporter of the International Criminal Tribunal for the Former Yugoslavia. We will continue to lend our political, financial and practical support for an efficient tribunal that can deliver effective justice for the thousands of victims who suffered so much during the conflict.

At the same time, we recognise concerns about the operation of the tribunal, in particular its cost, slowness and geographical distance from the victims. Others have alleged, as we have heard today, that it is biased against Serbs. I will seek to address those questions. The tribunal has so far cost United Nations member states some $860 million since its inception in 1993, of which the UK's share is some $54 million. We have taken a close interest in the efficient management of the tribunal and will continue our policy of bearing down on its costs.

However, we must recognise that international justice is an expensive process. The complexity and nature of the cases before the tribunal make them inherently expensive. Cases arising from three separate conflicts are being prosecuted and indictees often face multiple counts. The Lockerbie trial, by way of comparison, cost UK taxpayers some £60 million.

Mr. Randall: I hear what the Minister is saying, but will he explain why a similar tribunal has not been set up for Iraq? Why is Saddam Hussein to be tried by his own people?

Mr. Alexander: It is fair to say that the basis on which the actions were taken, the nature of the conflicts and the circumstances of the conflicts in the former Yugoslavia and Iraq are fundamentally different. The consequences for the judicial processes that follow on from that conflict reflect the fact that there are very different circumstances in Iraq and Yugoslavia.

Mrs. Mahon: The Minister will be aware that my hon. Friend the Member for Cynon Valley (Ann Clwyd), who is now the special envoy on human rights to Iraq, chaired an organisation, Indict, which collected evidence for years with the express view of having such a tribunal. Now that prospect is gone. Why?

Mr. Alexander: I maintain the position that the Government have advanced: assistance is being rendered to the Iraqi authorities in bringing forward a proper system of judicial authority, which will allow in turn for prosecutions to take place, not least in relation to Saddam Hussein. I return to the substantive point that I am conscious that the issue of Iraq has divided both this Chamber and some within our party. However, it is only common sense to recognise that there are distinctive circumstances at work in the former Yugoslavia and in Iraq, which gave rise to the action that was taken.

On fugitives from justice, we have made clear our belief that the ICTY should plan its work within the deadlines that it has set out. However, its progress is also clearly subject to factors outside its control, the most important of which is co-operation from states in the region in apprehending fugitive indictees, and providing access to documents and witnesses. The president and prosecutor have both made it clear that lack of such co-operation will affect the tribunal's final closure date. We take that lack of co-operation extremely seriously and will take action to support the tribunal. There can be no closure until all the accused have been brought to The Hague to face trial.

Many of the accused have voluntarily surrendered and pleaded guilty; others have been tried and sentenced. Three individuals stand accused of ordering and orchestrating the most serious crimes: Ratko Mladic, Radovan Karadzic and Ante Gotovina. They remain fugitives from justice. The charges against Mladic and Karadzic include the massacre at Srebrenica where more than 7,000 Muslim men and boys were killed in cold blood because, in the views of those who perpetrated the action, they held the wrong religious beliefs. Their refusal to surrender, while others face trial, is shameful.

Even worse is the refusal of the relevant authorities in Bosnia and Herzegovina and Serbia and Montenegro to take all possible steps to secure their arrest. We have welcomed recent transfers of lower-level indictees and provided co-operation at a bureaucratic level, but there remains in the Serb body politic a refusal to face up to the past. That has tragic consequences for the people of Serbia and Montenegro and Bosnia. Their future prosperity is held hostage by a few fugitives and by their elected representatives' refusal to grasp the nettle and accept their international legal and moral obligations.

The authorities in Belgrade and Banja Luka are not alone. Croatia is on the cusp of an historic step: opening accession negotiations with the European Union. As a champion of enlargement, the United Kingdom is committed to helping all the countries of the western Balkans to take their rightful place within Europe, but that cannot be at the expense of political conditionality. All countries, including our own, are under an obligation to co-operate fully with the tribunal.

Since gaining candidate status last June, the Croatian authorities have failed to satisfy the chief prosecutor that they are doing everything they possibly can to locate and apprehend the fugitive general, Ante Gotovina. The European Council conclusions in December 2004 made it clear that accession negotiations could begin only when the authorities were co-operating fully with The Hague. However, the Croatian Government seem unwilling to meet their obligations. Instead they indulge in cosmetic measures and public relations campaigns in the hope that negotiations will begin anyway. We continue to make it clear that they need to take action now to enable negotiations to begin in March. The importance of conditionality policy and the tribunal is not just about Gotovina, Karadzic or Mladic; it is about the rule of law, about European norms of behaviour and about these countries' willingness to confront the past in order to be able to face the future.

The tribunal has brought a sense of justice to many thousands of victims across the region, guaranteeing that their suffering is acknowledged and not ignored. More than 3,500 witnesses have had the chance to tell their stories while testifying in court. For many, though not all, that has helped the process of personal closure.

As we heard in the debate, the tribunal has been criticised by some for concentrating more on one ethnic group—the Bosnian Serbs—than any other. However, it is important to remember that the indictments are against individuals, not groups. The emphasis on individual responsibility dispels any notion of collective punishment of the Serbs as a group, as has been suggested.

The tribunal's influence will continue after its closure. It will have left an historic record of the atrocities and of jurisprudence. It is not possible for the tribunal to hear every case against every individual, but its experience will be an invaluable resource for the regional courts, such as the special war crimes chamber of the Bosnian state court, which will continue to prosecute suspected war criminals. Together with its sister tribunal, the International Criminal Tribunal for Rwanda, it will leave a legacy of ground-breaking case law, which is already proving an important resource for the newly established International Criminal Court.

The international community has learned valuable lessons from the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda. They are likely to be the last tribunals of their kind. More recent tribunals, such as the special court for Sierra Leone, are smaller and more tightly focused in terms of the number of indictees and counts, which makes for a much shorter lifespan and much lower costs.

For the future, the United Kingdom will work together with like-minded partners for the widest possible jurisdiction of the International Criminal Court so that we can ensure that there is no impunity for those who commit the most serious violations of international humanitarian law and crimes against humanity. The court, which the UK regards as a milestone in the development of international justice, was founded in part to avoid the need to set up such ad hoc tribunals as that in Yugoslavia. We believe that over time the permanent court will develop into a powerful deterrent against would-be perpetrators of the most heinous crimes, which it is the shared responsibility of the international community to punish.

Question put and agreed to.

Adjourned accordingly at twenty-nine minutes past Four o'clock.

Westminster Hall

Thursday 24 February 2005

[SIR NICHOLAS WINTERTON *in the Chair*]

Migration and Development

[Relevant documents: Sixth Report from the International Development Committee Session 2003–04 HC79-I and the Government's response thereto, First Special Report Session 2004–05 HC 163.]

Motion made, and Question proposed, That the sitting be now adjourned.—*[Margaret Moran.]*

2.30 pm

Tony Baldry (Banbury) (Con): The International Development Committee is grateful for the opportunity to debate the report, not least because it gives a further opportunity to draw it and the Government's response to the attention of the House. This, as with every other report of the International Development Committee, is a unanimous report, and every recommendation is unanimous. If there were to be a headline, or for those who will read no further in *Hansard,* it would convey that we concluded:

"Migration and migrants should not be seen as problems to be dealt with. Migration presents both challenges and opportunities. Migrants are people trying to improve their lives and must be treated accordingly."

I hope that many hon. Members will read our report, because quite a lot of what we have to say may be counter-intuitive and perhaps not what people expect. I think that we exposed several myths about migration. The history of migration is the history of people's struggle to survive and prosper, to escape insecurity and poverty and to move in response to opportunity. When I considered how best to summarise the report for this debate it occurred to me that I could do no better than to share with the House the published summary:

"Migration is not a panacea for development problems, but properly managed it can deliver major benefits in development and poverty reduction."

The summary mentions that global flows of aid amount to just under $70 billion a year, and continues:

"The United Nations estimates that the Millennium Development Goals could be met if aid were increased to $100 billion a year. A slight relaxation of restrictions on the movement of workers—increasing the proportion of migrants in the workforce of developed countries to 3 per cent.—would deliver global gains of perhaps $150 billion a year."

Why? Because

"remittances sent home by international migrants through official channels currently amount to $93 billion a year; with informal transfers included, remittances are likely to amount to around $300 billion a year. Migration delivers massive economic gains, which could be used for poverty reduction.

The costs and benefits of migration are distributed, unevenly, between and within countries and social groups. The balance and distribution of costs and benefits depends upon the nature of the migration in question, and on the links which migration establishes between places of origin and destination. This report shows how governments and others could—by shaping the nature of migration and the distribution of its costs and benefits—make migration work for the poor."

There are, however, several migration myths, which we should like to dispel. Myth No. 1 is that migration and migrants are problems to be dealt with. That is wrong. First, migration presents both challenges and opportunities. In their determination to deal with the challenges, Governments must not miss the opportunities. Secondly, migrants are not problems. They are people trying to improve their lives, and must be treated accordingly.

Myth No. 2 is that there is a tidal wave of migrants about to crash upon our shores. That is wrong. Migration is hugely important—economically and politically—because of the links that it establishes between countries, but it remains the exception rather than the rule. International migration has increased over the past 40 years, but still only 2.9 per cent. of the world's population are international migrants.

Myth No. 3 is that migration is primarily about people moving from developing countries to developed countries. That is also wrong. Most migration takes place within and between developing countries. Fully 40 per cent. of international migrants move between poor countries, and the number of migrants who stay in their own country far exceeds that of international migrants. To compare, there are 175 million international migrants, whereas India alone has 200 million internal migrants and China 120 million. As regards refugees, two thirds live in developing countries and more than one third live in the least developed countries.

Myth No. 4 is that it is the poorest, most desperate people who migrate. That is also wrong. The poorest people often lack the resources to migrate; if they do migrate, they are likely to move locally. That obviously has major implications for policy. First, it cannot be assumed that policies to help migrants, particularly international migrants, will also help the poorest people. Secondly, migration will not necessarily be stemmed by lifting people out of poverty. Nevertheless, improvements to governance in developing countries can reduce people's motivation to leave, and the encouragement of remittances and return can make the migration that occurs more development-friendly.

The fifth and last of those myths is that migration harms the prospects of developing countries by causing a brain drain. The response to that is that it does not necessarily do so. Migration can lead to a brain drain that harms the prospects of developing countries, but whether it does so depends on the nature of that migration, and the links that it establishes between host and home countries. Flows of remittances and other resources and the return of migrants with new skills can offset the loss of migrants, and may even lead to a "brain gain".

In our report, having dispelled those myths, we then tried to make it clear how to make migration work for poverty reduction. We did that through the examination of migration journeys. Each stage of the migration journey offers entry points for policy, through which Governments—in the United Kingdom and other developed and developing countries, and at multilateral level—can make migration work for poverty reduction.

Rich countries must not exacerbate the problems of the brain drain for poor countries. International recruitment—including that of nurses and teachers, about which I shall say more later—must be better

[Tony Baldry]

regulated. The push factors that lead to migration from developing countries must be addressed. The opportunities for mutually beneficial arrangements—triple wins—for migrants, migrant-sending and migrant-receiving countries should be explored.

In relation to travelling, arriving and living, more effort must be put into tackling trafficking in people, smuggling and illegal migration. Decisions about migrant status must be taken fairly and quickly. Migrants must be enabled to live productive lives. The Governments in host societies must ensure that migrants are not denied access to services, that migrants' integration into host societies is supported, and that migrants' rights are protected.

With respect to returning, reintegrating and circulating, flexible systems of temporary and circular migration, and ways of making return sustainable should be established. If such schemes are to deliver development benefits, development stakeholders must be fully involved in their design.

We also considered the matter of resource flows; remittances and the role of the diaspora. Governments and others can shape and use the links that migration establishes between home and host societies. Such links include remittances and the diaspora, two areas to which we paid particular attention. The onus is on policy makers to encourage the flow of remittances, to reduce the costs that migrants have to pay to send money home and to improve the investment climate in developing countries so that remittances can be used productively and in ways that reduce poverty. The diaspora and its members can be important agents of development. Governments have much to learn from deeper engagement with the diaspora, its members and its constituent organisations. The diaspora should be involved in discussions on development strategies, voluntary remittance schemes and sustainable development.

The Department for International Development and Ministers told us that the debate on migration and development is at the stage where the trade and development debate was 10 years ago. People are beginning to say that there is a development dimension to migration, but there is a lack of joined-up thinking at national and international levels and some resistance to connecting the issues. We share that analysis and hope that our work, our report and DFID's commendable efforts will ensure that it does not take another 10 years to reach the same stage as we are at now with trade and development.

I was glad to see that the Government stated in their response to our report that

"The Committee's report has a wealth of practical suggestions and observations that will feed into DFID's evolving work in this area, and also emphasises the importance of cross-Whitehall working to maximise the very real benefits that can accrue from well-managed migration policies."

As the Government rightly observe:

"The challenge is to make the most of migration by minimising the costs for developed and developing countries alike, as well as for migrants themselves."

We had a large number of conclusions, 61 in all. I do not intend to go through them all, but I would like to draw the Chamber's attention to a few.

Our first conclusion is that policies aimed at delivering development and poverty reduction should not start from the assumption that migration is a rare occurrence, a south-north phenomenon or a one-off event. Policies need to be based on an understanding of the multi-faceted nature of migration, including temporary, circular and seasonal migration within and between developing countries as well as from south to north. I have already drawn the Chamber's attention, for example, to circular migration in countries such as India and China.

Policy makers must pay careful attention to the experiences and concerns of female migrants to ensure that their migration is beneficial. As the poorest do not migrate or do not migrate far, it cannot be assumed that policies that help migrants will also help the poor. That is a dilemma for those who would like migration management to reduce migration; developed countries cannot expect to solve their immigration problems by simply reducing poverty in developing countries.

One of the conclusions that we came to, which has had quite a lot of attention recently in the media, is that it is unfair, inefficient and incoherent for developed countries to provide aid to help developing countries make progress towards the millennium development goals on health and education while helping themselves to doctors, nurses and teachers who have been trained in and at the expense of developing countries. It is difficult to pick up a newspaper here or anywhere else without seeing reference to that growing phenomenon.

On Thursday 27 January the Kenyan *Business Day* contained the headline, "Rich world 'gets free ride on skills'". The report from Addis Ababa read:

"Rich countries poach doctors and nurses that poor states spend millions to train, taxing already underfunded, overstretched hospitals in Africa and elsewhere, according to a report released yesterday".

That report was by the International Organisation for Migration. The article continued:

"The organisation estimated that it would have cost rich states about $184,000 to train each of the estimated 3-million professionals educated in poor countries now working in the developed world, for a 'staggering' total savings of $552bn."

The Guardian observed 10 days ago that Sri Lanka, still recovering from the devastation of December's tsunami, has accused Britain of undermining its embattled health services by failing to prevent hospitals from luring trained doctors and nurses to work in the United Kingdom. According to its Minister of Health, the offers of big money, better facilities and prestige training establishments in Britain is too much for many Sri Lankan doctors to resist, and are causing "a grave problem" for its health system.

A report last Sunday in *The Mail on Sunday* observed that two thirds of our new doctors come from developing countries. Of the 27,228 new doctors registered last year, 17,718—65 per cent.—were foreign, and almost one in three came from India. That is believed to be the highest number of foreign-trained doctors registered to practise medicine in the UK in a single year. Of the 34,617 new nurses registered last year, 44 per cent. were from overseas. That means that almost half of all new nurses from overseas come from developing countries.

Mr. John Bercow (Buckingham) (Con): I have not read the report in *The Mail on Sunday*, as it is not my newspaper of choice on a Sunday. However, an important policy issue is clearly raised by the flow that my hon. Friend describes. Does he agree that it is incredibly important, when debating that phenomenon and deciding the appropriate policy response to it, that we avoid the development of a blame culture? As I said, I have not seen the report, but all too often there is an implicit suggestion that it is the people who are coming who are the problem—they are to be blamed and they are a source of nuisance—and a febrile atmosphere is created in which they become legitimate targets for attack. Consistent with what my hon. Friend said at the outset, that is, of course, quite wrong and should be regarded as unacceptable.

Tony Baldry: I entirely agree. As I said, the strapline of our report is, and should be, that migration and migrants should not be seen as problems to be dealt with. Migration presents both challenges and opportunities. Migrants are trying to improve their lives and must be treated accordingly. I should say, however, that I visited Lilongwe general hospital in Malawi about 18 months ago. It was probably one of the nearest things to hell on earth that I have ever seen in that there were almost no nurses. A cohort of nurses had recently finished their training and almost all were leaving Malawi straight away to come to the UK. That issue must be addressed.

The Select Committee concluded that the regulation and recruitment of health care professionals by the UK raised several issues that need clarifying. How effective has the NHS code of practice been? What will the Government do to enforce the code of practice, or to encourage NHS employers to adhere to it? Where does tacit recruitment end and active recruitment begin? Perhaps most importantly, how significant a loophole is the fact that the code does not apply to the private sector? Specifically, how many health workers from developing countries are employed in the private and public sectors, and how many of those employed in the public sector were initially recruited for the private sector? In exchanges in the Chamber, Ministers have rightly said that there is an NHS code of practice, but that code does not apply to nursing agencies. What frequently happens is that nurses from overseas are recruited by agencies and then go to work in the NHS.

Another of the Committee's conclusions is that, if the NHS is to depend on overseas workers, the Government should consider designing schemes to train nurses in developing countries for temporary employment for a specified number of years in the NHS on the understanding that they will then return to their home countries. Such a scheme would need to be carefully designed, but the potential development benefits and the fact that that would be a more cost-effective way of training nurses, no matter where they ended up working, make it worthy of serious consideration. The costs of training nurses should not be borne by countries that do not benefit from their training, particularly if they are among the poorest countries in the world.

We went on to observe that one way in which to reduce illegal migration might be to open more transparent and efficient ways for legal migration, but although that might undercut traffickers and smugglers, it would not satisfy the latent demand for migration, which needs to be managed. Illegal migration needs to be tackled.

We are concerned that the Government should do their utmost to protect migrants' rights to ensure that they are not exploited by employers, gangmasters and employment agencies. We certainly welcomed the swift progress of the Gangmasters (Licensing) Bill through Parliament; I hope that the subsequent 2004 Act will be an important step toward preventing the exploitation of workers, including migrant workers, by gangmasters.

There was a lot of discussion about the UN convention on migrants. We have invited the Government to explain why they have not ratified the convention and to provide the House with evidence to support the assumption that there is a trade-off between migrants' rights and immigration control.

We observed that, in order to ensure that returning migrants have something to go back to, Governments, with the support of donors, need to

"be serious about welcoming migrants back; make progress with improving governance and tackling corruption; ensure that pay structures and progression within the civil service do not unfairly penalise migrants who have worked elsewhere and may have acquired useful skills; and, help returning migrants to find suitable jobs, or to set up their own businesses."

We had an interesting evidence session in Southwark town hall with the Sierra Leonean diaspora in London, many of whom escaped or came to the UK in the years of conflict in Sierra Leone. For various reasons, I am a reasonably regular visitor to Freetown. The capacity of the civil service, and others, in Freetown is limited. There were probably more qualified and skilled people attending that evening in Southwark town hall than I have met in all my visits to Freetown. We must find ways to encourage people with skills to try to ensure that the countries of their birth can benefit from some of those skills, even if they do not go back to them permanently. That is not just about us, but about good governance in the countries concerned and ensuring that people feel that they can go back to countries where they have a future to look forward to.

We were pleased to hear that the Department for International Development and the European Union support programmes such as the IOM's migration for development in Africa programme, and pilot schemes in Ghana and Sierra Leone. It is only through learning from experience that the best ways of facilitating sustainable development can be discovered.

I am sorry that the hon. Member for Putney (Mr. Colman) is not here—he usually is, but I suspect that he is busy elsewhere—as he is the expert on mode 4 of the general agreement on trade in services. DFID reported that the UK's position on GATS mode 4 is widely viewed as being among the most progressive, which may be because DFID knows all about it. We say that the Government should make the UK's policy stance on GATS mode 4 clearer, and explain what the UK is doing to promote an agenda that will be of mutual benefit to the UK and developing countries. It will be interesting to hear from the Minister whether GATS mode 4 is ever used to enable people to use their skills elsewhere.

We spent some time considering remittances. As I said in my opening comments, it became clear to us that the value of remittances from migrants often

[Tony Baldry]

substantially outstrips the value of development aid. As part of the inquiry, we spent some time in Somaliland. I am sure that the hon. Member for Clydebank and Milngavie (Tony Worthington) will talk about Somaliland, as he is probably the hon. Member with the most experience on that area, which has survived, grown and prospered almost entirely on the benefit of remittances. However, the transaction costs of those remittances can often be extremely high. We recognise

"the difficulty of gathering reliable data on unofficial remittances, and applaud the Government for its efforts to gather information about remittance outflows from the UK. The Government should encourage other European governments to do the same. In the absence of such information, evidence-based policy on remittances and on migration will remain an aspiration."

Migrants and their families have long been aware of the value of remittances. Greater awareness on the part of Governments and development agencies is welcome, but if the potential of remittances is to be maximised, more needs to be done to understand them and their use, to increase their flow and to make them work better for poverty reduction. The UK can encourage remittances by providing guarantees to back the issue of bonds by developing country Governments and by using tax incentives, such as treating person-to-person remittances as charitable and, therefore, as tax-deductible donations.

One problem for those who wish to send remittances back to developing countries is that the tightening of the rules on money laundering since 9/11 has made life a lot more difficult. This afternoon, we could go to addresses in Southall to deposit £5,000, and by tomorrow it would available for use in Hargeysa. However, that is becoming increasingly difficult because of the money laundering regulations, so it is much harder for people to send remittances home.

The UK Government and other Governments need to be concerned about that. We concluded:

"If transactions costs are to be reduced, then the market for remittance services needs to work better so that service providers compete harder, to offer better and cheaper services, to more informed customers.

The UK Government, NGOs and the private sector can all play their part in driving down the costs of remittances. Competition will help, but the Government needs to encourage this process by raising awareness about remittances, disseminating good practice and ensuring that the market is transparent and well-regulated."

We also spent some time reflecting on the role of the diaspora. We concluded:

"Diasporas' views are valuable and may help to deliver peace in their home countries, but it would be a mistake to assume that communities in exile are better able than people back home to represent their nations' interests."

However, we drew the attention of the House and the Government to a number of ways in which the Government and DFID might work further and better with the diaspora. We hope that the Government have taken note of those observations, because we all thought that diaspora groups, which have been largely overlooked in the development process, could, for example, be more systematically consulted on draft country assistance plans. The Treasury could also explore with the diaspora the possibility of developing schemes to enable migrants who wished to do so to channel remittances so that they have the maximum impact on tackling poverty.

Although we applauded DFID for the leading role that it has taken in moving migration up the international development agenda, we felt that the Government should consider further what might be done at a multilateral level to manage migration better, and particularly to make it work better in terms of poverty reduction. It is interesting that the main organisation that deals with migration—the IOM—is not a UN agency. As with so many aspects of migration, it seems to be slightly policy off-beat and needs to be brought far more into the mainstream.

We felt that

"The Presidency of the European Union in 2005 will provide the UK with an opportunity to promote a positive agenda on migration which takes full account of its development potential. We trust that the Government is preparing now to take this opportunity."

The Commission for Africa is meeting today for the last time before the report on its work is published in the middle of March. We hope that the Government will consider how migration might contribute to development policies, as well as many other areas.

I hope that hon. Members will take the opportunity to read our report, because it reaches a number of counter-intuitive conclusions that I hope are worth considering. We have given thought to the brain drain, remittances, the diaspora and the benefits of migration, which might not have been the focus of sufficient attention in previous work. We hope that our report is not the end but the start of thematic work, which needs to be done by the Government and other agencies, so that it does not take 10 years for migration policy to become an integral part of development policy overall, as happened with trade policy.

3 pm

Tony Worthington (Clydebank and Milngavie) (Lab): It is a pleasure to follow the Chairman of the Committee. I am sure that he and other members of the Committee would agree that the report is one of the finest and most useful that we have produced, so it is good that we can debate it. I should point out that more of us would have attended this debate, but half of the Committee is on its way back from Iraq, so only the half that went to Sudan is here. You can see, Mr. Deputy Speaker, that we do not go to holiday resorts—we go where things are difficult.

The issue is important, but it tends to be dealt with only in sensationalist headlines, without any analysis. The hon. Member for Banbury (Tony Baldry) referred to some of our counter-intuitive findings, and it was interesting how often we investigated things and found what we did not expect. The report starts with myths about migration, which are valuable to consider. Often, the witnesses admitted that there was a dearth of quality information and expressed gratitude that the issues were being explored.

The hon. Gentleman referred to remittances, which are often far greater than the development assistance going to the countries from which people have come, but the issue has been neglected. Similarly, DFID itself admitted that inadequate attention had been paid to working with the diasporas, another matter raised by the hon. Gentleman. The diasporas are substantial in Britain, particularly in London, but we have not addressed the problem of how to use those resources to assist the countries from which the diasporas have come.

As the hon. Gentleman said, the report makes 61 recommendations. I want to focus on just four areas: the drain of human resources from developing countries, which is an urgent problem that only the developed world can address; the problem of providing services in rural areas because of internal migration; the neglect of African agriculture, as there would be less internal and external migration if agriculture worked better in developing countries; and, finally, Somaliland. The hon. Gentleman flagged that up, and he would be astonished if I did not mention it, so I will not disappoint him.

Perhaps the most important issue in migration and development is the fact that some countries, in some areas of work, lose a disturbing number of their most qualified people to the developed world—what is commonly called the brain drain. The report puts it very powerfully:

"It is unfair, inefficient and incoherent for developed countries to provide aid to help developing countries to make progress towards the Millennium Development Goals on health and education, whilst helping themselves to the nurses, doctors and teachers who have been trained in, and at the expense of, developing countries."

That basically says, "Hypocrite—you say you're helping us." We need to consider the balance: whether we do more to help on health and education than we do to hinder through our employment policies. The report refers to the 60 to 70 per cent. of Ghana's health professionals who emigrate. The AfricaRecruit organisation, based here, calls it

"Africa's foreign assistance to the developed world".

The situation is even worse if we take into account the impact of HIV/AIDS. In my work with the all-party group on population, development and reproductive health on the relationship between HIV/AIDS and reproductive health services—which, I might point out, is launched next week under the title "The Missing Link"—UNAIDS reported that in some countries the size of the health force must triple or quadruple if universal coverage of anti-retroviral treatment is to be achieved. That is just one appalling disease, and if we are to treat it properly with the full coverage that everyone says there should be, we would need three to four times the existing health force.

In most countries affected by HIV/AIDS, vacancy rates for doctors, nurses and other health staff are extremely high. One example is Malawi—the hon. Gentleman referred to a visit to a hospital in Lilongwe—which has filled only half of its public sector nursing posts. Another staggering figure comes from Zambia, where out of more than 600 doctors trained since independence only 50 remain in the country.

That is truly the economics of Passchendaele. When we started on the study, I thought the only answer would be to stop our health and education services from robbing the developing world of its tiny minority of higher education graduates. However, while there is a place for a code of conduct in this matter, I doubt that it is having much impact. For a start, is it right to stop people seeking to extend their skills abroad? Secondly, even if we banned the practice, who else would? It is difficult to see the United States restricting recruitment in such a way, and there is a huge market all over the world for such skills. Even in this country, we have imposed a code on the NHS in England but not in Scotland, Northern Ireland and Wales nor on the private sector.

Another point is that our own and Europe's demand for nurses is so huge that I cannot see any Government taking the political action necessary to impose understaffing on our hospitals, given the political importance of the perception of health services and the ever-growing need for nurses in an ageing population. Just this week, a Save the Children report quotes evidence estimating that the UK will need 25,000 more doctors and 254,000 more nurses in the future than it did in 1997. That situation could be mirrored across Europe.

It is also difficult to see how we in Britain will train enough nurses of our own given the dramatically wider opportunities for women and the unwillingness of men to go into nursing in great numbers. At one time, nursing was one of the few higher education occupations that was genuinely open to women. Codes of conduct may have their place, but if we are to solve the problem, we will have to do something much more radical—the code of conduct is simply not working. In the same briefing paper on Africa's aid to the NHS, Save the Children says that between 1999 and 2004, the total number of doctors registered in the UK and trained in Ghana doubled from 143 to 293.

Not all of the situation is negative, as the remittances sent back to the homelands by educated employees can be a considerable benefit as overseas investment. The Philippines probably led the way in training more nurses than it needed. I remember listening to a Syrian Minister who said that Syria would train more educated people than if needed because they would go abroad and send money back. That pattern will continue; it is an effective way of gaining foreign investment. Similarly, some may return to their homelands after gaining valuable experience in higher education. However, I think that we have to find a more radical answer.

If we are to employ those who are have been trained in developing countries, we should pay for them. It is morally unacceptable for us to cream them off as we have been doing. At present, we are stimulating the failure to meet the MDGs by plundering African countries of their human resources. I regret to say that the international community is not yet showing the boldness necessary to tackle the issue. It is not a matter for one nation alone. We need to put money directly into training to put right the deficit that we are causing.

We need much more boldness vis-à-vis migration and personal social services than we see now in connection with internal migration; such migration makes it difficult for rural areas throughout Africa to obtain even basic services. The western pattern of youngsters leaving secondary school and going to college for three years to gain professional qualifications will not equip the rural areas of developing countries with basic services. We have to face the fact that those who go to the big cities do not return in the required numbers. In Africa, they go away to work in the big cities or they emigrate—or, unfortunately, they contract HIV/AIDS. If we are to fight HIV/AIDS, if we are to provide primary education, and if we are to equip rural areas with modern skills, we have to find ways of training nurses, teachers and others with the skills that their communities need in situ—where they live and have ties.

We need ways of harnessing the new technologies to provide skills. We need to ensure that the traditional birth attendant becomes a trained birth attendant.

[Tony Worthington]

Sometimes, the person who educates against HIV/AIDS is also the source of contraceptive supplies for those who wish to exercise choice. European staffing patterns will not meet the needs of Africa. Once again, I do not see the boldness of approach necessary to up-skill those areas.

I give another example of the importance of migration to development. We must ensure that migrations that would be damaging to development do not occur through the lack of appropriate action: a stitch in time saves nine.

I turn to the neglect of agriculture in northern development considerations. We say that we should respond to African needs, but it is difficult to find reference to agriculture in our development debates. However, agriculture is easily Africa's dominant industry. It is overwhelmingly from agriculture that future exports could come; and it is agriculture that will make a major contribution to the reduction in poverty and improvement in health.

The assumption by the development world, in Europe and further afield, seems to be that at the extreme Africa will go the same way as we have, with only 2 per cent. of the population living off the land, and that a decline in the numbers living off agriculture will occur. It is certainly true that people migrate to the cities, but for the foreseeable future agriculture will be by far the biggest industry on which most people in Africa depend. It is from agriculture that the increase in living standards will come. We must redress the current imbalances in our development policies because of the neglect of agriculture.

I look forward to the new policy on agriculture, which I think may be coming but which has been postponed—and postponed again, perhaps until after I have left this place. I say yet again that it is very important for development.

Mr. Bercow: The hon. Gentleman focuses on a truly critical issue. Surely, the real disaster of the poorest people in the least developed countries, who are dependent on agriculture, is twofold. First, they are very poor and their agriculture is being diminished by western trade policies. Secondly, consistent with what my hon. Friend the Member for Banbury (Tony Baldry) said in presenting the report, either because they are simply too poor or because they lack access to information about alternatives that might be available to them, they do not migrate. Therefore, they have to stew in their own juice through no fault of their own.

Tony Worthington: I concur with that. I am delighted to see the unfairnesses of our trade policies emphasised. However, anybody who thinks that if we get rid of the common agricultural policy and make our trade policies completely fair then African agriculture will boom is living in cloud cuckoo land. Products of the right quality still have to be grown for export in the necessary quantities, and there is a huge self-sufficiency deficit to be made up. The movement to towns in Africa reflects not the magnetism of the towns but an avoidable failure in agriculture. Many towns do not have a burgeoning industry or employment opportunities of a quality that would justify movement off the land. A lot of migration occurs because the land is not being used properly. I hope that the Commission for Africa report will address that issue, although the consultation paper was not encouraging in that respect.

Mr. Crispin Blunt (Reigate) (Con): This is a genuine question; I elicit the hon. Gentleman's expertise. Can he explain why, if policy on agriculture becomes fair and the west stops dumping and ends the disgraceful regime of subsidised exports and the rest, we will not see the beginning of the renaissance of African agriculture? I am thinking of the micro-examples of exports from some farms in Kenya and elsewhere. Why would that not start to be repeated across the continent, as people invested to take advantage of the labour rates in Africa, which are relatively cheap compared with those of the developed world?

Tony Worthington: It will help. It would be foolish to say that it would not. However, there is more to it. I am, coincidentally, coming to a couple of relevant examples. It is often said that Africa never had the agricultural revolution, which was a huge stimulus to development in Asia. However, for internal reasons—not, in my view, for trading reasons—Africa becomes less self-sufficient and more dependent on others for its food security every year.

One or two of the instances that I am about to give are now being tackled, but that leads people to ask why they were not tackled before. Take the agricultural problem of tsetse fly, which affects cattle. It prevents them from being used effectively for ploughing. If the cattle in an area are infected by tsetse fly, perhaps only half the land in that area can be ploughed for crops, because the ploughing has to be done by hoe or dug by hand-pulled ploughs. There is now an Africa-wide proposal for tackling tsetse fly—I believe that it is going to start in six countries—and that is very welcome. However, one has to ask: why only now? Why, after generations of investment, are we not looking at ways in which the productivity of the land in those areas might be doubled or trebled?

Let me give another example. Many parts of Africa have similar problems. The hon. Members for Banbury and for Edinburgh, West (John Barrett) will remember going to Malawi. The country's agriculture is in crisis. Its soil, like that of many other areas, is degraded and depleted, which reflects the fact that much less fertiliser is now used. Interestingly, the United Nations millennium project report by Jeffrey Sachs, called "Investing in development: A Practical Plan to Achieve the Millennium Development Goals", says that a quick win could be gained through the massive replenishment of soil nutrients for smallholder farmers through the free or subsidised distribution of fertiliser and agroforestry, which would be of massive benefit. Other things are then needed to make that sustainable. When my colleagues and I visited Malawi, we found that they kept sowing maize, and the soil could not cope with yet more demands on it, but the country has no mechanism and no policy to remedy an issue that is crucial to it.

It is time that we started to mean it when we talk about African needs and giving country ownership to Africa. I draw colleagues' attention to a wonderful book produced by the New Partnership for Africa's Development on the comprehensive Africa agriculture

development programme. It is not a bestseller, but everyone has their own taste. Agriculture is at the top of NEPAD's agenda, but European development agencies hardly mention it. It is important, when talking about migration, to avoid migrations that do not need to occur and to avoid sending people to towns that cannot cope. Africa, where most people are farmers, cannot feed itself, and has not been able to do so for many years. The number of people who are chronically undernourished in sub-Saharan Africa continues to rise. The NEPAD document states:

"Agriculture led development is fundamental to cutting hunger, reducing poverty, generating economic growth, reducing the burden of food imports and opening the way to an expansion of exports."

Why are we failing to listen to Africa about the importance of agriculture?

Finally, I want to talk about Somaliland, which the Committee visited and on which we commented in our report. I do so to point out the link between politics and migration, as it is often political factors that affect migration. Broadly speaking, Somaliland is the old British Somalia, which attained independence in 1960 and threw it away five days later by joining the old Italian Somalia. It rapidly regretted that decision. It was an unhappy relationship, which culminated in the dictator Siad Barre committing atrocities that we would have recognised as genocide if the television cameras had turned up, but we did not know about it. I visited the area a couple of years later, and have never seen devastation like it. Some 50,000 people were killed and 500,000 fled. I still cannot imagine an enemy taking off from the local airport, having loaded up with bombs, and bombing the local town. That is a very effective way of obliterating everything, which is what happened in Hargeisa.

The significance of that event was that the chances of Somaliland, the old British Somalia, living with the rest of Somalia were nil. Understandably, the Somalilanders declared independence, and backed up that declaration overwhelmingly in a referendum. Some 13 years later, no one has recognised them. Somaliland and the rump Somalia have gone radically different ways since then. Somaliland has gradually built up its democracy, with local government elections and presidential elections; at the end of next month there will be parliamentary elections. The guns have been taken off the street and the country has lifted itself off the floor by its own efforts with, as was said earlier, the considerable help of the diaspora; it is developing and behaving exactly as we say African states should if they are to receive development assistance.

Because, after about 13 years, no country has recognised Somaliland's independent status, it has not received long-term development assistance. In contrast, the rest of Somalia has remained utterly ungovernable. There has been an empty chair at the United Nations and power rests with a number of warlords whose dominant thought is to retain that illicit power by use of arms. There have been endless conferences, and much aid has been expended in trying to create a state. Recently, in Nairobi, an agreement was reached, from which we hope a Government will develop. However, I have not met anyone who is optimistic that that will last.

Incredibly, the only response of the international community to the efforts of Somaliland has been to tell it to join with Somalia in the boundaries that operated when the country fell apart. Having experienced attempted genocide it must join people like the man called "the butcher of Hargeisa", the governor of Hareisa, General Morgan. No one in this country who had gone through the same experience as the Somalilanders would agree to enter into talks with those who had oppressed them.

The relevance to migration of what I am outlining is considerable. The population of what was previously Somalia is not that of a large country, but Somalis make up one of the largest diasporas not only in this country but in the United States, Scandinavia and, above all, the surrounding countries such as Ethiopia and Kenya. By not supporting Somaliland's wish, properly expressed in a referendum that was approved by international observers, we stimulate emigration, by removing hope. My belief is that good outcomes will come through building on virtue, not by compounding failure.

The people of Somaliland have exercised their right to self-determination. They have created a growing and admirable democracy over a period of 13 years, and we still tell them, "Jump in with your enemies, who are united by only one thing—their dislike of you." That does not make sense.

My contention is threefold. First, the failure to recognise Somaliland has stimulated emigration to neighbouring countries, other countries around the world and this country, with all the distress of disruption to the families, and all the cost to the host countries. We are now forcibly repatriating Somalilanders to a country that we refuse to recognise and fail to help sufficiently. Secondly, the failure to build on strength in Somaliland risks undermining that strength, and gives comfort to the lawless who would undermine Somaliland. In addition, forces such as al-Qaeda are active in Somalia, and the failure to enlist Somaliland in the war on terrorism undermines that moderate, democratic Islamic state.

All that Somaliland is asking for is recognition of the same boundaries that were recognised at the time of independence in 1960. The unfairness of not recognising Somaliland is now going to be compounded because the international community has, after a 50-year war, granted southern Sudan the right to choose to go independent in six years' time, following the peace between north and south. Somaliland expressed its preference for independence 13 years ago, but we do not recognise it. How long must it wait before its right to choose is recognised?

My point is that choosing the wrong foreign policies causes migration and undermines development so that, for all its progress, Somaliland is desperately poor, and its people do not receive the same level of development assistance as other countries, although they have behaved democratically and according to the rules of the international community. Mercifully, there are signs of change. It is possible to see in the attitude of South Africa, whose Foreign Minister we met in Pretoria recently, and in the important bordering state of Ethiopia, a more realistic and supportive stance to Somaliland.

Surely, the key state is the United Kingdom; it is recognised that we have influence in the area. I appeal to the Foreign Office to moderate its action. My view is

[Tony Worthington]

backed by the International Crisis Group which has, for years, written the most authoritative reports on Somalia and Somaliland. I quote from one on Somaliland:

> "Somaliland's recognition as an independent state would be the most expedient though diplomatically contentious solution. Since Somaliland was once however briefly an independent state with international recognised boundaries, its recognition would not constitute a violation of the AU charter's insistence on the respect for boundaries".

That would also staunch the flow of migrants, who would see hope in Somaliland, by recognising the responsible way in which the Somalilanders had worked for the last 13 years. I have been trying to illustrate how heavily migration is influenced by political action, and this is an area in which I believe that we should act.

3.31 pm

Mr. John Bercow (Buckingham) (Con): I was not a member of the International Development Committee when the inquiry into migration and development was undertaken. As a consequence, I did not hear or take part in the gathering of the evidence. That said, I did read the report when I was shadow Secretary of State for International Development. I have re-read it, and it strikes me as excellent—one of the best that the Committee has produced. I say, probably cynically, but also realistically, that it was entirely to be expected that a report of this importance, based on serious work undertaken in a cross-party spirit, should be of such obviously little interest to the vast majority of the media. That is a fact of life; it is certainly the way of the modern media. However, the subject that we are considering is of the highest importance and the parameters of the inquiry and the tone of the debate are phenomena from which the whole British political process could learn. Debate about migration is usually of quite a low calibre. However, I can say, because I was not on the Committee at the time of the gathering of the evidence or the publication of the report, that the calibre of this report and of the debate on it is of a higher order.

It is a pleasure to follow the hon. Member for Clydebank and Milngavie (Tony Worthington), who made a typically thoughtful and thought-provoking speech. He followed my hon. Friend the Member for Banbury (Tony Baldry), who introduced the report. My starting point is this: immigration should not be seen as a source of embarrassment, a reason for apology or a fact to hide. Immigration, subject to proper but not punitive control, is invaluable to our country. Migration, where it is accompanied by effective use of remittances, decent aid programmes and positive trade policies, can also be part of a package that is very good news for developing countries.

That is worth emphasising at the outset, because the whole tone of the debate about migration is always both negative and defensive. It takes place in an atmosphere generated by media who are preoccupied with creating headlines rather than reporting stories. The worst of our media want to create the impression that immigration is a thoroughly bad thing, that it is either to be blamed on the country that is the source of the immigration, or on the immigrants themselves who are rational economic actors, very properly trying to improve their lot, or that it is the fault of duplicitous, insincere, cowardly, fraudulent or conspiratorial domestic politicians who are not worth a jot. That strikes me as absolutely wrong.

My first observation based on the report relates to recommendation No. 6 in paragraph 17, in which the International Organisation for Migration suggests that a short annual report on migration to the UK from developing countries should be put together and published. That report would provide the factual wherewithal to conduct a decent debate about migration and development in future; such a factual basis has been substantially lacking in the past. Such a report would tell us, in relation to our country, who is coming, what those who come are doing, whether they are remitting and, if so, to what extent, whether they are returning to their countries of origin, on what basis and after what period, and what our Government are doing, in isolation and in co-operation with others, to make migration more development friendly. In short, we need to establish how we are acting, individually and collectively, to ensure that where possible migration becomes an opportunity for all concerned and not a threat to the migrants, the recipient countries or the countries from which the migrants have come.

I should like to make a second suggestion. The recommendation is good, and I am glad that the Committee made it. However, could we not, perhaps under the auspices or with the encouragement of the Select Committee, secure undertakings from the different political parties in the UK that after the election we will make a genuine attempt to forge a cross-party approach to migration and the development that can flow from it?

When we approach a general election, the quality as well as the intensity of political debate should improve. In practice, more often than not, the opposite is the case. The intensity of debate is heightened, but its quality is not. I do not blame any one political party or any individual or any team of individuals; the pressures are built into the system. I find it rather unsavoury that for some years after an election relatively modest attention is paid to the whole gamut of issues entailed in migration and development but that, as a general election approaches, all of a sudden the debate on those issues is ratcheted up, and there is great focus on the issues. There is great pressure for one party to outdo the other, the media are on our backs, and it becomes a test of who can sound—or be—the toughest. That is not a criticism of any individual or party, it is a fact of the debate on migration to this country. That has been the case for the best part of half a century, and it is regrettable.

After the election, which I hope that my party will win, and the Under-Secretary hopes that his party will win, why can we not have a cross-party inquiry into the sources, process, costs, benefits of and future policy towards migration? Some may say that that sounds far too consensual; after all, we come from separate political parties and our job is to holler away, make our case and rubbish that of the other side. However, I wonder whether that is true.

Mr. Deputy Speaker, you have been in this House for the best part of three and a half decades; I have been here for only just coming up to eight years. However, my hunch is that if we looked back three and a half decades, we would find that the esteem in which politicians were held was then greater and deference towards them

higher. The public standing of politicians is at an all-time low. One reason for that is that the public feel that we have an habitual slanging match, not as a matter of duty, but because we enjoy it and we want to highlight, celebrate and exacerbate the differences between us almost, in the context of immigration, irrespective of the cost to immigrants, recipient countries and countries from which immigrants come. That is a sad state of affairs.

I do not think that the public would scorn the idea of a cross-party inquiry into migration; a lot of decent, fair-minded, intelligent people would welcome it. If opinion-formers took the lead, said that this is something that we could go forward with and endorsed the idea of a royal commission to consider migration with respected voices being heard, just think what might happen to the calibre of debate in this country about migration, development and the future of the developing world. My feeling is that over a period the culture would change.

There is no point in trying to appeal to bigots; it is a worthless exercise. The message falls on deaf ears because those who are motivated by prejudice are not interested in the facts about immigration and development policy. They have a set view and a warped mindset. They believe that we are being drenched with an outpouring that they do not want and we do not need. Whether they call it a flood or a downpour, that is how they view the situation, and they are not interested in any other view. Politicians should try to take the lead in developing a much higher quality of debate.

It may be said that what I am talking about is abstract stuff so far as the report is concerned. The honest answer is that it is, but it is relevant to the political climate. Lest I get into trouble with Mr. Deputy Speaker, the Chairman of the Procedure Committee, of which I am privileged, under his distinguished chairmanship, to be a member, I shall move to specific practicalities.

Mr. Deputy Speaker: We are very grateful to the hon. Gentleman.

Mr. Bercow: I am grateful to you for your forbearance thus far, Mr. Deputy Speaker, but I do not want to push my luck.

Recommendation 10, set out in paragraph 46 of the Committee's report, states:

"The UK Government is a member of the Working Group which has developed the Commonwealth's Draft Protocol on the Recruitment of Teachers; we trust that this is a sign of its commitment"

to that draft protocol. It continues:

"The UK is not a signatory to Commonwealth's Code of Practice for the International Recruitment of Health Workers."

There is a view that if the Government were a signatory, they could improve multilateral regulation. I would be interested to hear more from the Minister on that. My understanding from the Government's reply is that Ministers are saying that they could not commit to undertakings that they would not be able to control in relation to an international protocol, and, notably, that they are concerned that they would be required to act on all recruitment agencies, both in the United Kingdom and overseas. That might be a legitimate practical concern.

I am slightly less convinced by the Government's argument that the text on compensation is unacceptable and that it would be too expensive. That is only partly true. Even if one thinks that an absolutely open-ended commitment to pay training costs to enable countries to replace sets of workers that it had lost are too great, surely it would be possible for us at least to consider, as I think the hon. Member for Clydebank and Milngavie suggested, that we might contribute at least some of the cost of training some of those staff; it could form a part of a package that we would provide.

The Government may be concerned about making a rhetorical commitment or a binding statement that might require us eventually to sign a blank cheque, but I fully understand that no Government could do that. The Conservative party certainly would not to do so. However, we should at least be prepared to entertain the idea that if a developing country suffers a permanent or short-term loss as the result of a migration of qualified staff—if a gap needs to be filled for five or 10 years—making some allowance for that in our aid package to the country concerned seems a matter of common sense.

I move on to recommendation 15 in paragraph 56. I very much endorse the Committee's saying that the Government, in their enthusiasm to control migration, must take great care not to prevent refugees from gaining asylum. To the Committee's great credit, it distinguishes between immigration and asylum. They are too often lumped together, as though the issues are the same, but they are not. Nevertheless, it is incredibly important that asylum policy should be fairer and quicker. It is also important that we acknowledge today that asylum seekers and immigrants, taken as a whole, contribute more to our economy in financial terms than they take from it. We hardly ever read that in the tabloid newspapers, but it is nevertheless true.

I feel particularly keenly about the issue because my grandparents came to this country on the onion boat. They would not otherwise have had the chance to survive; therefore, neither would my father have had the chance to survive; and I would not have materialised at all—or at least not in this country. I am perfectly prepared to accept that many right hon. and hon. Members—on my side of the House, and most definitely on the other side—would regard that as a blessing to the community. The fact is, however, that I consider myself very fortunate. In framing an asylum policy, we must take the greatest care to ensure that those who are suffering and who should properly have a claim on this country for sanctuary are given the chance of sanctuary. It would be a tragedy if people who felt that they had a moral right to come here—a moral right that would have strong support in the country—were denied that opportunity.

It is also important to bear in mind the facts on Britain's involvement with asylum seekers, which the report acknowledges in paragraph 59 and which were emphasised by my hon. Friend the Member for Banbury. Anyone reading the British newspapers could be forgiven for thinking that that the UK was in the front line when dealing with refugees. It is a widespread perception not only among uneducated and uninformed people but among many who are otherwise relatively well informed and highly educated. People think in terms only of this country and do not reflect all that much on the wider scene. The reality, as my hon. Friend

[Mr. Bercow]

helpfully pointed out, is that most of the world's refugees are hosted by under-resourced countries. The idea that most of them come here is simply wrong. We need a better managed and more equitable asylum, protection and migration process across the world. We also need, I believe, migration partnerships with major asylum-generating countries.

Recommendation 21 in paragraph 65 is important. My hon. Friend the Member for Banbury referred to it; I would like to develop that a little further. The recommendation stresses that we must do our utmost to protect migrant rights. That means doing so through legislation where necessary and also means enforcing that legislation as a matter of course. It means that information about rights and responsibilities should be provided under the terms of that legislation. The Government have highlighted in their response the launch of bilingual leaflets in the United Kingdom, Poland and Lithuania entitled, "Working in the United Kingdom—Know your rights and how to get help and advice." I welcome that; it is a positive step and precisely what the Government ought to be doing.

We should also support robust efforts to tackle exploitation by employers, gangmasters and employment agencies. In that context, the Committee is right to welcome the passage of the Gangmasters (Licensing) Act 2004. I am, however, conscious of a serious problem with a number of employment agencies. It has been covered to some degree in the media, but I would like to say something more about it.

News reports, which I picked up through the BBC, recently suggested that employment agencies were cheating workers on pay and that particular victims of that cheating and illegal, in some cases, behaviour were migrant workers. A report by the Trades Union Congress said that the growing trend particularly affected migrant workers. A number of agencies are allegedly charging workers inflated meal, transport, accommodation and clothing costs. Worryingly, the TUC has said that many of the victims of that phenomenon have stayed silent because they are either unaware of minimum wage law or scared of losing their jobs. In other words, people are frightened to speak out or do not know that they have the right to do so, or both.

Members of Parliament, critically, have a duty to be voices for the voiceless. Where people are not getting what they are due, it is our responsibility to highlight it. It is not good enough simply to say that the law is there and it is up to people to be aware of it, and that if they are, they can seek redress through the courts and so on. We are talking about people who are, in many cases, struggling to exist. The idea of living in any sense in which we understand it is not on their immediate agenda. They are frequently living at the margins of society, and it seems to me that in the name of the rule of law we have a duty to highlight abuses and to do something about them.

There is an argument about what exactly needs to be done where migrants are victims. The TUC suggests that new regulation is needed. Unsurprisingly, perhaps, the Recruitment and Employment Confederation is saying that introducing more red tape would simply penalise and restrict British business and should therefore be avoided. Ideally, it should, although that is not an absolute so far as I am concerned. What matters is tackling the abuse. If the existing law can be more robustly implemented and people can be made aware of their rights under it, that should be the priority. However, we need to keep an eye on the situation, and we should not rule out the possibility of taking other action if necessary.

I have two further points, and then I will rest my case. First, in relation to recommendation 58 of the report, the Committee makes the point that

> "It is sensible to support governments which are moving in the right direction, improving governance and fighting poverty,"

but says:

> "it would be a mistake to make aid conditional on measures which aim to limit out-migration. Withdrawing aid to countries which fail to limit out-migration would simply plunge them further into poverty; threatening such a withdrawal would force developing countries to spend scarce resources on border controls rather than poverty reduction, would undermine any notion of partnership, and would simply succeed in pushing more migrants into the arms of smugglers and traffickers. Development assistance or the threat of its withdrawal must never be used as a tool for migration management. We trust that this remains the Government's position."

I strongly endorse that position, which should be the stance of all mainstream political parties. We have to develop a critical mass in the debate that is so strong that it comes to be unacceptable for any mainstream news organisation to argue against such a position.

I think that the presidency of the European Union in 2005 will, as the Committee has said, provide the United Kingdom with an opportunity to promote a positive agenda on migration that takes full account of its development potential. In that context, I confess that I am not as familiar as I should be, and hope that I will become, with the proposed Commission communication on migration and development, which follows on from Council conclusions adopted in May 2003. I would also be interested to hear rather more from the Minister about the preparations for the launch of a pilot scheme to develop regional protection programmes that are aimed at strengthening protection for refugees in their region of origin. Those will be high priorities for the UK's presidency, and I am sure that I can safely say that, irrespective of which Government are running the show in this country after 5 May.

I conclude by saying that migration to this country is not taking place because life in this country is too good; it is taking place because life in the countries of origin from which migrants come is all too often too bad. We cannot accept responsibility for every deficiency, failure and poor policy in the countries from which migrants come—that would be absurd. Where good governance is involved, there is a responsibility on the part of the country concerned to want to help itself and make the lives of its citizens better. It has a duty to minimise conflict, an obligation to respect human rights and a duty to put health, education and public service programmes before weapons of war. Nevertheless, we have an input to make in pursuing policies on aid, debt relief, the promotion of good governance, building capacity and fostering successful trade by developing countries that can greatly enhance their opportunities.

I think that western trade policies are morally wrong, economically counter-productive and ultimately politically dangerous. They are not dangerous in the

sense that they are likely to cause weapons of mass destruction to be unleashed on this country, although it is not impossible. They are dangerous more in the insidious and gradual sense that they eventually conduce to a terrible sense of resentment on the part of countries that feel that they are being denied their legitimate opportunity to compete, grow and improve their own living standards. If, in other words, our wealth is either built or extended on the back of discrimination that exacerbates the poverty of the poor. That is unacceptable, and eventually there will be a political price for the developed, rich world to pay. I do not want that to happen. I want there to be a sound, robust and fair migration and development policy. I want it to be the norm for every mainstream political party to regard it as a priority to develop such a policy. Yes, we must have tough controls on immigration to our country. Yes, we must protect our borders. But we must also remember that a key feature of the best tradition of British policy is not only firmness, but fairness. Too often, we remember the pleas for firmness. We forget the pleas for fairness. I hope that, in its way, the report and our debate will contribute to an altogether better atmosphere for effective policy making to ensure that migration becomes a good tool for international development.

4.1 pm

John Barrett (Edinburgh, West) (LD): I begin by complimenting the three hon. Members who have spoken on their excellent contributions. The hon. Member for Banbury (Tony Baldry), the Chairman of the Select Committee, made tireless efforts throughout the gathering of evidence and the production of what is an excellent report. The hon. Member for Clydebank and Milngavie (Tony Worthington) mentioned the work that he continues to do in Somaliland. We would be forgiven for forgetting that he was, in fact, kidnapped on one visit to Somaliland. As ever, the hon. Member for Buckingham (Mr. Bercow) made an important point when he said that the standard of debate that we have heard today will not be replayed in the press and the media throughout the country. Members of the Select Committee and other hon. Members must ensure that the press have access to this excellent report, so that they cannot say that they do not know the facts.

I want to go further than the hon. Member for Buckingham. He suggested that the parties get together after the election to work on a joint approach to the subject. It is too late. We should not get down into the gutter before the election. The public will have more respect for a party that sticks, after the election, to what it said before the election. If a spokesman of a party joins in a debate of the sort that has been criticised today—I hope that my party does not join in such a debate—it is incumbent on us all to draw attention to the report. We should be raising our game before the election, so that work can continue after the election.

Mr. Bercow: I am rightly rebuked for the modesty of my ambition. I was trying to look ahead to the weeks, months and years that will follow. However, in all seriousness, the hon. Gentleman is absolutely right: from this day forward, the debate should be characterised by an observation of facts and an avoidance of prejudice.

John Barrett: I thank the hon. Gentleman for his comment.

As we know, migration has always played an important role in the development of many countries and many people. We are examining the Select Committee report and the Government's response to it, but it is worth taking a minute to consider the role that migration has played in development and poverty reduction. In recent and more distant history, we have witnessed great population shifts for various reasons. Recently, that has happened because of famine and drought in Africa. However, population shifts have been caused by opportunity. People left Ireland for the United States. People emigrated to Australia and the Commonwealth through the assisted passage scheme.

The hon. Gentleman told us about the onion boat that brought his grandparents to this country. As a young couple in the 1950s, my parents left the United Kingdom on the assisted passage scheme and emigrated to Australia. For £10, they left for new opportunities and a new life in Australia, where I was born. Due to various circumstances, I might not have been here today, but when I was a young child my parents decided to return to Scotland.

Such matters are interesting. The fact that Scots have travelled throughout the world, whether to take up employment in the medical profession, banking or other sectors, has had a major impact. At the same time, the population of Scotland is falling. In fact, one of the Scottish Parliament's major initiatives is to encourage people to come to Scotland. The population of Scotland is expected by 2009 to have fallen below 5 million for the first time ever. It has become clear that immigration is one of the ways in which Scotland must tackle that problem. When asked recently what the major problems facing Scotland were, the First Minister said that decreasing population was a key issue and that we had to attract people with the necessary skills to our country.

We have heard about the report being unanimous. It is interesting that, when we consider problems, things are often clear. For example, when we have considered famine, drought, HIV and so on, we have found that they are obviously bad. When we consider migration, however, we find that it is neither good nor bad; it is a challenge and opportunity, as other hon. Members have said.

Some of the most unsettling aspects of migration arise when it is forced and involves the vulnerable—often, women and children—sometimes for the worst of all reasons, such as for work in the sex industry. On the BBC news website today, there is coverage of one of the worst possible aspects of migration: pregnant mothers migrating to sell their newborn children. One wonders what has happened to the world when we read that such things are happening. The headline was "Bulgaria's disturbing baby market". Young pregnant mothers travel from Bulgaria to Greece to sell their newborn babies. However, in one of the two cases described on the BBC website, the child was born with disabilities and the prospective adoptive family did not want him.

[John Barrett]

That is one of the most despicable aspects of migration, but the article says:

"It is hard to investigate and statistics are difficult to get hold of."

I will return to that issue. It is hard to pinpoint exact statistics or to determine the precise scale of the problem, whether it is drug trafficking or illegal migration.

As the Chairman of the Select Committee said, an excellent aspect of the report was that it debunked many common myths, for example, about the tidal wave of migrants, about the poorest flooding into this country and about migration being just a brain drain. There is not enough time to go into the many aspects of the report, but now when people raise immigration and asylum seekers with me, I will send the report to them. Although it does not deal specifically with asylum in great detail, it is well worth reading.

My constituency is predominantly white European, but people have contacted me to ask what to do about the tidal wave of migrants coming into the country. They do so because of the view in the press that immigrants and asylum seekers are one and the same. In the general public's mind, the two are regarded as one body of people.

As has been said, patterns of migration have remained much the same for the past 30 years. Between 2 and 3 per cent. of the world's population have been involved, although the numbers are growing as the world's population grows. Where migrants live is detailed on page 16 of the report. The top 10 recipient countries are set out and the UK does not feature among them. We are not talking about just a north-south flow. The reasons are many and varied. Migration is voluntary and forced, and there are push and pull factors.

Migration is an option for everyone except the poorest of the poor. We could emigrate at some time in life if we wanted to, but the poorest of the poor are basically stuck at the bottom of the heap. There is a new concept, detailed on page 20, which is called the migration hump. That explains exactly how people have to get off the bottom of the economic ladder before they have the resources to move. Once people get beyond a certain point in life and become relatively affluent, there is no need to go off seeking better fortunes elsewhere.

There is little hard evidence on migration and development, however. Again, that is a good reason for the report's publication. I noticed that in their response the Government accept that there is room for improvement, so that people can get the facts and deal with the challenges ahead. I look forward to the Minister's response and hope that there are other ways to gather detailed statistics.

We have heard much about the impact on our health system and those of other countries. The hon. Member for Banbury recalled our visit to a hospital in Malawi. This month, trained midwives from the New Royal infirmary in Edinburgh are going to the same hospital to teach its midwives aspects of critical care, so that they can deal with high-risk births. The irony is that, once trained, those midwives may find that their opportunities elsewhere increase. As midwives with standard training, they may or may not stay where they are, but with expert training, they might move not to the United Kingdom or the United States, but to South Africa. There is a knock-on effect throughout the world: we are recruiting people from South Africa, and South Africa is recruiting workers from other, less developed countries.

The NHS, in evidence sessions, could not say exactly how many nurses from developing countries were working in the UK, but those figures must be able to be gathered. As I said, there are similar problems with South Africa attracting nurses from poorer countries. Although we have agreed a code of practice, there is much work to be done. The current situation is not tenable. That was brought home to me recently when I visited a nursing home in my constituency. Only one of the care assistants was from Scotland. Most came from eastern Europe.

I fear that the worst aspect of migration is trafficking, smuggling and illegal migration. I am talking about people exploiting the most vulnerable and making large profits. Their activities often involve deception and forced sexual exploitation of the most vulnerable—women and children. It is estimated that 500,000 people a year are smuggled into western Europe, and 2 million people globally. In south-east Asia, the prostitution industry and sex tourism are two of the worst aspects. I am pleased to know that the Government have taken a tough line on those from the UK who have travelled abroad to abuse others through the sex industry.

Oxfam has said that tightening restrictions in the EU could lead to more trafficking. The way forward is an open and transparent system, especially for short-term or seasonal workers, who might be happier to come to this country for a short time if they found out that they could easily go back. The pull that someone's homeland has is amazing. Hon. Members have referred to Somaliland and other pretty well devastated areas, but it is amazing how much people want to go back to their homeland, either during their working life or after they have retired. They may say that their homeland is where they would like to end their days. We must have an open system whereby there is a freer flow for legal migrants.

I agree that refugees, asylum seekers and migrants are treated as one mass. The Select Committee accepts what the United Nations High Commissioner for Refugees said—those groups must be differentiated. Refugees and economic migrants have different reasons for moving. We must be able to offer a safe haven for people whose lives are genuinely threatened. Their situation is different from that of someone who decides arbitrarily to come to this country or to go to the US or another country.

We have seen recent migrant flows in Darfur in southern Sudan. We have recently visited refugee camps of more than 140,000 people and witnessed the impact that those people have had on local resources—food, markets and water. That movement of people internally in some of the most deprived nations of the world is happening as we speak. The report and the Government's response go a long way towards keeping this important item on the agenda. However, it is important that we, as parliamentarians, do not get dragged into the gutter as we approach the general election. The facts are clear for the UK. There are about

three refugees per 1,000 of population; in Georgia the figure is 51 per 1,000 and in Liberia it is 87. There are 100,000 Afghan refugees in the EU, compared with 1.4 million in Iran and 2 million in Pakistan.

Many people in this country may feel that we do too much for immigrants or refugees, but the developing world is often of the view that we do not do enough or take our fair share. The figures in the report show that a lot of refugees are not in the richest countries of the world. It has been mentioned that people are open to exploitation by gangmasters, and the way that the control of gangmasters has been dealt with in recent legislation is to the credit of the Government.

I want to touch briefly on remittances. The potential is great. We have heard examples about the scale of remittances—some £93 billion-plus in formal transfers, which exceeds the flow of aid to developing countries. What we must do in this country, working with the international banking sectors, is ensure that transaction costs are reduced. A relatively large chunk of the money can disappear in fees or transaction costs. Many migrants have no bank accounts, and sometimes the places where they try to send their money have no banking system. We must do what we can to make remittances work for poverty reduction.

There is general acceptance that remittances will never lead to massive poverty reduction, but they can make a positive contribution either locally, through a house construction perhaps, or generally through the flow of capital into areas that have relatively low average incomes. Remittances have an important part to play, and I was pleased to find out that there is a team in the Department for International Development looking at financial sector reform and banking systems.

The Government's response to the report was interesting. They have accepted an awful lot of what it suggested and that there is still some distance to go. There is no doubt that a lot of good work has been done. To give credit where it is due, DFID is involved in programmes such as the training of doctors and nurses in Malawi. It has also provided a substantial sum of money. However, there is no point in training doctors and nurses over there if they just come here without putting anything back into their country of origin. We must develop systems, so that there can be a win-win situation. If our health service gains their expertise while they increase their skills and either send remittances back or return to work in their country's health sector, both the countries and the doctor or nurse can benefit. DFID is also involved in a number of livelihood programmes associated with internal migration in countries such as India.

Looking to the future, our presidency of the EU and G8 gives us an excellent opportunity to ensure that we accept the challenges and stand up to be counted. We read nonsensical stories in the press—the story of the hard-working immigrant is not one that they want to see. They want stories about immigrants and/or asylum seekers abusing the system, taking money that they are not entitled to or sneaking into the country.

The Government have done a lot of good work. I hope that whichever party is elected—I make no assumptions about that; Labour and the Conservatives hope to be elected and the Liberal Democrats are very optimistic—we ensure that, when immigration and migration is on the agenda, our standards do not fall to the level that we sometimes see. We must keep the standard of debate as high as it has been this afternoon.

4.19 pm

Mr. Crispin Blunt (Reigate) (Con): The first thing that I must do is offer the apologies of my hon. Friend the shadow Secretary of State for International Development, who is involved in work with the Commission for Africa, and his deputy my hon. Friend the Member for Canterbury (Mr. Brazier). That is why it has fallen to me as the Whip on the shadow international development team to respond to this debate for Her Majesty's Opposition.

Looking around the Chamber, I feel as if you and I, Mr. Deputy Speaker, have been involved in an extremely high-priced seminar, organised almost entirely for our benefit. The Minister will have been involved in preparing the Government's response to the Committee; otherwise, this debate has been decorated and contributed to by members of the Committee, and I am grateful for the experience. I have greatly enjoyed listening to the contributions over the last couple of hours, and undertaking the necessary preparation to respond to the debate.

I congratulate the Chairman of the Committee, my hon. Friend the Member for Banbury (Tony Baldry), on what is undoubtedly a serious and weighty piece of work. I agree with my hon. Friend the Member for Buckingham (Mr. Bercow) that the amount of media attention attracted by Committees of the House of Commons seems to be in inverse proportion to the seriousness and weightiness of their work. Of course, my hon. Friend is correct when he says that the media are looking for areas of difference and controversy between the parties. He is also right that Select Committees function best when there is cross-party unanimity, when they seek areas of agreement and do thorough analysis in order to inform our debates in the House of Commons, as well as the wider debate in the country.

The Committee is to be congratulated on its work. The simple, basic point made in the context of this report about the benefits that flow from migration—such as poverty reduction and wider economic benefits for this country—should be constantly restated. It can be seen in the micro-analysis of the benefits that recent migrants bring. I understand that their economic contribution is above average for people in the United Kingdom. The Committee's contribution in identifying such issues and producing evidence is important. It is absolutely necessary that in this House we proceed on the matter on the basis of evidence and of information that, if challenged, can be tested and proved to be correct. I regret to say that there is a relative dearth of information. More work needs to be done to follow up that of the Select Committee, which I hope will, in due course, return to the topic. Indeed, it would be appropriate for other Committees, such as the Home Affairs Committee, to examine the issue as well.

Let me turn to the detail of the debate. The hon. Member for Edinburgh, West (John Barrett) described himself as an optimist. Some might think that to be a peculiar state of affairs for a native of Edinburgh, when one considers its weather—particularly today of all

[Mr. Crispin Blunt]

days—and given the rather quixotic decision of his parents to return there from Australia. I think that it was Robert Louis Stevenson who said that the climate of Edinburgh was so bad that the weak died young and the strong envied them their fate. However, the hon. Gentleman agreed with my hon. Friend the Member for Buckingham that it is important to seek consensus on this issue, and I certainly support him in that.

Let me comment briefly on the hugely enjoyable philosophical diversion that my hon. Friend the Member for Buckingham indulged in early in his remarks. I have already endorsed his call to identify aspects of this serious issue on which we can take a bipartisan approach. However, although there is a great deal of agreement between the Government and the official Opposition on policy, there is a great concern about whether that policy is being administered effectively. It is proper to identify whether there are areas in which policy is failing or objectives are not being achieved due to administrative failure. While there is significant agreement between the Government and the main Opposition party on the objectives of immigration policy, there is a critique to be made on how the policy is put into practice. It is necessary, on the back of reports and analysis such as this, that the debate be conducted on the basis of evidence and fact. It should be anchored on the fact that immigration is a beneficial necessity to the United Kingdom, as it is to other countries, including those in the developing world. However, it will have to be subject to necessary controls.

As the Committee makes clear, it is not necessarily an issue about the relationship solely between the developed and the developing world; it is not in one particular direction. The most recent public cause of concern about immigration relates to English migrants into parts of France. There have been protests from French villagers about how the nature of their communities is changing with English incomers. Plainly, that has little to do with the work of this Committee, but it is one tiny example of how this is an extremely complicated and multifaceted issue.

I thought that my hon. Friend the Member for Buckingham took a rather deterministic view of the attitude of part of our community. He described some people as bigots; as people who would not be prepared to change their views. Given that that came from one of the most gifted rhetoricians in the House of Commons, who has enormous talents of persuasion, that was a rather disappointing view. The way that the climate of opinion can be changed by sensible analysis, and by making the benefits of migration clear, works just as much for people who appear to have a very determined position at some stage as it does for the rest of us.

Operating on the basis of evidence is the appropriate way to go forward; everyone is open to rational argument and evidence. My hon. Friend's comments could be applied to the greatest Briton of all—if one is to believe the BBC's analysis—Winston Churchill. If one considers some of the things that he said in the early parts of the 20th century, he would drop straight into the category to which my hon. Friend referred.

Mr. Bercow: I am glad that my hon. Friend is joining me in this philosophical exploration of the issues. I put it to him that any analysis or study of history must work on the assumption that people are judged by the standards and mores of the time, into which context periodic writings and speeches by the late and great Sir Winston Churchill must be placed. What I meant in my remarks was that there was a small but persistent minority of the population, not least represented in the British National party, who are beyond persuasion.

However, my hon. Friend is right to suggest that the bulk of people, who might not always be fully informed, are open to persuasion. I referred to people who are decent, open-minded and ready to be impressed by the evidence. It is at those people that we should be aiming. We should seek not to negotiate with prejudice but to overcome it.

Mr. Blunt: In that I entirely agree with my hon. Friend. However, I would dispute that there is an irreducible minimum. Some of the most effective advocates against racism are people who were members of the BNP at one point; they are exactly the people who have been taken in by the simplicity of arguments and therefore had corresponding attitudes to immigration and migration. They will sometimes make the most effective advocates when they have been exposed to rational, decent argument and persuaded by it.

That is why one must go on making the proper, decent case for the values of immigration, the values that immigrants have brought to British society and the benefits that are enjoyed across the world by the fact that people move between societies for a variety of reasons.

I listened to the contribution of the hon. Member for Clydebank and Milngavie (Mr. Worthington). As usual, I did so with the greatest respect, given his enormous experience and knowledge in this area. His point about the drain from developing countries and the number of Zambian doctors who have been trained in Zambia and remain there is shocking. That is repeated to an extent, but it is a particular problem relating to health workers in Africa. I want to return to that. I hope that he is being unnecessarily pessimistic about the potential of African agriculture. I am sure that he is correct about the short term, but there are opportunities for it in the medium term, as we have seen in areas where it has received investment.

Tony Worthington: I apologise if I misconveyed what I was trying to say. I am not pessimistic about the potential of African agriculture; it has huge potential. I am, however, pessimistic about the lack of recognition for that potential, as displayed in the developed world's willingness to devote attention to African agriculture. There are huge internal problems with African structures, but I am not pessimistic about the potential of African agriculture.

Mr. Blunt: I am grateful to the hon. Gentleman for that clarification. I hope that my optimism about the potential of African agriculture will, in some microscopic way, have encouraged him.

We come to this debate on the basis of our own experiences, and I want to use a personal experience to illustrate a number of the issues that the report addresses and the complications that flow from them. A few years

ago, my wife and I took on a cleaning lady to do a few hours' work a week to help us at home. She was a Filipina; indeed, it turned out during a discussion with her that she was a Filipina nurse. She was extremely concerned about her immigration status and she was initially rather unwilling to discuss it when she found out that I was a Member of Parliament. The long and the short of it was that I eventually sat her down and had a chat with her about exactly what her circumstances were.

Obviously, this lady did not want to be cleaning our house; her objective was to have a proper job in the United Kingdom health service. She had fallen into the hands of people in the Philippines who offered her the opportunity to come to the United Kingdom. For a fee of $5,000, which was all she was able to get together, she obtained a new passport, which happened to be an entirely illicit document. She arrived in the United Kingdom on a student visa, which was not going to help her to find proper work, even if it had been in the correct passport. She had, therefore, been given the wrong visa in an illegal passport and had been defrauded of all her means in the Philippines in the process. Her objective in coming to the United Kingdom was to earn enough to remit money back to put her son through university.

The long and the short of the story was that I helped her find out what the rules were. In that respect, the remark by my hon. Friend the Member for Buckingham about the necessity for the rules to be clear so that people can understand them is vital. It took me, as a Member of Parliament, a considerable time to discover exactly how the rules applied to a lady in such circumstances. They enabled her to go home and provided her with the air fare to do so. In order to have the funds to look after her son at university, she had to reapply to an entry clearance officer with her real passport, which had to be obtained from her home in the Philippines. She had to obtain the correct visa, so that she could come back to the United Kingdom and go on a course that enabled her Filipino nursing qualification to be acceptable in the United Kingdom. She is now back in the UK and working as a nurse, while remitting money home to put her son through university in Manila. That would appear to be a huge advantage, of course, until one discovers that he is studying politics, which may or may not be a huge benefit. However, he is getting a tertiary education that he would not have been able to afford if his mother had not been a migrant and had not been prepared to come to the United Kingdom to contribute to our health services.

The Philippines is a case in point. I understand that it produces a deliberate excess of trained nursing staff in order to help the economy to be funded by remittances. The argument about what happens in the Philippines is different from the one that applies, as I understand it, to most of Africa, but encapsulated in that one small example of migration, which greatly informed me, were the pulls, the pushes and the benefits to the Philippines. It is unarguable that huge benefit was to be gained in every conceivable direction from that one case of migration, except of course at the beginning of the process when a criminal disaster that befell the lady resulted in all her wealth being stolen from her by traffickers. That shows that it is vital for the United Kingdom to have clear rules.

I hope that within these walls and within the rather limited observation offered by the debate, we can have a sensible commentary on the various policies being offered to meet the objectives that I believe both major parties share. The opportunity for a fairer policy through a more controlled system of quotas and numbers is a better way to proceed than the rather uncontrolled effect of our current policy.

I welcome the report as an important contribution in this neglected area of migration and development. Giving evidence to the Committee, the Secretary of State said that the link between migration and development has been neglected, and that our understanding of the importance of migration to the poor in developing countries is at about the same stage as our understanding of the vital links between trade and development was 10 years ago. I agree.

The importance of migration to development is highlighted by the figures, to which hon. Members have referred, in the report. The informal transfers of remittances amount to some $300 billion year, which is significantly greater than the figure that UN identifies as necessary to meet its millennium development goals. Remittances show how hugely important migration and poverty reduction are. I agree with the Committee's recommendation that the Government should provide more information about who is coming to the UK, where they come from, what they do, to what extent they are sending funds back to their home country and how many of them return to their home country after working in the UK.

The report highlights our lack of an accurate picture of the nature of migration to the UK and its consequential impact on developing countries as well as on the UK. As the International Organisation for Migration suggests, greater knowledge of migration flows would help us to understand the impact of migration better. A more ordered and organised immigration system in the UK would greatly assist us in managing and understanding migration better than we do at present.

The report concludes:

"It is unfair, inefficient and incoherent for developed countries to provide aid to help developing countries to make progress towards the Millennium Development Goals (MDGs) on health and education, whilst helping themselves to the nurses, doctors and teachers who have been trained in, and at the expense of, developing countries."

The General Medical Council register shows that the number of non-UK qualified doctors joining the register has increased enormously in the past few years, and that the trend rate of non-UK doctors joining the register is even faster than the trend rate of the growth in the NHS work force. Although non-UK qualification includes those qualified in other developing countries, it is widely accepted that a significant number of those doctors have come from developing countries. Zambia is but one of the many dozens of developing countries that are affected by this. It is the same with nursing, as we heard in the example given by my hon. Friend the Member for Banbury of the hospital in Lilongwe.

It is important that the code of practice is adhered to, and that progress is made. The Government's response to the Committee's recommendation concentrates on the push factors for health care workers. However, I am

[Mr. Blunt]

not certain whether it deals sufficiently with the pull factors attracting health workers to the UK and the steps that the Government could take to tackle those.

I recognise that the code of practice was strengthened at the end of last year, and that it is now extended to temporary staff in the independent health care sector. I hope that the policy followed by the Government until 5 May, and by their successors, will lead to a reduction in developing world recruitment. There are some sensible recommendations in the report on that aspect, and about the need to invest in training in the developing world and the necessary links between the international development budget and trade.

I am not sure whether I entirely agree with recommendation 58, which makes a link between border controls and migration. I note that the Government reply states:

"The Government considers that migration issues form an integral part of the UK's overall relationship with a third country. The Government expects co-operation on the return of a country's own nationals and on the management of migratory flows. The Government is prepared to work in partnership with a country to assist with this."

I agree about that; the totality of the relationship between the United Kingdom and other countries is relevant. I do not think that the Government should take the view on principle that they will not use the levers available to them, so as to bring about necessary and beneficial improvements in the relationship with the relevant countries, and with respect to migration. It is important, with reference to codes of practice and the push and pull factors that affect migration, that the Government should use all the tools at their disposal.

I commend the Committee on a serious piece of work on a serious and important issue. The importance of migration to the ability to tackle poverty reduction is plainly enormous, on the basis of the statistics identified and published by the Committee. I look forward to further work on the matter by the Committee and other Select Committees, so that we can proceed on the basis of sound evidence and more information. That would help in bringing about what we all want; policy on which there is more agreement, certainly about policy objectives. There will always be differences—that is the stuff of politics—about how to achieve those objectives, but if we can agree about the objectives and reach more agreement about the analysis underpinning them, so much the better.

4.43 pm

The Parliamentary Under-Secretary of State for International Development (Mr. Gareth Thomas): I join the hon. Members for Reigate (Mr. Blunt) and for Edinburgh, West (John Barrett) in praising the three previous speeches. The hon. Member for Banbury (Tony Baldry) and his Committee have done the House a service in producing what is undoubtedly a comprehensive and impressive consideration of migration and development issues. The hon. Gentleman's opening speech and the speeches of my hon. Friend the Member for Clydebank and Milngavie (Tony Worthington) and the hon. Member for Buckingham (Mr. Bercow) did the House a service in exploring the issues raised and suggestions made by the Committee.

I shall try to do justice to the quality of the debate. First, I want to join other hon. Members in paying tribute to people who have migrated to the UK, for the quality and engagement that they bring, the diversity that they offer and the quality of the work that they do in our public services and the private sector. I know that the garages in north-west London could not function without the contribution of the many Tamils who have migrated to the UK. The health service could not function in north-west London without the contribution of the many Gujarati GPs or the Filipina nurses who serve in our local acute general hospital.

We need fully to comprehend the contribution made by so many of those who migrate to the UK if we are to challenge the prejudice that surrounds the immigration debate; the hon. Member for Buckingham rightly made it clear that we should continue to challenge it. He said that those in the British National party—and, I would add, the United Kingdom Independence party and Veritas—too often bring such prejudice to the debate.

The report and the debate have provided a valuable opportunity to dispel some of the myths that surround migration, to which the hon. Member for Banbury alluded. It is clear that internal and south-south movements of people are the largest forms of migration, and that is where the greater poverty impacts are likely to be. It is also true that it is those who can afford it and who have the right skills, as opposed to those with no skills, who are more likely to migrate to more developed countries to take up employment. The Committee's report also made it clear that migration offers an important livelihood strategy for poor men and women, and we should see it as a challenging but beneficial aspect of the process of globalisation.

The hon. Member for Buckingham made an interesting reference to the Committee's recommendation for an annual report on migration, as suggested to it by the International Organisation for Migration. The Government recognise that that could well be particularly useful; we will consider it as part of the forthcoming review by National Statistics of the control of immigration statistics Command Paper. We have selected a preferred contractor to undertake that work, and I hope that we can sign the contract and get on with the work in the not-too-distant future. The hon. Gentleman's idea of a cross-party dialogue on migration is interesting, too. As to whether others would want to take part in such a debate, I am afraid that I am a pessimist, but there will be a number of opportunities to test his theories in the coming six weeks.

At an international level, we are following with some interest the work of the Global Commission on International Migration. We are part of a core group of countries that the commission is consulting on the emerging themes of its work. The Department is contributing financially to supporting the commission's consultation with African representatives; that will take place in Cape Town later this month. The commission is due to present its report to the UN Secretary-General later this year, and its suggestions will feed into our high-level dialogue on international migration, which will take place at the UN General Assembly in 2006. Inevitably, such debates provide opportunities for politicians in all UN member countries to explore the issues.

A further opportunity to test the hon. Gentleman's theory will come when we consult on the policy paper on migration and development on which the Department is working. I hope that we can launch that soon and consult a variety of people, including Members of Parliament who are interested in these issues, and publish our conclusions in the not-too-distant future.

Many hon. Members have made reference to the importance of migration in tackling poverty, even though that is not explicitly included in the millennium development goals. The hon. Member for Reigate rightly alluded to the huge sums produced through remittances, which vastly outweigh international development assistance. The Committee rightly made it clear that we need to continue to look at the quality of data available and properly to consider the evidence base on the causes and consequences of migration. Across Government, we will continue to develop our capacity to produce and work with better information, and that, I hope, will feed a more informed and temperate debate than those of recent weeks.

As several hon. Members have said, migration can relieve labour market pressures, increase trade and foreign direct investment in developing countries, and allow individuals to learn new skills and to support their families at home through remittances—to help someone to go to university or, more generally, to help those without other incomes. It can also mobilise the diasporas to engage in the development of their countries of origin. Development in areas such as governance, democracy, effective civil society and gender equality can help to ensure that people's decisions to migrate out of their country are made on a more informed basis, rather than out of desperation. We need to do more; all our country's programmes seek to focus on how to continue to promote more effective government in countries that produce many people who want to migrate.

Some hon. Members have talked about skilled migration, highlighting the apparent unfairness of this country providing aid on one hand while recruiting trained personnel, particularly medical personnel and teachers. We are acutely aware of the potentially damaging effect of the so-called brain drain, where skilled migrants such as those in health and education leave developing countries in search of a better life. However, international migration is just one factor, and not necessarily the most important one, that affects public services in developing countries. Arguably, the most important factor is under-investment in health and delivery systems in such countries, coupled with the undoubtedly devastating effects of the HIV/AIDS epidemic.

The UK was the first country to produce guidance on the international recruitment of health workers, and it remains one of the few countries to have produced such guidance. Codes of practice, particularly that of the Department of Health, prevent the targeting of developing countries for such recruitment. We have spent £560 million in the past five years to support the development of health services in Africa, including the training of medical personnel.

My hon. Friend the Member for Clydebank and Milngavie rightly raised the issue of capacity in developing countries. That is the biggest single issue affecting countries' responses, particularly to the AIDS epidemic, where once it was the price of anti-retroviral drugs. There have been huge reductions in the price of drugs, and the main issue is now how to develop capacity in health systems and across Governments generally to get those drugs to where they need to go. If the issue of capacity is to be tackled in countries such as those in sub-Saharan Africa—where the crisis is most acute—factors such as low pay and poor working conditions in developing countries must be dealt with, and it must be recognised that there are often security concerns in regions in which there is conflict or economic instability. Understandably, perhaps, that backdrop against the prospect of better pay and a whole series of career and training opportunities in developed countries motivates people to leave to look for other opportunities.

Some hon. Members mentioned Malawi. I accept that, in a sense, Malawi is at the epicentre of the crisis of capacity. It loses more health workers because of HIV/AIDS than from migration, and more trained nurses because of HIV than it can replace. There is an innovative programme in Malawi that, although not a pilot, is a first of its kind. We have contributed £100 million to that programme, which aims to double the number of nurses and triple the number of doctors in Malawi over the next six years, precisely to deal with capacity. That will, on occasions, involve topping up the salary of many of those who will work in the health sector, and I hope that it will begin to deal with the issue of health service capacity, to which hon. Members rightly alluded.

We also need to recognise that there is, in a number of developing countries, a reservoir of people who have been trained as nurses and who are not working as nurses at the moment. South Africa, for example, has an estimated 7,000 health professionals overseas, but there are also 35,000 inactive or unemployed nurses in the country, too, despite a huge vacancy rate, which again suggests that there is more that countries can do, with the support of the international community, to engage those who have been trained in their country.

A number of hon. Members, particularly the hon. Member for Banbury, asked whether the code of practice was strong enough. My right hon. Friend the Minister of State for Health launched a toughened-up code on international recruitment. That revised code will ensure, for example, that all independent-sector companies providing NHS care will sign up to the code through stipulations in their NHS contract. The loophole that in the past allowed trusts to recruit temporary and locum staff from developing countries has been closed, and agencies that supply domestic staff to the NHS will also be covered for the first time, which extends the code to some 200 extra recruitment agencies.

I should put it on the record that the NHS does not actively recruit from any country that does not wish to be recruited from. We have Government-to-Government agreements with India, Spain and the Philippines, which state that they are content for the UK to recruit health care professionals from their countries. I accept that Spain is not a developing country, but the Philippines and India most definitely are.

[Mr. Gareth Thomas]

A series of other recommendations were made in the report, one of which—the need to ensure that we are considering the special needs of refugees—has not featured particularly strongly in this debate. I am sure that a number of hon. Members have seen the proposals that my right hon. Friend the Secretary of State for International Development has made to strengthen the international humanitarian system, not least of which is a new £1 billion fund for humanitarian assistance and strengthened powers for UN humanitarian assistance co-ordinators.

Many hon. Members focused on remittances, on which we are working with others—not least the World Bank and the inter-agency remittances task force—to increase the information that we have about their nature. We recently commissioned the opinion poll company NOP to conduct the first of a potential series of household surveys on remittances in the UK and receiving countries. The first, which we hope will start around the end of March, will focus on the Bangladeshi community and will produce data on flows, volumes, channels and preferences of remittances to partner countries.

As one or two hon. Members may be aware, we also initiated a UK remittances products survey to help those who have migrated to the UK to understand better the level and types of remittances products that they can use. The publication of that report is due, and I hope that it will happen towards the end of March. However, very shortly I expect the initial basic information contained in it to be available at www.sendmoneyhome.org, should hon. Members wish to check the web. We have also commissioned two reports on the impact of remittances on development and are developing partnerships with Bangladesh and Nigeria to explore further practical ways to improve remittance flows to those countries.

One interesting part of the Committee's work was the session, to which the hon. Member for Banbury alluded, that it held in Southwark town hall with the Sierra Leonean community. I accept that we need to do more as a Department in particular and as a Government in general to engage the diaspora, not only on remittances but more broadly on our country assistance plans. We have begun to do that, consulting the Bangladeshi community about the aid programme in Bangladesh, for example. We have also agreed a strategic grant agreement with Connections for Development, a network of black and ethnic minority organisations that aims to mobilise civil society for action on development. We can engage it to talk to the diaspora.

The hon. Member for Buckingham will be interested to know that we will seek to use our presidency of the European Union to continue to promote a positive agenda on migration and development. He alluded to the Commission's preparing a new communication on migration and development, which follows the Council conclusions last May. I expect it to present an action plan to launch a pilot scheme designed to increase protection for refugees in their region of origin. I expect it similarly to produce an action plan to combat trafficking, which is another priority for our presidency. We hope to secure progress on those issues.

Mr. Bercow: Interventions are always difficult, and none of us is psychic: it may be that the Minister was about to address the issue that I intend to raise, but it is equally perfectly possible that he was not.

In the light of the TUC report on the levy of charges on workers, including notably on migrant workers, and on the payment of those workers below the minimum wage, does the Minister know of any contact between his Department and the Department of Trade and Industry about investigating those allegations and deciding what, if any, Government action is needed to combat the problem?

Mr. Thomas: As the hon. Gentleman will not be surprised to know, there is regular contact with the DTI, but I will check for him and write to him on his specific question.

The hon. Gentleman's intervention allows me to touch on what else we can do to support migrant rights. As our response to the report highlighted, a series of language and citizenship courses is already available to support migrants, and the Home Office has published a refugee integration strategy to explore some of the issues involved in supporting the rights of migrants. He alluded to our seeking to work with the new member states to explain the various rights available. The Gangmasters (Licensing) Act 2004 is an important piece of legislation in helping us to prevent the exploitation of those who migrate to the UK.

Before the hon. Gentleman asked his helpful and interesting question, I was going to touch further on points that the hon. Member for Edinburgh, West made about trafficking. We need to continue to bear down on those who traffic people into the UK. We have introduced legislation to try comprehensively to criminalise trafficking. A new offence of trafficking for exploitation, which includes trafficking for forced labour and removal of organs for example, was included in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. That carries a heavy 14-year maximum penalty.

Hon. Members may be interested to know that between April 2003 and April 2004 there were some 38 successful convictions for organised immigration crime, including for those involved in human trafficking, people smuggling and related activities. However, if we are going to be truly effective on human trafficking, we need to get right our prevention measures at source. For that reason, we have given some £70,000 to Anti-Slavery International for raising awareness of the abuses suffered by victims of trafficking and for further remedial action in west Africa.

Lastly, I do not accept the points made by the hon. Member for Reigate about the Government's immigration strategy. We have a balanced immigration policy. It is important that we meet the challenge of achieving and retaining public confidence in the system—on that I agree with the hon. Gentleman—by admitting only those whom we genuinely need and can absorb, by taking only our fair share of refugees and by

preventing those who do not meet our criteria from getting or remaining here. In that context, the recent strategy published by my hon. Friends at the Home Office is the way forward. Suggestions that people should be sent to islands or that arbitrary quotas should be imposed—suggestions that do not state who would and would not stay—have not been terribly helpful contributions to the debate.

Today's debate has been useful and important. Again, I commend the work of the Committee in going as thoroughly as it did through the issues. I also commend hon. Members on both sides who have contributed, which, we can all agree, has been useful and informative.

Question put and agreed to.

Adjourned at six minutes past Five o'clock.

Westminster Hall

Tuesday 1 March 2005

[MR. JOHN MCWILLIAM *in the Chair*]

Attacks in the Workplace

Motion made, and Question proposed, That the sitting be now adjourned.—[*Mr. Watson.*]

9.30 am

Jim Sheridan (West Renfrewshire) (Lab): I secured this debate in the full knowledge that Government alone cannot deal with the problem of violent attacks or assaults in the workplace. All sections of society have a vital role in ensuring that people who leave home to go to work have the fundamental right to return home safe. They should be safe in the knowledge that every effort has been made to protect them from violent attack and assault, and—this is more important—that when they are attacked, those responsible are brought to justice and the courts will deal effectively with culprits. In my view, many of our judiciary, including magistrates, are too far removed from real life and do not fully understand the long-term anxieties and pressures that many public and private sector workers face in their everyday lives at work. Such attacks impact also on the number of working days lost, which all of us have to pay for as taxpayers.

The attacks are consistent across many disciplines and industries, including among teachers, police, firefighters, health service workers, shop workers, bus drivers, and bar staff. Indeed, it is a problem for almost everyone whose job interfaces with the general public. I include our own profession, and there have been serious attacks on politicians of all parties at every level by angry, and at times frustrated, constituents. That frustration is often fuelled and exploited by sections of our press, who see politicians as fair game for abuse—verbal or otherwise. The same elements in the popular press portray migrant workers as the enemy within, and they experience racial and physical abuse as a result. Although things can be difficult for white public sector or private sector workers, we can only imagine how much more difficult life is for migrant workers who are physically or racially abused.

Why should teachers have to tolerate disruptive and obnoxious children when their parents refuse to face up to their responsibilities or seek to blame everyone else for their misbehaving children? Why should firefighters endanger their lives answering emergency calls only to be stoned by youngsters when they arrive at the location, especially when many calls are false alarms? Why should our police forces be stretched and their valuable time wasted filling in endless forms, only for them to find the accused back on the street within hours of being charged? Why should shop workers face the everyday threat, "We will be waiting for you when you finish!" simply because they refuse to serve someone or catch them shoplifting?

Why should bus drivers and other public transport workers be attacked and spat on simply for doing their jobs? Why should health workers, who are committed to saving lives, be put at risk by yobs who are drunk or under the influence of drugs? Every day, we hear of health service workers being attacked by irresponsible people who think nurses, porters, ambulance drivers and paramedics are all fair game. Perhaps we should seriously consider denying them treatment from those whom they seek to abuse.

The list of occupations is endless, but the common denominator is that all those people want to serve the public but need protection from the minority who think that they are fair game for attack. Let me put the problem into context: it is a small minority of idiots who choose to ignore the good work done by our public and private sector workers and who sometimes behave irresponsibly.

As one would expect, the trade union movement is doing its bit to address the problem and to highlight the seriousness of the issue to the general public, and none is doing more than the Union of Shop, Distributive and Allied Workers, whose "freedom from fear" campaign was highly successful in raising public awareness of the huge scale of the problem. Its research showed that incidents of assault on or abuse of shop workers occur every minute of every day.

The campaign also sought to promote safer shopping partnerships and bring together the major retailers, the police, and national and local politicians. The survey showed that 47 per cent. of staff reported physical attacks or assaults over a 12-month period, that threats are made every week in one in four stores, that verbal abuse is a daily event in more than one third of stores, that time off after an incident is commonplace for traumatised staff, that threats of violence were reported in 72 per cent. of stores, and that more than 85 per cent. of staff expressed concern about verbal or physical attacks or assaults.

USDAW's conclusions from the survey were clear. More links must be set up between retailers and local authority crime and disorder reduction partnerships to deal with persistent offenders, and the police need to work more closely with stores in many areas. On proof of age, a robust scheme of age-identity cards must be adopted. Some youngsters try to abuse, bully or threaten retail staff into making a sale. Many of us have seen youngsters outside licensed premises trying to get alcohol, particularly at weekends. Sometimes they are helped by irresponsible adults who get it for them. We should consider charging and dealing effectively with those people. A robust identity scheme would take the guessing out of age-restricted sales and would significantly contribute to reducing abuse and violent incidents against shop workers.

The Government's alcohol strategy is much needed to deal with drunkenness. Survey results show that shop workers are threatened and attacked for upholding the law and refusing to sell alcohol to drunks. Their position should be considered by licensing boards when they decide on licensing hours.

Another major concern is public transport and employees who are on the front line. Again, the major trade union in that industry, the Transport and General Workers Union, is working hard to solve some of the problems that its members encounter daily. Workers the length and breadth of the country are subjected to horrendous attacks that range from being spat on,

[Jim Sheridan]

having missiles thrown through their windows and being attacked violently with knives. The TGWU has put forward sensible and practical recommendations to deal with such problems. It recommends, as a right, that there should be no loss of earnings for assaulted public transport workers. There should be an obligation on employers to offer professional counselling facilities; a firm legal requirement on operators to carry out risk assessments on violence and to implement appropriate agreed measures; requirements for bus operators to install and keep in good order radio or alarm systems; special compensation for front-line public service staff to include bus drivers, benefit staff, railway workers, firefighters and health workers with fast-track financial settlements; a clear directive from Government accompanied by more resources to enable a higher-priority police response to public transport assaults; mandatory prison sentences or tougher penalties for those convicted of attacking workers; legal sanctions to ban offenders from using public transport in future; and an extension of the role of the British Transport police. Those are the recommendations put forward by the TGWU, of which I am a member, and they are not only practical but pragmatic.

I have identified some of the issues and the disciplines affected by violent and abusive assaults. I am sure that colleagues will bring their own views and experiences to this debate, and I thank them for that. The overall problem that still exists is the inability, or indeed the unwillingness, of the judiciary or magistrates to deal effectively with this matter.

I shall put into context my understanding of the current penalty priorities. As things stand, a person is more likely to be heavily sentenced for stealing a mobile phone than for attacking a worker at their workplace—someone who is, after all, only carrying out his or her job. That cannot be right.

As I said at the outset, Government alone cannot solve the problems. They should legislate where needed, but all of society has a responsibility to engage with those affected and to raise public awareness. We must ensure that all our efforts are not undermined by a judiciary that cannot or will not take the issue seriously and impose effective sentencing on the culprits.

9.42 am

Anne Picking (East Lothian) (Lab): I thank my hon. Friend the Member for West Renfrewshire (Jim Sheridan) for raising this important subject. I want to tell the House my experiences with violence at work, not because I am trying to score brownie points or tell an elaborate story, but because it is important that people understand exactly what workers in a profession such as my previous one—nursing—are subjected to. During my first week working in a hospital, I suffered my first attack, which was carried out by a patient suffering from a mental illness. That creates a problem in itself because people suffering from a mental illness may not be in a position where they can be criminally prosecuted for what they do.

I have suffered numerous injuries: I have had a broken leg, both of my collarbones have been dislocated, and I have had numerous black eyes and the usual bumps, bruises and scratches that happen when people work in a hectic nursing environment, whether they work in accident and emergency, with people suffering from mental health problems, with drunks coming in off the street or with people under the influence of drugs. I remember working in Belfast, and it was ironic that I was standing there as a staff nurse in a white uniform having to admit a patient who was in a Land Rover being protected by four policemen with bodyguard stuff, rifles and so on. They let this guy come in, then I had to take over and look after him. That sort of thing happens.

I am not saying that the police do not do a good job; they do, and they suffer from assaults themselves, but the front line of the health service is not protected in the same way as the police. We are not in a position to protect ourselves because if someone is being attacked, there is a lot of ambiguity about the level of restraint they can use and how they can protect themselves. Far less is there any sort of support in the way of administering medication.

My story continues when, later on in my career, I was in charge of a big psychiatric hospital at night. Thankfully, we have moved on from big asylum-type institutions, but in that hospital there were 60 exits and entrances, where any intruder could get access. When I was doing my rounds, I was attacked by an intruder who pushed me to the ground. We do not know why he attacked me—whether it was a sexual thing, whether he was an ex-patient with a grudge, or whether he quite simply wanted to secure the hospital drug keys, which I had. He tried to suffocate me, but thankfully something attracted his attention and he got up and ran off. The police tried to get him. The dogs got the scent, but unfortunately he got away because we were out in the wilderness. With all those exits, he could have gone in any direction and he managed to get away. I spent six months out of work, severely traumatised by the whole event and with a serious injury to my back.

Those are not isolated incidents that people have to go through. I found it quite unbelievable, not so long ago, when the Countryside Alliance was marching and demonstrating in the streets and I tried to get access to my workplace to cast my vote against fox hunting, that I was punched in the face by one of the protestors. I really thought that I had left that level of abuse behind before I came to this job. There is an onus on us as a Government to do something about this issue. There should be strict penalties. Legislation should be brought in to penalise people who are prepared to hurt other people who are just trying to deliver a public service, sometimes against a background of great adversity.

The Scottish Executive have led by example and are consulting at the moment on the protection of emergency workers. I greatly welcome that, but I am concerned about the ambiguity over who is or is not an emergency worker. A nurse going about her ordinary working day in a ward would not necessarily constitute an emergency worker, whereas a nurse attending an accident with the paramedics would. We should have similar legislation, but it should cover all public sector workers who face assault and abuse in the workplace.

Once again, I thank my hon. Friend the Member for West Renfrewshire for raising this debate. I look forward to hearing the response from the Minister for Crime Reduction, Policing and Community Safety. It is

admirable that she is here this morning, given the time that she had to put in yesterday. I am sure that she felt under assault herself on many occasions, so she will be quite sympathetic towards us.

9.48 am

Mr. John Lyons (Strathkelvin and Bearsden) (Lab): I join my hon. Friend the Member for East Lothian (Anne Picking) in congratulating my hon. Friend the Member for West Renfrewshire (Jim Sheridan) on securing the debate. He reinforced something that all Members know: he is always to the fore when it comes to defending workers' rights. Today is a good example.

We are talking about people who are public servants in the health service, who teach, and who work in public transport and the emergency services. People working in all those areas face violence day in, day out. It would be crass to say that that has become routine to some extent. As part of the debate, we must say that we will never accept that facing violence every day or every shift should be a routine part of a person's job or their contract of employment. There is nothing inevitable about violence. We must try not just to lift awareness, but to clamp down solidly on people who assault public service workers. It is as straightforward and as simple as that.

The evidence is everywhere. There is first-hand evidence from people who are involved, such as my hon. Friend the Member for East Lothian, and from others who can tell similar stories, such as firefighters who turn up for a fire and find themselves under a hail of bricks and stones and are assaulted. That is almost a normal part of their job. Much the same situation applies to ambulance staff. They turn up to a very serious accident and are assaulted and abused, verbally and physically. It is a tale that applies across the public sector. No part of that sector is different in any way. All people who work in the public sector face the problem. For example, we heard an Ofsted report on the question of violence against teachers. The problem does not affect just the people whom we would normally expect to be involved in violence—front-line staff—but even people involved in teaching. We need to do everything that we can to protect them.

What is the extent of the problem? The British crime survey said that there are about 1.2 million assaults on public sector staff. If thought of day to day, month to month, or year to year, that is frightening. It is something that we need to report not as a statistic or a figure, but as something that encourages us all, whether we are employers, trade unionists or politicians, to do more. It firmly sets an agenda: we need to make changes to the situation that public sector workers face.

There is greater awareness about public sector staff being assaulted. There are posters on the underground. I congratulate Transport for London and others who are trying to lift awareness of the issues and to involve the public in ensuring that the situation is not accepted as a normal way of life for staff. So employers are doing their bit. There are also trade union campaigns. My hon. Friend the Member for West Renfrewshire referred to the Union of Shop, Distributive and Allied Workers and others such as Unison, the Transport and General Workers Union and the Royal College of Nursing. Throughout the TUC, trade unions are interested in protecting their members and rightly so. They have done a lot of work, not just at TUC level but locally, to reinforce the agenda of protection of public sector staff. I, for one, am signed up to that agenda.

There are some specific areas of concern. In its survey of health staff, Unison asked 3,000 staff to give an opinion about what they felt their reaction would be to the situations that they have faced in the past. Among nursing and ambulance staff, there were increases in violence year on year. That is unacceptable but it is the reality. The figures are there. I am sure that other trade unions could repeat those statistics.

The Government have, of course, done a lot on violence at work and assaults on staff. They have developed and implemented a zero-tolerance agenda and policy. However, the problem is that that policy is falling down in certain areas. For example, while 18 per cent. of trusts say that there has been a reduction in the number of assaults on hospital staff, more than 50 per cent. of trusts report that there have been increases of assaults against staff, whether they be nurses, porters or whatever. That statistic should make us worried.

If we manage nothing else in this debate, we should be clear about one thing. All staff should feel safe in the place where they work. There is no question about that. They should feel that they can turn up to work. They should know that they will work for a certain time—be it seven or eight hours—and they must feel that they can work in safety and be under no threat. It must be our aim as politicians to try to bring that to the public sector.

My hon. Friend the Member for West Renfrewshire made a number of points in opening the debate. I think that we have to talk about creating a specific charge of assaulting a public service worker and that the Government will have to move on that. There is no way that the matter can be left without anything being done. We need to develop new legislation so that people are clear that if they assault or abuse a public sector worker, a specific charge will be raised against them.

Mr. John Randall (Uxbridge) (Con): I understand what the hon. Gentleman said, but is there not a danger that, if there is a specific charge of assault against public service workers, it would leave some people thinking that those in the private sector are second-class citizens, notably, as the hon. Member for West Renfrewshire (Jim Sheridan) said, shop workers?

Mr. Lyons: I welcome that point. I am not arguing that we need to protect public service workers and do nothing else, but, if we seriously want to make a practical start, that start needs to be in defending public service workers. They are out there in a way that bears no comparison with many private sector jobs. If we can get the legislation to work in the public sector, I am happy to extend it to the private sector, but we should initially target the problem, which is in the health service, the ambulance service, the emergency services, social work and teaching. We need to concentrate our efforts on the public sector so that people are clear about the charge they would face if they decided to assault someone.

Much is being done, and I compliment the people who are doing it. For instance, closed circuit television is being used more and more in hospitals to protect staff

[Mr. Lyons]

and ensure that they can work safely, and we need to extend such arrangements where we can. I welcome the use of DNA swabs in cases where someone spits at public transport workers. The First group has been using DNA swabs throughout the UK, and they can be used in evidence to prosecute someone who has assaulted or spat on a driver, which is a horrid thing to happen to staff in the course of their daily duties. I welcome those developments, but we need to do more to ensure that they extend across the range.

I am quite happy to support this debate and I congratulate my hon. Friend the Member for West Renfrewshire on securing it and on giving us all the chance to discuss how best we can protect public service workers.

9.56 am

David Hamilton (Midlothian) (Lab): I intend to raise only one or two points because most of the issues have been covered. I am sure that others will talk about how we develop a strategy that protects people who deliver a service. As has been said, people are entitled to go to work without being assaulted, irrespective of whether they are a shop worker or a public sector worker.

I want to talk about two experiences that I have had to deal with as a local councillor, a Member of Parliament and a local citizen. Several years ago, I was out on a Saturday night, standing by a bus stop with my wife. Some people set about me, and I was so badly injured that I had to be taken to hospital. I was rushed to hospital with concussion, and the doctor tried to patch me up. I had bruised ribs and a cut across my face. The doctor sent me home, but I was in such a condition that my wife had to stay up all night to make sure that I was all right.

I was sent home because, on a Saturday night, the Royal Infirmary was like the OK corral. Drunks and junkies came in regularly, and the police were there in force. I had the luxury of being sent home that night, but the staff had to stay there to deal with things. Some of the staff happened to be constituents of mine, and when I met some of them later, they were worried about me. But they have to deal with assaults that happen on Friday, Saturday and Sunday nights in the town centre, and most city centres have the same problem. It is a sad indictment of our society that the first thing we see when we go to hospital is security guards.

Gone are the days when we would step in to assist someone who was being assaulted on the other side of the road. Nowadays, we are really quite worried about doing that. I have seen shop workers being verbally abused in shops, and I have had to intervene, but we are always wary about doing that, because we do not know what the person who is giving the abuse has been doing. Indeed, one issue has not yet been touched on very much. To someone of my age, drink used to be the major issue, but now it is drugs. When drugs are involved, we do not really know where someone is coming from; indeed, in many cases, that individual does not know where they are. So there is that problem, too.

Jim Sheridan: My hon. Friend makes a valid point about the relationship of drink and drugs to violence at work, and they are all intermingled. However, although drugs are illegal, and we can charge those involved with dealing in drugs, the big problem seems to lie with alcohol. My hon. Friend is right to suggest that hospitals have to pick up the tab after drunks have spent most of their time in licensed premises. Does he not agree, however, that it is time licensed premises made a contribution, given what they are doing to society by feeding young people, in particular, too much alcohol?

David Hamilton: That brings us to the question of ID cards. Just last week in Scotland, other parties decided not to go ahead with ID cards, and I regret that. At the end of the day, it is a simple matter. When I speak to people in my constituency—I stay in the biggest council estate in Midlothian—they wonder why ID cards are not a normal thing.

When I was in America, in Florida, I saw a young couple walk into a bar. They looked to me to be obviously 23 or 24 years old, but the barman asked for an ID card. Afterwards, I said to him that that seemed a bit heavy handed. He said, "Sir, if the cops walk in here today and I am serving somebody who is under age,"—this addresses the point made by my hon. Friend the Member for West Renfrewshire (Jim Sheridan)—"they will close my bar immediately and it will take me two weeks to open it again. I cannot afford to lose that custom." That was a good point, because one of the benefits of a simple thing such as an ID card is that it protects the shopkeeper and the bar staff and allows them to make that distinction. That is a simple way forward, and ID cards are a good thing in relation to such problems—without our talking about terrorism or anything else.

What I said about hospitals and what they have to suffer is also true of buses. Some cities have no-go areas where the bus companies have withdrawn because of continual stoning. Of course, the police do not have the back-up to be able to put 24-hour coverage into such areas or to form a convoy. I do not want to paint a bleak picture, but that happens throughout society and is due to the change in how we deal with things as parents and as families. It is a major concern. At the back of everything that has been said, including by my hon. Friend the Member for West Renfrewshire, is the fact that discipline is lacking in society, which has to be addressed. There are much bigger issues about how we deal with that.

I have a nephew who is a bus driver for First Bus throughout the Midlothian area and in Edinburgh. Not all the buses have a cover to protect the driver. Not all the buses have a radio control frequency; then again, though, a radio control frequency will be helpful only after the event, not before. A man jumped on my nephew's bus, punched him across the jaw, very nearly broke his jaw and jumped back off the bus, all for no apparent reason. Bus drivers are so apprehensive nowadays that if there is a carry-on up the stairs, they will stop the bus and go, to try to get the person off. Back in your young days, Mr. Deputy Speaker, and in mine, if we were up the stairs as kids and were doing something wrong, the bus driver would come up, tell us off and that would be it. It is not like that now. A driver is apprehensive about whether he or she should go up and deal with it.

Two areas of this discussion are really important, and I have seen that because I have been there. When I went to Craigmillar in the south part of Edinburgh, a rough area where major redevelopment is taking place, I saw the fire services coming in and being pelted, and I tried to intervene to stop people. It is kids who do that, and we need to ask why kids are out at 9, 10 or 11 o'clock at night.

I come back to a core problem in society. That problem is about people taking responsibility. We should accept zero tolerance and individuals should be challenged, and families should be challenged, too. Maybe I was too hard on my two girls, and I have five grandkids now, but I do not understand why a 10 or 11-year-old should be out at midnight on a Friday or Saturday. To me, the parents have to be drawn into line. Many of the issues that we are talking about, such as the throwing of stones and so on, involve children. Discipline needs to be put forward.

When we talk about the trade unions—I support many of the trade unions that are trying to do something on behalf of their members—we need to look at joined-up issues. Local authorities, health boards, fire authorities, police boards, local government and the Government, whether the Scottish Executive or the one in Westminster, should have strategy meetings to see how best to combat problems when dealing with people working with the public as part of an overall strategy. That would take care of public sector workers as well as people working with the public, and it would be a step towards meeting people's expectation that they can go to work and not be assaulted.

10.5 am

Malcolm Bruce (Gordon) (LD): I congratulate the hon. Member for West Renfrewshire (Jim Sheridan) on securing the debate. The contributions made today suggest that we all agree that there are real issues and real problems to be addressed. To be honest, we are all groping for a solution.

As the hon. Member for Midlothian (David Hamilton) said, we need a joined-up approach across several sectors, and although attacks in the workplace are a problem in both the public and the private sectors, they are a particular problem for people whose primary job is to interface with the public. The statistics for the total number of assaults in the workplace are appalling—we are talking about some 800,000 plus assaults. As the Minister will tell us, that figure is lower than previous figures. Nevertheless, 800,000 plus people a year facing assaults at work is unacceptable, even if a relatively small percentage of people have suffered assaults.

It always enriches a debate when hon. Members can cite personal experience. I am glad to say that I do not have any personal experience to bring to the debate, but I was moved by the experiences of the hon. Member for East Lothian (Anne Picking), which make one wonder why people go into nursing if they have to face such treatment. Yet we know why people go into nursing: it is because they care, and they want to serve the community and give something back. They want to do that job. It is a huge and appalling irony that people whose prime work function and objective is to look after people who are mentally or physically sick face such aggression when they are trying to help others. That is simply unacceptable.

The hon. Member for Midlothian mentioned people working in casualty departments. It can make one angry, when we are fighting a hard battle for health service funding and resources, that so many resources are used to deal with self-inflicted wounds brought about by drunkenness and aggravation, rather than being used to deal with genuine illness or accident, which is what the service is there for. We cannot, however, refuse to treat people or to take people in because they are drunk, although we must address the reasons why the problem arises.

The hon. Member for Midlothian and I broadly disagree about ID cards, but I agree with him about their use in combating under-age drinking—indeed, I have actively encouraged that—in circumstances in which the landlord, the publican or the licence holder is obliged to require proof of age before serving someone. The local authority or agency should provide an ID card for people to produce in those circumstances. I have a different view about a national ID card and the data required for it, but ID cards clearly have a role to play, and I support their use in the context that I just described.

David Hamilton: What ID would a young person be able to produce who has never been abroad and has no passport, and whose birth certificate is held in their house or may have been mislaid?

Malcolm Bruce: There are several voluntary schemes. A scheme promoted by the council and the social services in Aberdeenshire and Moray enables young people to apply for such a card, which enables a publican to refuse to serve someone who does not have one. It is not the law, but the licence holder has the legal responsibility, and the legal right, to refuse to serve someone. Several publicans have told me that that is useful and that they wished the scheme was publicised more widely.

The debate about ID cards and the role of identity is not black and white. There is clearly a role for them. We must all produce identity every day for various reasons. Indeed, we are required to produce ID to get into Parliament. Some longer-established Members may claim to find that irksome, but most of us fully understand the reasons for it and are happy to co-operate. I do not want to create dissent, because we agree about the practical role of ID cards.

To return to the central subject of the debate, the Scottish Parliament is, as the hon. Member for East Lothian has said, struggling to some extent with the proposed measure for dealing with violence in the workplace, particularly with respect to public sector workers. I am sympathetic to the intervention made by the hon. Member for Uxbridge (Mr. Randall) about the distinction between public and private, although I accept, having read an article in my local paper, *The Press and Journal* of Aberdeen, that there is a particularly serious problem in the public sector.

The figures show that 67.9 per cent. of occupational injuries in the national health service in Scotland are the result of violence and aggression. That is a pretty appalling statistic. The figure for general practices and surgeries is 54.4 per cent., and among nurses and midwives it is 75.3 per cent. There is clearly a serious

[Malcolm Bruce]

problem when the biggest risk of injury to people working in the health service is from violent assault by a patient rather than from an accident at work. That must clearly be tackled.

I want to make a point that is, perhaps, philosophical, and a related practical point. I am not against exploring the possibility of a law. If the Scottish Parliament is pursuing that, I am interested, but it is interesting that it is encountering difficulty in formulating it correctly. However, we should not reach for the idea that we must pass a law and that that will solve the problem. There is a cultural problem to be tackled.

Assault is a criminal offence in any circumstances, so the law exists. People know that it is a criminal offence, but they still perpetrate assaults; that may be because they are drunk, angry, out of control and not thinking; it may be because they think that they will get away with it; or it may be because they are in some other way not engaged. I do not say that there is not a case for a law to protect public sector workers in particular, but it would be wrong to think that we could just pass a law and feel comforted, or even to think that passing a law would materially change the figures. We must change a society in which people feel that it is all right to behave in the way in question.

Jim Sheridan: The hon. Gentleman is absolutely right. We do not need to make a law when there is already a law for dealing with the issue. However, does he agree that it is not so much the law that is the problem as the judiciary and magistrates? It must be extremely frustrating for police officers to go through the procedures of arresting and charging someone—particularly a young person—and doing all the paperwork, only to find that the offender is back on the street even before the officer concerned. The problem is not so much the law as its application, together with effective sentencing.

Malcolm Bruce: That is a fair point, although the courts will always have to argue about the circumstances of any individual case. However, I agree that part of the process of conveying to people that such behaviour is unacceptable is to make it known that serious penalties exist and that courts take a serious view of the offences and will act accordingly. I appreciate how frustrating it is when that does not happen. The point takes us towards a wider debate, on which the hon. Gentleman has already touched and with which the Minister must deal more closely than any of us: it concerns the general view, which is often uttered although it may or may not be true, that too many of the wrong people are in prison, and too many of the wrong people are outside it.

Anecdotally, in my own circle, the husband of one of my wife's friends has been sentenced to two years' imprisonment, probably perfectly correctly—in fact almost certainly correctly under the law—for causing death by dangerous driving. The case, however, is one of those with very balanced arguments, in which the person in question has come out on the wrong side. As a local police officer said, the law is the law, the man committed the offence and the sentence was appropriate. The officer pointed out, however, that the person in question was not a danger to society. He had done something appalling, with which he would have to live for the rest of his life, and was taking the penalty. However, persistent offenders, who deliberately abuse the law, are not given the same punishment. I am not trying to suggest, should the Minister pick me up on it, that a prison sentence is not appropriate for causing death by dangerous driving, but there are degrees of motivation and engagement. The hon. Member for Midlothian described the Edinburgh Royal infirmary as the OK corral on a Saturday night—

David Hamilton: The old Royal.

Malcolm Bruce: Indeed, but that may be true of casualty departments all over the UK, and it is a sorry situation. To pick up the point about drinking and violence, which is a factor in the workplace too, I wonder whether, as part of the education programme, we might encourage publicans and landlords, and certainly those who have had problems with drunks coming out of their premises, to spend a night in a casualty department. They could see the consequences of serving people who are under age or beyond the point where they have drunk too much, and then letting them out on to the street. We require publicans and landlords to accept responsibility for not fuelling people with drink and then letting them out into situations in which they can cause problems.

I have strayed slightly wide of the debate. We are talking about violence in the workplace and I should like, briefly and finally, to touch on the connection that there can be between a climate of bullying and violence. Bullying is not violence, but it can lead to a climate of violence. An employer who uses bullying-style tactics can create an environment in which violence is likely to occur, not necessarily between employer and employee but among frustrated employees. We have to recognise that bullying is an issue in the workplace. Clearly, responsible employers will take the view that they should be aware of behaviour that might lead to violence in their workplace, and be prepared to act on it.

I totally accept that, although not all workplaces are unionised and not all people are members of trade unions, that is the sort of issue with which the trade union movement has a long and reputable history of engagement. Its approach is to say, "We want employers to understand our problems and to address them, but we will accept responsibility also for engaging with our members to ensure that they understand their responsibilities." There are two issues: violence between the public and people in their workplace, and violence between employees. Both are serious.

I hope that all of us believe effective, efficient, consumer-friendly, compassionate public services are an essential facet of a civilised society and central to the political debate. We have been talking for years about resources for health and education—smaller classes, more teachers, more doctors and more nurses—so that we can have a better ratio between the public and those who serve them. All that is designed to create a better interface and, one hopes, might have contributed a little to the reduction in the number of violent incidents. Nevertheless, if we want to recruit people to be nurses, teachers, doctors and social workers—to serve society—we have an obligation to protect them from violence in the workplace. That is partly because it is right—people

should not be subjected to violence, and we should do all we can to lower the incidence—and partly for the practical reason, as I said by implication to the hon. Member for East Lothian, that if we cannot do it and people feel that by taking up those professions they will put themselves in situations in which they might suffer, we will not get people to do the jobs. The hon. Member for West Renfrewshire has done us a great service by initiating this debate, and I welcome that and thank him for it.

10.19 am

Mr. John Randall (Uxbridge) (Con): I, too, heartily congratulate the hon. Member for West Renfrewshire (Jim Sheridan) on having initiated the debate. We have had some excellent contributions and heard recounted some first-hand experiences. I must declare my interest as a director of a retail outlet; that may explain my somewhat biased attitude toward shop workers. Although director of a retail outlet may sound grand, it is a family business in which I have spent most of my time on the shop floor dealing with members of the public. In such a situation, one is open to whoever should come through the door in whatever state they may be. Dealing with the public is a difficult job.

People, perhaps, do not properly understand how the problem starts with a culture of abuse toward those people who serve us, which may be due to frustration or other reasons. Members of Parliament probably find the public more ready to abuse us straight away, without first bringing their complaints in a more civilised manner. If only people knew that they would be more likely to get a better result if they were to treat public service workers, shop workers, and even Members of Parliament in a more civilised way.

Jim Sheridan: The hon. Gentleman is right to highlight the problem that some members of the general public think that politicians are fair game for verbal or other abuse. Does he agree that an element of that is worked up by some in the popular press who see politicians as fair game for verbal abuse?

Mr. Randall: I agree entirely. Another group of workers who suffer a great deal, but who, by and large, are not in the public sector any longer, are traffic wardens. They are probably held in a similar sort of esteem that is worked up by the media. It may be frustrating if they are what one might call jobsworths, but they are simply doing their jobs. It goes beyond that; recently, an off-duty traffic warden was recognised in a supermarket in Hayes, in the neighbouring constituency, and suffered a severe assault. That is the worst sort of assault.

I agree that people are encouraged to regard a lot of professions as fair game for abuse. I do not think that the media would suggest that people should use violence, but, today's culture starts with abuse and too readily leads to violence. Such actions are often fuelled by alcohol or drugs. In my constituency, although there is considerable drug abuse, alcohol is probably more likely to lead to violence, particularly late in the evening.

The basic protection for everybody should always be the ordinary criminal law, with a proper commitment from management and unions to tackle incidents of violence. Whatever the cause of such incidents, there should be a readiness to call the police. A school may find it difficult to call the police after an assault by a pupil or parent because it feels that that might ruin the relationship between the school and the wider community, but that is nonsense. Every attack on anybody must be reported to the police, and the police must respond appropriately.

Anne Picking: The problem affects different occupations, but is there not a particular problem in that teachers who are attacked or assaulted by children are reluctant to defend themselves because of what could happen to them? It is the same for health professionals when they are attacked by a patient. Sometimes their ability to restrain the patient is limited, because they fear being prosecuted themselves. In all such forms of work, training from the employer to the employee in how to deal with these situations is essential.

Mr. Randall: The hon. Lady is absolutely right. I should declare another bias: my wife was a teacher. I remember that once when she was pregnant she was tripped up maliciously and fell down. Nobody particularly thought that that should be regarded as an incident; it was just one of those things that happens. I was not best pleased, but Members will be happy to know that I usually bow to my wife in everything.

It seems to me that these incidents are increasing. The Minister might have some statistics with regard to what the hon. Member for Gordon (Malcolm Bruce) said, but I think that there is a perception that there is an increase. It may be the case that fewer people than in the past are now technically in public service, but attacks seem to be more violent and not just confined to one area—they occur throughout the country.

Members of the nursing profession, and doctors and ancillary workers within the health service, face very serious violence. I cannot understand that, but the hon. Member for East Lothian (Anne Picking) described it very clearly, and I know that it happens. That is appalling. I am also aware of the experiences of bus drivers and transport workers. When I speak to bus drivers, they tell me that the time they fear most is when the schools finish for the day, which is a great worry. Before I looked into this matter, I naively thought that the time they would fear most would be late at night, but far from it.

We might be able to tackle that problem that arises when the schools finish a little more easily than some others. A bus driver I know told me about something that happened to him when he was driving during the day near Shepherd's Bush. A smart-looking car cut him up. He just stopped the bus—he didn't hoot his horn or do anything else like that—and the driver of the car climbed out and approached him. The bus driver wound down his window, and the driver of the car hit him straight in the face, breaking his nose, and then drove off. That happened in the middle of the day. I am afraid that that is where some sections of society seem to have got to. There is a lot of frustration in some jobs.

Jim Sheridan: The hon. Gentleman is right that many bus drivers are terrified of the school run, and particularly of the journey home after school. One solution that has been piloted may be worth while:

[Jim Sheridan]

parents are encouraged to travel back from school on those buses. First, that lets them know how their young darlings are behaving, and secondly, and perhaps more importantly, it stops parents driving their 4x4's to the playgrounds to pick up their kids.

Mr. Randall: The hon. Gentleman is right on both counts.

The point about letting parents see what is going on leads me on to something that I have always thought would be helpful, particularly from my viewpoint from behind the counter, as it were. If more people had served the public and seen the public in action, they would probably be a little more sympathetic in their dealings with public service workers and shop assistants. It is necessary to spend some time on the other side of the fence in order to realise how awkward, difficult and unpleasant people can be.

In the past, violence in the workplace sometimes arose out of industrial problems, although I am pleased to say that that is very rare now. We have only to look back to the miners' strike to see that serious violence can arise at certain times. Happily, I think that those days of real confrontation have gone, and that is to the credit of all sides involved.

There are more subtle pressures, and the hon. Gentleman talked about bullying. Racial bullying can lead to violence. Often, the frustration of the person being bullied eventually boils over and leads to violence in the workplace, and that is where management has a strong role to play by monitoring and ensuring that those incidents do not happen. It is important to recognise that within the workplace there are traditions that must be eradicated—a macho tradition in some cases. As I have said before, employers have a duty of care. Although they cannot shoulder the burden of fighting lawlessness on their own, they have a responsibility to provide reasonable external security against intruders—however regrettable that might seem in a civilised society. Unfortunately it seems to be a fact of life. Employers have a duty to ensure that women do not work singly and in potentially difficult environments, and they also have a duty to provide adequate back-up to those staff who are exposed on the front line.

As the hon. Gentleman said, training people to handle violent incidents with the minimum of counter-force is extremely relevant. We have to recognise that more training must be done by management. There are ways of trying to calm people down, although not necessarily when they are fuelled with alcohol or drugs, as that must create a very difficult situation.

As we have heard, the problem under discussion reflects a wider malaise in society. The fact that we see security personnel in hospitals, shops, all sorts of other places and even schools reflects something about which we must all be worried—the culture of violent confrontation. I see it on my television screen much more than I used to. People are growing up with the idea that the way to settle an argument is to shout loudly, and eventually that will lead to violence. We all have a responsibility to try to stop that, and we have to clamp down on it. The police must respond and they must have the resources.

This is so easy to say, and I am sure that we all say it, however discipline and the respect for—not deference to—authority must start in school and in the home. I am not sure how we achieve it and I am not sure that we can legislate for it, but we must all work hard to do so. I congratulate the hon. Gentleman on giving us an opportunity to discuss the problem, and I hope that we can return to the subject to see how we are doing.

10.33 am

The Minister for Crime Reduction, Policing and Community Safety (Ms Hazel Blears): I confess that after yesterday's business, the prospect of an hour and a half's Adjournment debate this morning did not exactly fill me with joy. Having listened to the debate, however, I think it has been one of the best that I have been at for a while. It has raised an important issue, which has been addressed in a practical and thoughtful way by all Members. I hope that I can add something to it, because I have thought about this issue for some time. It is an important area to be concerned about.

I thank in particular my hon. Friend the Member for West Renfrewshire (Jim Sheridan) for raising the issue. He has a good record of raising issues of concern to people in the workplace. He had a private Member's Bill on protecting people who have been exploited by gangmasters, which links to this morning's agenda of ensuring that people can go about their day-to-day work without fear of harassment, alarm, distress or violence.

My hon. Friend mentioned the work of a range of trade unions: the Transport and General Workers Union, GMB, Unison and the Union of Shop, Distributive and Allied Workers. All trade unions are concerned that workers should be protected and able to go about their lawful business.

Various hon. Members have raised specific groups of workers, including shop workers, firefighters and other emergency personnel. I will comment on those issues, but first I want to deal head-on with whether a new offence is needed and whether the law should be changed. Consultation is going on in Scotland, and I have thought about the issue quite deeply. My starting point is that the existing criminal law should usually be applied to people who commit offences of violence, whether that is assault, wounding, grievous bodily harm, violent disorder or affray. There is a framework in the existing criminal law to deal with various levels of violence. I am reluctant to go down the path of a specific offence for public sector or emergency workers, because there would be difficulties in defining people in a way that allowed us to tackle the mischief that we are trying to tackle. A specific offence could be too rigid. People might fall just outside the boundary, and then we would then have a legal system that was unfair to different sets of workers.

The right approach is the one that we have taken recently. Perhaps hon. Members are not fully aware of it and it is not yet making an impact in the courts, as my hon. Friend the Member for West Renfrewshire said. The Criminal Justice Act 2003 established the Sentencing Guidelines Council, which is charged with drafting and distributing consolidated sentencing

guidelines applicable throughout all criminal courts in England and Wales. The purpose of the guidelines is to ensure consistency—the exact point raised—and to require the courts to take account of all the relevant aggravating or mitigating features of a case. The council has issued guidelines on determining the seriousness of an offence, which refer explicitly to the fact that a victim was at the time of the offence providing a service to the public as being an aggravating feature. That is a better definition than referring to a public sector or emergency worker, because we may be talking about people working in shops or in a privatised transport undertaking. If such people are subject to assault, grievous bodily harm, violent disorder or affray while providing a service to the public, that should be an aggravating factor when the case comes before the courts, and the penalty should be more serious.

David Hamilton: I shall not mention the miners strike; it was unfortunate that the hon. Member for Uxbridge (Mr. Randall) made a digression on that.

How will the message outlined by the Minister translate to the public? It will be some time before cases go through the courts, but the public must be made aware now that zero tolerance is the issue. I travelled on a bus in Nevada last year, and there was a big sign on every bus there saying that there would be a $1,000 fine for any assault on a driver. The public there know right away that they will be treated harshly if they assault a driver. Judging by the Minister's description of our system, however, it will take some time for the message to filter through to the public.

Ms Blears: My hon. Friend makes an extremely important point. I do not think that there is wide awareness that the guidelines exist. The national health service has had a big campaign on zero tolerance of violence against NHS workers. Many NHS trusts have schemes whereby there is a yellow card and then a red card and people can be banned from services. Posters have been put up and there has been publicity, but we must do much more to get across to the public the message that if someone who is serving the public is assaulted, the penalty is likely to be more severe than in other circumstances. My hon. Friend makes a serious point about the need for more publicity. The "freedom from fear" campaign run by USDAW was excellent. It went to virtually every shopping centre in the country and involved workers, consumers and the shops themselves. It was an example to us all of how to get the message across that violence at work will not be tolerated.

The Government believe that prison is the proper place for dangerous and violent offenders. I want to be very clear about that. That is why we have created some new offences, particularly for dangerous offenders, which involve an indeterminate sentence. Their risk to the public will be determined when they come up for parole, and if they are deemed still to be a risk, they will stay in prison. We have a much stronger sentencing framework to ensure that violent and dangerous prisoners are not released to continue assaulting others.

I am also able to tell the House that 9 per cent. more people convicted of violence against the person last year were given custodial sentences than in the previous year, so there is some evidence that the courts are beginning to take violent crime more seriously.

Mr. Randall: I genuinely do not know the answer to this question, but are more people being convicted because more crimes are being committed or are there simply more convictions?

Ms Blears: In fact, violent crime has fallen dramatically—by about 30 per cent. in the last few years—and the figures are now relatively stable. I was saying that 9 per cent. more of those who are convicted now receive a custodial sentence, when they might previously have been given a conditional discharge or a suspended sentence.

The courts are taking the matter more seriously. However, I think that my hon. Friend the Member for West Renfrewshire was right: we need to ensure that magistrates are fully aware of aggravating circumstances. It has long been a passion of mine that magistrates should come from a wider cross-section of the community. Many magistrates do a sterling job, but I know that in my area they tend to come from the more affluent and better-off parts of the community. Rarely do they come from the inner city where many of the problems of crime, disorder and antisocial behaviour happen. The Department for Constitutional Affairs is running a big campaign to try to recruit more locally based magistrates. That would certainly help us to get issues of this kind taken more seriously by the courts.

As well as levying punishments on those involved in violence, it is important also to engage in preventive work; it should be everyone's aim that no one is assaulted at work. Enforcement by the police is important, but we must work with the Health and Safety Executive and companies to train and to spread good practice. The HSE has been running a three-year work programme to try to reduce the incidence of violence at work, and it has commissioned research to find examples of good practice. That research is now on its website and is being made available to industry.

The HSE has funded the development of new national occupational standards in the management of workplace-related violence. Those standards are aimed particularly at small businesses, which often find it difficult to deal with such issues, perhaps because they do not have the management infrastructure of larger companies. It is obviously important to help small and medium-sized enterprises as well as large ones.

Work is also being done on protecting people who work alone. The one person working in the late-night corner shop is particularly vulnerable. We must ensure that premises are designed in a way that minimises the prospect of people being assaulted, including the installation of closed circuit television, alarm systems, and radio networks so that people can call for immediate support. Such things can be designed into premises from the beginning.

We are also supporting a range of retail and business crime partnerships; 100 are already established, and we are working to set up another 100. Last week, I visited the Dudley partnership in Halesowen. It has a

[Ms Blears]

tremendous scheme in its shopping centre; photographs of known prolific offenders are circulated to a network of all staff, so that they can warn each other that one of those persons is in the shopping centre and might come into their shop. People can thus be prepared and take action in anticipation. Those partnerships enable people to help themselves, but they also allow them to call for immediate help—from a security guard in the shopping centre, from the local police, and increasingly from the community support officers who patrol such areas.

Mr. Randall: Having had one those schemes that notify people of known troublemakers wandering around the town, I know that when one sees such a person entering premises, the problem is confronting them. That often leads to more trouble, but because nothing has yet happened, the police do not really want to know.

Ms Blears: I say two things to the hon. Gentleman. The staff in the Dudley partnership to whom I spoke felt very able to tackle such people. They did it politely and firmly, and found that, overwhelmingly, people simply left the premises. The staff felt that they were well supported, as they could call on security staff, the police and community support officers. People who were subject to an exclusion order did not need to commit a crime but could simply be excluded, and the staff felt that the system worked extremely well.

My hon. Friend the Member for East Lothian (Anne Picking) graphically set out in a moving speech the problems in the health service. It is an irony of the worst kind that people who dedicate their lives to caring for others should far too often be on the receiving end of abuse and violence. Several Members discussed the links between alcohol and binge drinking and the way in which people, particularly those who work in the NHS, are subjected to violence. Our research shows that about half of violent crime is linked to alcohol and that some 70 per cent. of accident and emergency visits at the weekend between midnight and 5 am are the result of alcohol. That is the reason for our massive campaign to tackle binge drinking.

The police have undertaken two big enforcement campaigns this year and have issued fixed penalty notices under their powers to disperse groups and close premises. The Government have just issued a consultation document on the possibility of setting up alcohol disorder zones in which the industry will have to make a contribution towards the cost of dealing with crime and disorder, and we are consulting on banning orders under which people who deliberately go out to drink to excess and then become violent could be banned for a period from drinking in a vicinity. Such issues must be tackled urgently.

I was struck by the comments of my hon. Friend the Member for Midlothian (David Hamilton) about the American experience. He mentioned a bar that the police could walk in and immediately close. That is exactly the kind of power that we seek to obtain. Such short, sharp intervention really does concentrate minds and can start to change behaviour in the long term. There is almost nothing more important to us at present than tackling the binge drinking that has become the blight of many of our town and city centres.

David Hamilton: I appreciate the Minister's comments. Five Members in the Chamber are Scottish Members, and they are concerned about many of the things that she has mentioned. What discussions have taken place with the Scottish Executive to take on some of the pilots in England and Wales to which she referred?

Ms Blears: Policing and enforcement is a devolved matter in Scotland, but I have detailed discussions and a good relationship with the Scottish Ministers on these issues. I saw in the Scottish newspapers today that Scotland is as exercised about the problems of binge drinking as England and Wales are. We can share our good practice, particularly the enforcement campaigns that our police have run, which have been innovative. They used the whole range of fixed penalty notice powers to deliver on-the-spot, short, sharp shocks. I am perfectly happy to share the information and good practice that we have developed from that experience.

The British crime survey shows that there has been a fall in the number of incidents of workplace-related violence in England and Wales. It was 1.3 million in 1999 and is down to 850,000. That fall is significant, but we certainly are not complacent. We must work hard to maintain the downward trend.

Various initiatives involve working with employers; for example, training programmes. Workplace inspections that are targeted at NHS trusts and nursing homes can be useful. Inspectors can go in and determine what procedures are in place to minimise the chance of violence happening. There is improved advice and information for health and safety inspectors, and a specific project with the railway industry that involves targeted investigations of known areas of weakness. My hon. Friend the Member for West Renfrewshire discussed the important contribution of the British Transport police, who do some excellent work in this area. Railway workers, like bus workers, are particularly vulnerable to assault.

My hon. Friend the Member for Strathkelvin and Bearsden (Mr. Lyons) raised issues around fire and ambulance staff. One of the saddest things in our society is that firefighters who turn up to save lives are abused and sometimes stoned by children as young as seven, eight or nine years old. That is symptomatic of the wider malaise—the breakdown in decency and standards of behaviour—that all hon. Members have raised.

I know that, in many areas, the fire service has started to run projects. It runs one in my community, where the firefighters work with young people to try to get some discipline back into how they behave. Some projects have been incredibly successful. There are junior firefighters, aged 10, 11 and 12 years old, who now appreciate what the fire service is trying to do. They understand that it is saving lives and that it could save the lives of their own families, and they are much less likely to abuse firefighters in the way that happened previously.

I recently visited a project in south London, where the fire service is helping some of our most difficult young people. The fact that it is a uniformed service, but that

its members are not the police has given the firefighters a real relationship with some of those young people. They have ended up mentoring them and trying to show them a different way of life. However, it is a pretty sad state of affairs when our fire service finds itself having to do that to counter the violence that is raised against it.

I want to raise the issue of antisocial behaviour because everything that we have been talking about falls very much in that category. One of the things that I have been working on with USDAW, in relation to "freedom from fear", is trying to get authorities to use antisocial behaviour orders in those circumstances. They can be the most useful tool. If an antisocial behaviour order that excludes or restricts people from going into a shopping centre or a medical facility, such as a hospital or a GP's practice, is breached, that can carry a custodial sentence. That can be a useful tool for reducing violence. In addition, the dispersal orders available under the Anti-social Behaviour Act 2003 have been used 400 times since they were brought in. They can bring calm and peace to an area that is out of control. We also now have parenting orders. It is important to try to ensure that parents are involved and take responsibility for the behaviour of their children. If parenting orders can be attached to antisocial behaviour orders, it is a criminal offence if they are breached. Using the whole range of powers available to the police and local authorities to tackle antisocial behaviour is really important.

I appreciate the concern of the hon. Member for Gordon (Malcolm Bruce) on these issues. The way that he expressed that concern was heartfelt. He said that we must make a cultural change in our society. I am not making a party political point, but, yet again, I feel that the Liberal Democrats will an end—a better society—but are not prepared to will the means. Those means must include using antisocial behaviour powers and saying, "These are the norms of behaviour we expect in our society and if you transgress them, there will be sanctions. There are boundaries, and there are consequences to your actions." One of the reasons why we have a breakdown in decency in our society is because people do not feel that there will be any consequences to their actions, and some people feel that they are untouchable by the authorities. That must end. We are making huge inroads into that and have seen a massive expansion in the use of antisocial behaviour powers. I really wish that Members who want to see a better society would also be prepared to support some of the tools that we have put on the statute book for the police and local authorities to use.

Malcolm Bruce: As the Minister knows, our home affairs spokesman has modified his position on that, and that is fine and good. My point about the cultural change, however, is that we must get at the root cause of why people are behaving as they are and change their behaviour patterns. With the greatest respect to the Minister, whatever the role of antisocial behaviour orders, they do not do that. They are a sanction. We must go into the issue more deeply and ask why people feel that they can behave as they do. There is a variety of measures, for which we could probably get cross-party support, that would deliver results. There are good examples. As the Minister will know, my noble Friend, Baroness Linklater has introduced a number of radical proposals, which I hope the Government will consider.

Ms Blears: The hon. Gentleman knows very well that our strategy for tackling antisocial behaviour is a twin-track strategy and involves enforcement and support. That is what is beginning to make a difference in our communities.

Mr. Lyons: The Minister makes a proper point. The public expect their councils to use antisocial behaviour orders. East Dunbartonshire council—it happens to be Liberal controlled, but that is neither here nor there—refuses to issue antisocial behaviour orders. The public feel let down by the council to some extent. There are lots of issues across the council, but there is a failure to use the orders.

Ms Blears: I am afraid that that picture is still too widespread. Many authorities are using the powers, but my message to others is that they are responsible to the communities that they serve. The powers are on the statute book, and we have to use them to make a difference.

My hon. Friend the Member for Midlothian raised important issues concerning ID cards and the idea of people not being able to obtain alcohol without proof of age. I am absolutely committed to ensuring that we have a good, robust framework in place. It will be a couple of years before we have the formal ID cards with biometric identifiers, but even now there is a lot more that we can do to ensure that young people produce a driving licence, a passport or a pass card—an officially approved proof-of-age card with a hologram on it, which makes it difficult to forge.

We need a big campaign that will start to change the whole culture so that young people expect to be challenged when they want to buy alcohol. No ID should mean no sale, which will help to protect many people serving in shops and ensure that alcohol does not get into the hands of very young people, which leads to some of the problems we see now. I am working actively on that with the industry to ensure that we have a big publicity campaign of the sort described by my hon. Friend the Member for Midlothian. If we change the balance so that people expect to be challenged, we will be able to minimise the violence that goes on.

We are tackling not just antisocial behaviour but prolific offenders. Many of the people who undertake violence against people in the workplace would fall into our category of prolific offenders, and a huge amount of our work is focused on three strands: trying to deter and prevent prolific offenders, catching and convicting them when they are offending, and resettling and rehabilitating them when they come out of custody. Breaking the cycle of violent crime is very important.

The debate has been tremendous. It has certainly re-energised me to ensure that I get my officials to focus on some of the issues. My hon. Friend the Member for West Renfrewshire raised some detailed issues, particularly in relation to transport. I have not been in a position to respond to him about those today, but I have asked my officials to liaise with other Departments

[Ms Blears]

where necessary, and I would be more than happy to write to him in detail to deal with the specific issues he raised.

Jim Sheridan: Will the Minister clarify whether ASBOs can be used in schools, given that teachers are becoming ever more worried about kids taking knives into school?

Ms Blears: The conditions that can be put in an antisocial behaviour order are designed to prevent the particular behaviour from happening in future, and those restrictions can cover a range of issues. I see no reason why some conditions could not be specifically aimed at the sort of violence that takes place in schools in order to restrict it. ASBOs are being used in fairly imaginative ways, and I am delighted about that. They have been used to exclude certain people from hospitals, and used in a similar way in shopping areas. I see no reason why we could not use some conditions—not necessarily exclusion, because we want young people to go to school—to deal with behaviour in school, which may well help teachers.

I say to the hon. Member for Uxbridge (Mr. Randall) that we have police officers working in a number of secondary schools who are part of the education team. Where those police officers are working closely with head teachers, teachers and children, they are building relationships and starting to get decent behaviour back into schools, because the police officer is now a respected figure of authority. Getting some figures of authority back into our communities is vital. Far too many were stripped out in the name of efficiency in years gone by. Getting inspectors, park rangers, wardens, and community support officers out there, and saying what the norms of behaviour are, should help to tackle some of the important issues raised by hon. Members today.

Port of Liverpool Police

11 am

Mrs. Claire Curtis-Thomas (Crosby) (Lab): I am delighted to have secured the opportunity to speak today about a question to which I have been trying to get a clear answer for four years, and I am grateful to the Minister for attending the debate to answer the concerns of my constituents who belong to the port of Liverpool police. I hope that he will be able to help my constituents to resolve their inequitable situation. I am delighted that, after trying for many years, we have a Minister present who is willing to answer for the employment rights of the port of Liverpool police.

Despite the efforts of the police officers of the port of Liverpool in contacting their Members of Parliament, attending meetings, filing a joint case to an employment tribunal and contacting Ministers, they have been unable to make any headway on the issue of their employment rights. I start by paying tribute to their efforts, because their dedication and determination to achieve appropriate redress has been second to none. I hope that the Minister and other Members will join me in praising those efforts.

In order to understand the situation of the port police officers fully, it is necessary to provide some background information. The port of Liverpool police is a non-Home Office police force funded by the Mersey Docks and Harbour Company. The force was founded in 1974 to provide dedicated police cover for the port of Liverpool. It is constituted in the Mersey Docks and Harbour (Police) Order 1975. It has identical legislative powers to those of any other police force in the geographical area of the port, plus special powers granted by the port of Liverpool's byelaws. However, despite the responsibility and risk that the officers of the port of Liverpool police face, it is not a force covered by the police Acts.

As a result, its officers are not afforded the same protection as Home Office police forces if they have a grievance against their employer. If a port of Liverpool police officer has an employment grievance, there is an internal investigation of the complaint. The case is then referred to a port superintendent, on to the port's chief officer and finally to the Mersey Docks and Harbour Company police committee. No external redress is available to port police officers.

It is possible that the Minister believes that external redress exists in the form of the Mersey Docks and Harbour Company police committee. However, that committee is chaired by the chief executive of the Mersey Docks and Harbour Company. The committee does have some external representation, but it could hardly be called independent of the owning company—the Mersey Docks and Harbour Company—against which individuals may have a legitimate grievance. By comparison, a Home Office police officer who has an employment grievance would have access to internal redress in their force. They would then have a right of appeal to the Home Secretary, a tribunal, the divisional court—if the matter was about a point of law—and, finally, the House of Lords.

Port of Liverpool police officers do not have access to a union. As with other police forces, a federation exists to represent their views, but since the port police is a

smaller force, the federation has no funding, no office space and no paid officials. It is extremely difficult for a port police officer to access advice and achieve appropriate redress.

I am sure that hon. Members will be surprised to learn that, despite the port of Liverpool police having been refused the routes of external redress offered to other police officers, when it appealed to an employment tribunal, that appeal channel was refused. On 8 March 2002, the decision of the employment tribunal in the cases of 18 police officers of the Port of Liverpool v. the Mersey Docks and Harbour Company was that

"All of the applicants were employed under contracts of employment in police service and accordingly their claims are dismissed."

The tribunal cited section 200 of the Employment Rights Act 1996, in which it is stated that the Act does

"not apply to employment under a contract of employment in police service or to persons engaged in such service."

That section of the law applies because the port of Liverpool police was constituted by an enactment in the 1975 order that brought it into being.

So there exists an anomaly whereby the officers of the port of Liverpool police are not covered by the police Acts and do not have recourse to an industrial tribunal. They are left at the mercy of their employer, as they have no access to an external independent tribunal. The grievances that the port police officers have tried to raise include claims of unfair dismissal, unfair pension agreements and unfair treatment over sick leave. When injured, some of them have not been able to claim sick pay, and they have been suspended without pay or threatened with dismissal. They are being exploited, and we have not been able to help them, since no one will take responsibility for their employment rights.

The men involved in that case and their families have tried to seek redress via all appropriate means. They have pursued their employment grievances appropriately through the internal system. They made attempts to seek redress as police officers, and once that was refused they attempted to seek redress through the employment tribunal system as members of the public.

Those men have sought legal advice and taken out joint legal insurance to provide quality advice equally to all port police officers who signed up to it. When all their personal efforts failed, they contacted their Members of Parliament and Ministers, and I am ashamed to say that we have not managed to achieve anything on their behalf. In August 2001, I met my hon. Friend the Member for Bootle (Mr. Benton) and the then Home Office Minister, my right hon. Friend the Member for Southampton, Itchen (Mr. Denham). We were informed that the port of Liverpool police fell under the auspices of the then Department for Transport, Local Government and the Regions. My right hon. Friend the then Minister replied stating that the Department's remit covered legislation relating to the port police, but did

"not extend to the employment terms and conditions of port police officers."

A little frustrated, I sought clarification from the then Leader of the House of Commons, my right hon. Friend the Member for Livingston (Mr. Cook). He assured me that the Department for Transport, Local Government and the Regions was undertaking a review of the powers, duties and standards of the port police forces. Unfortunately, that review appears to have done nothing to improve the situation of the port police officers. Along with several colleagues I sought further meetings with Ministers, and in 2004 I received assurances from the Home Office that the Green Paper "Policing: Building Safer Communities Together" would explore whether anything could be done to help to rationalise small specialist forces such as the port of Liverpool police. Again, despite that assurance, the Police Reform Act 2002 and the 2004 White Paper "Building Communities, Beating Crime . . ." have not addressed port police. It would appear that no Department will take responsibility for the employment rights of the port police officers, yet we are happy to receive their protection. That is unacceptable.

On 10 February 2004, the Minister responsible responded to the complaints of one of my constituents by referring to the circulation of a ports police discussion paper. The paper was supposed to have been circulated before the Minister sent the letter. When my office tried to obtain the paper over a year after the letter was sent, we were told that it was still in draft form. I hope to receive a copy of the paper from the Department for Transport after this debate. That is typical of the evasive way that this issue has been dealt with. There is no clear information available, and Ministers have avoided this sticky and exceptional problem for far too long.

So far, all that my constituents have gained from their active engagement with the Government is the knowledge that the Department for Transport has legislative control of their police force, but it does not have any duty regarding the day-to-day operations of the police or their employment conditions. That knowledge has achieved nothing. Despite numerous reviews and consultations, if the port of Liverpool police officers have a grievance, they are still at the mercy of their employer. I would like the Minister to address the questions of why no Department has taken responsibility for that situation and why there is still no external accountability procedure for the grievances of the port of Liverpool police officers. They find themselves in the invidious position of neither being in the care of the police nor having access to the legitimate rights of normal employees.

The employment rights of the port of Liverpool police leave much to be desired, and yet, as I mentioned at the start of my speech, under legislation they have the same powers within the port as any other police force in the country. The nature of the crimes that they face has escalated from petty theft to serious organised crime, illegal immigration and a potential terrorist attack. I am sure that I do not need to remind Members that 37 port police officers were killed in the terrorist attacks on New York in September 2001.

Port police officers are as vulnerable to serious organised crime as any other police officers. Some would say that the port police are even more vulnerable, as they patrol our borders. Port police officers who have complaints should be treated with fairness and respect, as is fitting for those who risk their lives in order to protect ours. Does the Minister agree that port security is vital for national security, and that the role of the port of Liverpool police is therefore very important?

[Mrs. Claire Curtis-Thomas]

Finally, what will the Minister do to ensure that the discrepancy between the grievance procedures for police forces and for the port of Liverpool police is harmonised? As matters stand, their procedure is unfair, and, despite the best efforts of the officers concerned, we have not rectified that disparity in five years of continuous struggle. I ask the Minister to assure my constituents that he, as a Minister with responsibility for transport, will take personal responsibility for this, and that he will ensure that in future they will be treated with the fairness that they have earned through their service to this country.

11.11 am

Mr. George Howarth (Knowsley, North and Sefton, East) (Lab): I shall be brief, as my hon. Friend the Member for Crosby (Mrs. Curtis-Thomas) has covered the ground very fully. I congratulate her on securing the debate, and on the comprehensive and lucid way in which she introduced the subject.

I have with me a letter from a constituent of mine, Mr. David Hayes. He is a former port of Liverpool police officer who lives in Aintree. In his letter, he sets out his dilemma and that of his colleagues, and he puts it in context:

"On the advice of local Members of Parliament we applied for a hearing at an Employment Tribunal and a pre trial hearing was held at the Employment Tribunal Offices in Liverpool to decide if they could hear our case. Unfortunately the Tribunal decided that they could not hear our case under Section 200 subsection 2(a) of the Employment Rights Act 1996 which states 'section 137 does not apply to employment under a contract of employment in police service or to persons engaged in such service'."

It then goes on to define what "police service" means.

The fact of the matter is that, for purposes of central Government, these men are not treated as police officers. For normal serving police officers, there is an appeal procedure for grievances that can go all the way up to the Home Secretary. That procedure does not apply for these men, but when they go to a tribunal in order to determine whether they are covered by other legislation, they are told that they are not because they have the title of "police."

I realise that the Minister and the Government face a conundrum in how to deal with this matter, but I echo what my hon. Friend said: if these men are not policemen, but they are called policemen and are thereby denied the right to go through a tribunal process in the same way that people in any other form of employment would be, there is a gap that needs to be closed. I am relaxed about whether it is closed by my hon. Friend the Minister, the Home Office or the Department of Trade and Industry, but I hope that Ministers from all three Departments will put their heads together, decide who is going to do it, and then get on with it.

11.14 am

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): I, too, congratulate my hon. Friend the Member for Crosby (Mrs. Curtis-Thomas) on raising the employment rights of the port of Liverpool police, and on making her points with her customary thoroughness and courtesy. My hon. Friend the Member for Knowsley, North and Sefton, East (Mr. Howarth) succinctly put his points on behalf of his constituents. I am also pleased that my hon. Friend the Member for Bootle (Mr. Benton) is present; he has taken a great interest in these matters.

The port of Liverpool is one of the United Kingdom's top 20 ports. In 2003, it handled almost 32 million tonnes of traffic, which is more than either Felixstowe or Dover. I am told that the total tonnage of cargo passing through the port is at an all-time high—higher, even, than in the port's heyday in the 19th century. The volume of traffic continues to grow, so the port is a major contributor to the renewed vitality of Merseyside. My hon. Friend the Member for Crosby is to be congratulated on having such a successful port in her constituency. The port, which is owned and operated by the Mersey Docks and Harbour Company, is responding to new growth. In the past five years, it has invested more than £100 million, including £25 million on expanding and upgrading the Seaforth container terminal in which my hon. Friend has had a considerable interest. She will know that we have been given notice of an application for the further extension of the terminal, and are about to give our opinion on the environmental information that must accompany the application for the order.

The port activities of the Mersey Docks and Harbour Company are well known, but it is also a direct employer of the port of Liverpool police force, which was established under the Mersey Docks and Harbour (Police) Order 1975. The order provides for the appointment of constables, with powers, within the port of Liverpool and one mile of its limits. It also provides for the establishment of a port of Liverpool police federation to represent the interests of the appointed constables

"in all matters affecting their welfare and efficiency".

Port of Liverpool police officers are employees of the Mersey Docks and Harbour Company. The port police forces are established under section 79 of the Harbours, Docks and Piers Clauses Act 1847 or, as in the case of Liverpool, the incorporation of a similar section into their own legislation by way of the Mersey Docks and Harbour (Police) Order 1975.

As announced in our policy paper "Modern Ports: A UK policy", we have carried out an initial review of the arrangements for port police in England and Wales. The review has examined the powers, duties and accountability of port police forces. It has not, however, considered the employment terms and conditions of individual forces or officers. Indeed, it never intended to do so, as terms and conditions of employment are not a matter for my Department.

Our draft discussion paper on the accountability and standards of the port police forces was circulated in 2003 to the association of port police chief officers and the Home Office. We learned during that exercise that other initiatives in play had the potential to have an impact on our own work and would therefore have delayed action until their outcomes were known.

Mr. George Howarth: My hon. Friend said, in effect, that his Department did not believe that it was responsible for the employment conditions of the port police. Why, then, is he replying to this debate?

Mr. Jamieson: I asked the same question. I often wonder why I reply to some debates, but here I am, speaking on behalf of my Department and the Government. Unfortunately, several issues do relate to ports and to my Department. Some employment issues, however, are for the Department of Trade and Industry, not for my Department, and police issues are, of course, for the Home Office. If hon. Members want certain issues to be clarified, they may want to seek an audience with the appropriate Ministers or call a debate and draw another Minister to the House. I can speak only for my Department and about issues that relate to my Department, although I may be able to help my hon. Friend if I have time.

The first initiative was the Home Office's public consultation paper "Policing: Building Safer Communities Together", which refers briefly to small specialist police forces such as the port police. Although several responses to the consultation strongly emphasised the positive contribution of the specialist police forces, the subsequent policy paper "Building Communities, Beating Crime—A better police service for the 21st century", which was published in November 2004, made no specific recommendation in respect of the non-Home Office police forces. It has not, so far, seen a need to force through change in that area.

Mr. Joe Benton (Bootle) (Lab): I return to the point made by my hon. Friend the Member for Knowsley, North and Sefton, East (Mr. Howarth) about the Department's not being responsible. The Minister will recall that, I think it was in 2002, my hon. Friend the Member for Crosby (Mrs. Curtis-Thomas) and I met him. It comes as a surprise to discover this morning that the Department for Transport has no responsibility in that regard, because that was the main thrust of that meeting.

Mr. Jamieson: I recall that meeting. At the time we were talking about our review. However, conditions of employment are, ultimately, matters for the DTI.

The Association of Chief Police Officers port group has launched its own review of port policing, with the aim of ensuring that port police forces are fully integrated into the national policing structure. It has drawn on our initial discussion paper and we, in turn, want to ensure that any conclusions from our paper are take into account. Once the outcomes of the other initiatives are known, we will decide whether the outstanding issues merit our proceeding with the planned full consultation on ports policing.

We recognise that port police forces such as that in Liverpool have an important role to play in the security of ports. I concur with what my hon. Friend the Member for Crosby said on that. I am pleased to say that the port of Liverpool successfully met the deadline of 1 July 2004 for implementing the international ship and port facility security code. The port of Liverpool is a diverse operation, so the challenge of complying with the new security requirements was significant, and port employees deserve every credit for their efforts in securing that compliance.

The ports police unit typified the commitment of the port of Liverpool, and was at the forefront of implementing the ISPS security measures. That proactive approach has continued beyond 1 July 2004, and the ports police and the port are participating in a pilot project to determine whether the multi-agency threat and risk assessment programme, which has been successfully rolled out for airports, is relevant to the maritime sector.

Mrs. Curtis-Thomas: I am grateful for what my hon. Friend is saying, but it does not seem to have much relevance to the subject, which is the employment rights of the port of Liverpool police. Is he able to say anything about the consolidation of the employment rights of the port of Liverpool police that would give them parity either with the police forces or with other employees of the Mersey Docks and Harbour Company?

Mr. Jamieson: I shall see whether, in my latter remarks, I can get to those points. My hon. Friend has, on a number of occasions, raised with me the concerns of her constituents relating to employment rights and operational matters within the port of Liverpool police. I have advised her that my Department has no remit in those matters, and I am afraid that I have to repeat that message today.

Retirement ages are, like other terms and conditions of employment, a matter for negotiation and agreement between employers and their employees, or their representatives. Unless they discriminate on the grounds of sex, race or disability, or between comparable part-timers and full-timers, employers are free to decide the retirement policies best suited to their business needs, and can require employees to retire at a particular age if that is a condition of their employment.

Once terms and conditions of employment are agreed, they form a contract that is legally binding on both parties. Employees whose contracts are varied without their consent, for instance by a requirement to retire at a different age from the one originally agreed, may be able to seek redress through the civil courts or employment tribunals.

Employees have the right to redress through employment tribunals when employment rights conferred by the Employment Rights Act 1996 are infringed. However, as my hon. Friend the Member for Knowsley, North and Sefton, East pointed out, section 200(1) excludes employees who are under a contract of employment in the police service from many rights conferred under the Act. There thus appears to be an anomaly whereby the terms and conditions of service of ports police are not regulated, and the officers have no recourse to investigation of their perceived unfair treatment by their employers.

I understand that in Liverpool, at least, informal arrangements have been made for such issues to be referred to an independent third party. Again, because the issue is one of employment, my Department cannot

[Mr. Jamieson]

intervene in it directly. However, my hon. Friend the Member for Crosby has made a pertinent point, overall, which has been picked up in the review. I hope that she will appreciate that we have not wanted to pursue each issue as it has arisen, without the chance to have it considered as part of the usual consultation process.

I recognise, however, that because the review has been delayed, for the reasons that I have given, the chance to deal with the point has been put back. Therefore, ahead of the review and armed with the arguments that have been made today, I undertake to raise the apparent gap in employment protection with my colleagues in the DTI and the Home Office, although of course I cannot guarantee the precise outcome that my hon. Friend requires. The issue will no doubt have to compete for priority with all the other policing issues, but I undertake that my Department will explore with the company the possibility of a local solution to the problem.

Mrs. Curtis-Thomas: If it is my hon. Friend's intention to explore that opportunity with the Mersey Docks and Harbour Company I welcome that, but I want to ensure that any independent body is independent of employees or employer or the Mersey Docks and Harbour Company. Anything else would clearly compromise the position of an employee bringing a case to the independent panel.

Mr. Jamieson: Yes; I have undertaken that we will work closely with the DTI and the Home Office in investigating the matter to see how we can take things forward. My hon. Friend will appreciate my difficulty today in that I cannot speak directly for those Departments; the matters in question are not in the control of my Department. We shall also make contact with the company to see whether a solution can be reached.

The difficulty, also, is that the changes that we want would almost certainly need primary legislation, which, as we know, is like gold dust. The Departments may, by working together, be able to reach other agreements to the satisfaction of those concerned. I have enormous sympathy with them and a certain frustration that my Department cannot take action of the kind that we should like to.

I applaud my hon. Friend for raising the matters as she has. She has yet again brought before the House the difficulties of her constituents. I urge her and the policemen and women who are directly concerned to pursue, as far as possible, local solutions to their individual cases. However, I undertake to do everything in my power to find a solution to a difficult situation.

11.29 am

Sitting suspended until Two o'clock.

Police Tetra Masts (Sussex)

2.5 pm

Tim Loughton (East Worthing and Shoreham) (Con): I am delighted to have at long last secured this debate on the operation of police Tetra masts in Sussex, having applied fairly consistently since November. I am also delighted to see many of my hon. Friends from West Sussex here today, whom I know will all try to catch your eye, Mr. Deputy Speaker, so as to raise their own constituency problems on the issue.

I am delighted to welcome my hon. Friend the Member for West Suffolk (Mr. Spring), who is something of an expert on the subject and will be speaking from the Conservative Front Bench. I am particularly delighted, although slightly bemused, to welcome also the Minister for Citizenship and Immigration. One always gets one's money's worth when he replies to a debate.

This subject has been raised in assorted Adjournment debates over the past few years. For the uninitiated, Tetra is terrestrial trunked radio—the emergency services communication system that is being rolled out across the United Kingdom. About 3,000 masts are commissioned and operational, with another 300 or so under construction. It is anticipated that the network will be completed shortly, with about 3,300 masts in total, and that it will go live at some stage in the next year. It has so far been costed at £2.9 billion, and as such it will be the biggest IT overhaul that the police have ever had to manage.

It is reasonable to suggest that the Tetra system should therefore have been subject to the most rigorous consultation with our constituents, whom the system aims to protect more efficiently and who will ultimately, of course, pay the bills. In the case of the masts in Sussex, especially in West Sussex, the consultation and the sensitivities to the concerns of local people have been deafening by their silence.

I do not pretend to be a scientist and I do not know whether the Tetra system is the best possible system available or whether it will do the job that the police need it to do to justify the £2.9 billion bill. People have said that an alternative system such as Tetrapol, which is used on the continent, would be more efficient and would require only 21 base stations in the whole south-east region whereas the Tetra system requires many more masts—in excess of 150 more than the whole Tetrapol system would require across the country.

As I say, I am not a scientist. I rely on the Home Office and the knowledge of the commissioning police authority to ensure that the right decisions are taken.

Mr. David Drew (Stroud) (Lab/Co-op): Regarding the technical spec, as this is obviously a national system, does the hon. Gentleman agree that it would be helpful if the Home Office conducted a survey on the efficiency of the system? The police in my part of the world are far from happy with the coverage of Tetra and they have many of the same problems as with the previous system. They are rather disappointed, to put it mildly.

Tim Loughton: I certainly welcome the extension of the debate to the wilds of Gloucestershire. The hon. Gentleman's contribution, with which I wholeheartedly

agree, is welcome. The problem is that we do not have the definitive information that we are entitled to so as to make informed decisions on behalf of our constituents, and neither do they. A study of the sort that he mentions has not been forthcoming, and certainly not in such a form that we can respond to with value judgments.

I do not know whether the emissions from the masts or the handsets pose any threat to health. Is this really not a pulsed system, as some have claimed, and what would it mean for health if it were? I am not particularly reassured when supposed experts admit that they could not guarantee the safety of the system and that it would be at least five to six years into operation before we had sufficient evidence to make a proper judgment. Experts are seeking additional funding of some £300,000 from the Government to conduct research on the likely effect of Tetra on children, some of the most vulnerable people in our communities.

Lembit Öpik (Montgomeryshire) (LD): To extend the debate to Wales, does the hon. Gentleman accept that a key concern among constituents in Montgomeryshire—I imagine that the same is true of his constituents—is the unknown variable of health? As he said, the cost of the project comes to almost £3 billion, so would it not have been reasonable to expect exacting and meticulous research to have been conducted before the Tetra mast system was set up?

Tim Loughton: The hon. Gentleman makes a valid point, as the debate travels ever further westwards, although I hope that, in terms of substance, it will not go west. I was in his constituency a little while ago, and certain people expressed to me the fears that he outlines. Interestingly, I saw more masts than police officers in his constituency.

To bring the debate back to the south coast, I see that the hon. Member for Brighton, Pavilion (Mr. Lepper) wants to intervene.

Mr. David Lepper (Brighton, Pavilion) (Lab/Co-op): The hon. Gentleman mentioned health concerns. Five years ago, the Stewart report dealt with health issues related to mobile phone masts generally. Given the advances in technology, does the hon. Gentleman agree with the sentiments expressed in an early-day motion that is on the Order Paper? Among other things, it suggests that it is perhaps time for the Government to commission a reconvened Stewart inquiry or something similar to consider the health issues in the light of those technological changes over the past five years.

Tim Loughton: I thank the hon. Gentleman for that contribution. He, too, makes a valid point: the Stewart report was indeed produced some years ago and it suggested adopting the precautionary principle, although it dealt with conventional mobile phone masts and certainly did not concentrate on Tetra masts, which are the subject of the debate. As I shall discuss in a moment, there is a plethora of different supposed studies, which may or may not have been commissioned by the Government. They are confusing, conflicting and, in any case, incomplete. We need a definitive study to reassure our constituents and to give them back the confidence to believe that the issue is being properly considered and that conclusions will be acted on. The hon. Gentleman's point is therefore absolutely right.

I am concerned when I hear that residents in several parts of Wales, although not necessarily in Montgomeryshire, are being asked to keep health diaries and fill in questionnaires about the perceived effect of mast transmissions on their health. I am concerned when certain local authorities are worried enough to use local council tax payers' money to commission local studies on the possible dangers of masts.

I am also concerned when I hear that Birmingham city council is particularly worried about the proliferation of Tetra masts and is, quite rightly, considering hardening its policy on the siting of masts. I am concerned when I read of surveys commissioned by police constabularies whose work forces use Tetra and which are raising cases of illness among users. Again, we do not get the definitive link between the radios, the masts and the work force, but if there is sufficient concern to warrant these studies there may be some basis to that concern.

All that is partly anecdotal and third hand, but when I see the results of a survey carried out in my constituency by residents living within 250 m of an operating Tetra mast, I tend to take a rather closer interest and become more anxious. Out of a sample of 448 people surveyed by residents since a mast was switched on in a residential area, 58.5 per cent. responded that they had recorded symptoms ranging from sleep disorders to headaches and nausea, all of which were contemporaneous with the operation of the mast. Of those people, 40 per cent. identified with having sleep disorders, 38 per cent. with having headaches and 16 per cent. with having rashes or itchy skin. We also have anecdotal evidence of pharmacies in areas affected by masts increasing their sales of painkillers and other remedies associated with some symptoms that I have mentioned.

I remain very concerned when questions posed to the Department of Health simply elicit references to the advice in the Stewart report, which is several years old. We are told that we have nothing to worry about, but when we get advice from the Home Office in response to parliamentary questions, it is rather inconclusive. Any research has barely started. A response from the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint), said that

"Imperial College is carrying out a long-term health monitoring study of police users of Airwave"

and that the

"Universities of Birmingham and Manchester are looking at patterns of use of Airwave among police users."

The reply also mentions work under way on the specific absorption rate in vehicles and states that, in addition, the Home Office is

"funding research on TETRA as an adjunct to the Mobile Telecommunications and Health Research ... programme."—[*Official Report*, 8 December 2004; Vol. 428, c. 649W.]

Those studies are all under way. They are not finished studies that have produced results that can be given as reassurance or to raise worries. They are all ongoing.

Despite that, the system is up and running in many parts of the country. In the mean time, in my constituency and other hon. Members' constituencies, the masts continue to operate. Appeals to the mast operators to find alternative, more suitable locations go

[Tim Loughton]

unheeded. My appeals to Sussex police authority to intervene on behalf of the Sussex council tax payers who fund them also go completely unheeded.

Mr. Andrew Tyrie (Chichester) (Con): With respect to the health issues that my hon. Friend spoke about a moment ago, is it not particularly invidious that although local authorities are told by the Minister that health considerations may be material in determining planning consent applications, attempts to rely on such considerations are overturned on appeal, and that it turns out that the environmental concerns relate to aesthetics only, rather than to the health considerations involved in erecting a Tetra mast?

Tim Loughton: My hon. Friend makes some good points. I am sure that, if he catches your eye, Mr. Deputy Speaker, he will elaborate on them, particularly mast sites in his constituency. I have come across just those problems, which have received very inadequate responses.

I have at least four Tetra masts in my constituency. I say "at least" because I am not entirely sure. The mast companies are not very forthcoming on the location of all the sites. I do not at this stage challenge Tetra's effectiveness as a system, because I do not know and am not qualified to know, but I am challenging the way that those responsible site the masts, oblivious to the concerns of local people.

A mast that is causing much fuss in my constituency has been put in one of the most densely populated parts of Worthing—a town of more than 100,000 people—on the gantry of floodlights at a football stadium, surrounded by houses on all four sides and with many young families and schools close by. The first that most residents knew of it was when engineers from O2 Airwave, which is responsible for installing the masts, began to erect a new mast aerial on a gantry that had been used for conventional mobile phones since 1989 under an agreement with the football club.

The football club itself was unaware of the implications. The president of the club, Morty Hollis, who is a pillar of the local community and always keen that the football stadium should be a good neighbour of the residents nearby, is horrified at the concerns that the mast has created among his neighbours and customers. However, he is tied into an agreement that was signed many years ago and would be subject to financial penalties if he were to reject the Tetra mast.

Planning permission was not applied for on the basis that, technically, the mast came within the 15 m exemptions. It was subsequently pointed out that it breached the 15 m limit, but, rather than reassess the site, O2 has simply reconfigured it to make the antenna integral to the supporting pole, so that, on technicalities, it comes back within the exemptions. That is a fairly commonplace solution to the problem of having to do something about such a matter.

Residents are understandably worried and they have sought help from councillors and from me. In particular, the ward councillor, Kenny Brady, was very supportive. When the mast was turned on to begin the testing period, many people simultaneously reported headaches and sleeplessness, which led to the survey that I mentioned. Later, when the mast was rendered non-operational after sabotage, people noticed an improvement—contemporaneous with when it was not on.

The most tangible effect of the mast emissions, however, has been the chaos that it has brought to TV signals on televisions within a quite wide radius that rely on conventional aerials. The effect is not uniform because many houses have cable, and it does not affect those, so one cannot say that a whole street suddenly lost ITV, for example. Residents complained to O2, which simply said that under Ofcom rules it is not responsible, even though it has admitted how its masts directly dilute the TV signals on some older receivers and are therefore causing havoc with the signals.

The only advice that O2 has offered to residents so affected is to call in a local professional TV repair firm to fit a new booster, which often costs as much as £150. It has not offered any compensation to people who have been watching their televisions problem free for many years, since before Tetra was even invented. Clearly, the television effect has made people more aware of the power and presence of mast emissions, but that cannot account for the simultaneous health implications.

Mr. Drew: Will the hon. Gentleman give way?

Tim Loughton: In a moment. Is it fair that people should not be compensated for the loss of such amenities as a direct result of the masts? We sought legal advice from West Sussex county council, which has been supportive in this matter and which said that there are grounds for an action against the police authority or the O2 operators because those people have clearly suffered a loss of amenities. I shall give way again to Gloucestershire.

Mr. Drew: I thank the hon. Gentleman for giving way, and I might bring good news. There was a similar set of events in my neck of the woods and we were able to get compensation. Airwave kindly informed those people who had called in the friendly TV repairman that the only way to get compensation was through the office of their local MP, so I was pleased to receive 50 to 60 requests for compensation, which I told Airwave it could pay. Eventually, it paid the compensation, so the hon. Gentleman might want to follow that up.

Mr. Deputy Speaker (Mr. John McWilliam): Order. I suspect that I am the only person here who is technically qualified to intervene on that point, but I cannot, which is rather frustrating.

Tim Loughton: Perhaps we can have a chat afterwards, Mr. Deputy Speaker. You could write to my constituents, passing on the information that the hon. Member for Stroud (Mr. Drew) mentioned, so that I will not have to receive 50 or 60 such letters asking for my help. Certainly, we have so far singularly failed to get any gesture of good will, let alone financial compensation, from O2 in that respect.

Over a year ago, I met several local residents and summoned O2 Airwave to a small meeting, to which it was reluctant to come, as it is reluctant to attend any

public meeting. Eventually, its representatives attended a meeting with a small group of residents and some planning officers from Worthing district council. The planning department was helpful, suggesting at least seven possible alternative sites in Worthing that would be far less harmful, given their distance from residential areas.

Mr. Lepper: Will the hon. Gentleman give way?

Tim Loughton: One moment; I must make a bit of progress.

The officers even offered to drive the O2 representatives around the area to point out other possible sites. I suggested that instead of having one mast in the middle of a residential area, we might have two masts on the edge of town to achieve the same coverage with masts well away from houses. We tried to be helpful, practical and constructive. Back to Brighton, Pavilion.

Mr. Lepper: I thank the hon. Gentleman for giving way and for returning to Sussex. Will he comment on my proposal to the Highways Agency some years ago that it might wish to co-operate with mobile phone companies in considering locations within its remit away from built-up areas of the kind we are discussing? There might be a great deal of scope in such a proposal.

Tim Loughton: That is another possibility, but it should be up to local planning departments, working with local councillors in such a way that they are answerable to local people, to decide where they would be most comfortable with these things if they had to have them. Everybody wants to be able to use a mobile phone and wants the police and other emergency services to have the best radio system with which to protect them, but that does not mean that we have to have these masts being plonked wherever the mobile phone companies dictate on the ground of efficiency of the system rather than consideration of the fact that people, including young children and the elderly, live in those areas.

Peter Bottomley (Worthing, West) (Con): Will my hon. Friend give way?

Tim Loughton: I shall give way to Worthing, West.

Peter Bottomley: I congratulate my hon. Friend on securing the debate and on how he is introducing it. Does he agree that if it were possible to reassure people on health grounds, mobile operators could then have a more open consultation with local community groups and achieve the best environmental solution?

Tim Loughton: The problem is that people do not know what to believe. When masts are sited in what I can only describe as a surreptitious way, or, in the case of the mast in Worthing, without anyone knowing, and with minimal consultation and a dismal public relations offensive—a company effort to win hearts and minds—people get suspicious and expect the worst. I will come to that if I get the opportunity, as we have undertaken a tour d'horizon around the south coast, Gloucestershire and Wales.

Mr. Deputy Speaker: Order. I have to tell the House that the Tetra system was piloted in my area by Northumbria police.

Tim Loughton: Thank you very much, Mr. Deputy Speaker. That is a greater contribution than any other Deputy Speaker has made during debates in which I have participated, but it is all good information.

When I made my suggestions to O2, it went through the motions of having a half-hearted look at other potential sites. It told me that only one site would fit the criteria, knowing full well that it was not available. It was right in the middle of town anyway, on top of the building housing the Environment Agency, whose staff are the last people who would have such a mast on their building.

O2 agreed to go through the motions on the face of it, but it turns out that that was all for appearances and its interest soon fizzled out. It would cost several hundred thousand pounds to resite those masts; of course, this company wants to maximise its profits. I do not dispute that, but should it not be more sensitive to the concerns of the local people paying the bills—the taxpayers? This is a £2.9 billion contract: surely within its profit margin there is leeway for resiting some masts or putting in additional ones to compensate for lower coverage.

If O2 is challenged and a planning authority takes it to court or tries to take enforcement action so the matter ends up in a court case, it will use expensive lawyers to overturn cases brought by private individuals or local authorities. Those authorities are obviously hamstrung by having to make difficult decisions as to whether they should risk a great deal of local council tax payers' money to seek expensive legal counsel while being accountable to those council tax payers.

O2 Airwave has shown complete disregard for the concerns of local people. It did not consult them, it kept the mast sites quiet and it clearly had no serious intention to consider alternative sites. It has shown no concern for the damage caused to TV signals or any health implications, and it is one of the few mobile phone companies that has not signed up to the 10 commitments. It is rather good at producing a lot of reassuring leaflets with glossy pictures, but those leaflets do not convince my constituents.

People have raised problems about the effect of mast transmissions on digital cordless phones, lawnmowers, computers, police speed cameras and even pacemakers, but the Department of Health has declined to refer queries regarding pacemakers to the Medicines and Healthcare products Regulatory Agency. That might sound fanciful, but in the absence of a serious attempt by anyone in a position of authority to address health concerns, people will obviously suspect the worst.

We have had a number of very well-attended public meetings in Worthing. An action group has been formed, piloted by residents such as Tony Malone and Andy Davidson, who have worked tirelessly in this area. Residents are concerned about the effect on the value of their properties, and many are trying to move. That does not help the confidence of local communities.

[Tim Loughton]

Having failed with O2, I approached the Sussex police authority. After all, it is commissioning O2 Airwave to install Tetra masts. It may claim that it has been strong-armed by the Home Office so that we have a national system, but it will be carrying out the commissioning. It had been helpful in sending the police expert to meetings to explain how the system worked and what it was all about.

Sussex council tax payers have experienced big rises in the Sussex police precept in recent years, and we would expect the unelected police authority to be rather more responsive when there are concerns about the activity for which those taxes have been paid. However, I have been fobbed off with a lot of technical guff about how the whole system is safe. I was told that an equivalent system has been used for almost 100 years and no one has been harmed by it, and that everyone is talking nonsense and being a bunch of whingers with psychosomatic symptoms.

Mr. Michael Jabez Foster (Hastings and Rye) (Lab): Although unelected, is not Sussex police authority Conservative led? In fact, the majority of its members are elected Tory councillors.

Tim Loughton: There are Labour councillors on the authority and it has previously been led by Labour councillors, but I do not seek to make any political point in this debate and I am rather sorry that the hon. Gentleman has introduced that note.

If a police authority is as unresponsive as this one has been, it deserves a good kick up the proverbial from any of us, whatever party we represent and whatever the leadership of the police authority. That is why that authority should be rather more accountable to the people who pay the taxes and expect to be protected and treated with respect. This does not have anything to do with politics. I hope that point has been made loud and clear to the hon. Gentleman.

When I expressed my concerns to one of the senior policemen involved in this project in an exchange of e-mails, he replied:

"I think your point about O2 needing to look for an alternative site in Worthing is a good practical suggestion in relation to Worthing".

He also said that I had his assurance that he would do all that he believed possible to avoid such a situation in Worthing, or elsewhere for that matter. A fat lot of good that was. All the authority has done subsequently is accuse the detractors of the system of not wanting to install a system that will adequately protect our constituents. It claims that it has no power over O2 Airwave. It promised to have a look at the controversial site in particular, but absolutely nothing has happened.

All the undertakings from the police authority have proved worthless. Its complete complacency towards the local residents it aims to protect has been appalling. Despite the representations, Tetra was not even mentioned in the last police authority minutes of 10 February. Its PR has been lamentable. I have to say that this situation makes a good case for elected police authority members who can be made more accountable if they show such complacency. It is a shame, because Sussex police authority has done many good things up to now, under whatever political leadership it might have been at the time. However, in the case of Tetra masts in Sussex, it has failed, and failed badly.

Residents in the area of that mast really are desperate. They have just sent out a letter from the campaigning action group, after all its hard work, showing their frustration. They issued a plea to people in a position of responsibility to help to address their concerns. I will quote a couple of paragraphs from the letter:

"Cynics may say that those reporting ill-effects are hypochondriacs; subject to autosuggestion or just mistaken. This mast is right in the midst of one of the most densely populated areas of Worthing. Most of the homes in the surrounding areas are not the 'socially-deprived' classes—they are established family homes—young working couples raising families; mature couples still living in the homes where they brought up their children; professional, skilled and retired people. They are honest-to-goodness, down to earth, 'Middle England' and they certainly aren't fanatics, activists or extremists. Looking at this dispassionately, of the 400-plus local people who took the trouble to respond to the survey—can you honestly believe that all of them have imagined—or are lying about—their (and their children's) headaches; nausea; rashes; nose-bleeds; sleep problems etc.? . . .

Someone—somewhere—must take responsibility for any ill-effects that Tetra (and of course other) masts may, in future, be proved to have caused. We have yet to find anyone so convinced of the safety of these masts that they will stand up and say 'Yes—I am totally confident that these masts are harmless and I can be held accountable if proved wrong'. Everyone approached on the subject has very quickly played 'pass the parcel'. That doesn't inspire confidence does it?"

I wholeheartedly identify with the sentiments of that letter. I am completely exasperated and feel that in some way I have let my constituents down because those masts still operate as they were intended to operate, in the places they were put, without any changes whatever. Yet again the wishes of local people and local councils are being ignored, bulldozed and treated with contempt by a Department—the Home Office—and by a multinational big business, O2 Airwave, which stands to make millions from the contract, as well as by a police authority that seems to have forgotten that its role is to protect local people and that a good start in that endeavour is usually to listen and respond to those people first.

As I said, I am not a scientist, nor do I have resources available to me in the form of Government medical advisers, but I know that many of my constituents and those of other hon. Members are very unhappy. Without being against the whole project, there are serious questions that still need and deserve to be answered.

The Government, or the local authorities responsible, need to investigate the possible cumulative effect of multiple masts. The mast in question is one of five mobile masts on that football stadium. There are four conventional masts, which are being upgraded for 3G, and a Tetra mast. There is a school of thought that suggests that the cumulative effect of so many masts in a tight, confined area, topped up with Tetra rays, might have a different effect from what one might expect from a single mast placed anywhere else.

That is a legitimate line of questioning, so I raised it with the Under-Secretary of State for Health, the hon. Member for Welwyn Hatfield (Miss Johnson). I asked her what research has been

"commissioned on the cumulative effects of multiple mobile phone/Tetra masts on the health of people living nearby."

This is the response:

"The mobile telecommunications and health research programme supports about 30 studies of the potential effects of mobile phone telecommunications. Many of these are generic and accordingly relevant to TETRA. Some studies include a specific examination of the effects of TETRA. The programme is described on the web site".—*[Official Report,* 13 December 2004; Vol. 428, c. 951W]

Blah, blah, blah—so it continues. There is not a single attempt in a great long paragraph even remotely to address the question of the cumulative effects of various phone masts, although that is a question that needs to be answered.

Another question involves the feasibility of having two masts on the edge of town, rather than one in the middle of a densely populated part of town. Those questions need to be answered, but O2 has not answered them. How closely are guidelines to prevent masts from being built close to schools, on top of police stations or close to hospitals being followed? What, in practice, does the precautionary approach mean for the siting of masts?

Mr. Lepper: Will the hon. Gentleman give way?

Tim Loughton: I will do so for the last time, as I am almost finished.

Mr. Lepper: Has the hon. Gentleman's local authority taken the same view as mine, Brighton and Hove city council? If the local authority owns the premises on which the mast is to be erected, there are situations in which, rather than using the planning regime, landlord consent could be a useful tool in safeguarding the interests of local residents. Is his local authority pursuing that approach?

Tim Loughton: The hon. Gentleman may know that a number of larger landowners in the county of West Sussex have stated categorically that they will not allow masts on their property. I applaud those landowners for having taken that decision, which helps. However, they do not account for 100 per cent. of the county, no matter how much he and his party claim that the assets of rural England are in the hands of a few nobs.

Last week, I was delighted that the strategic environment and public protection committee of West Sussex county council, under the chairmanship of Councillor Louise Goldsmith, organised a public committee hearing on the issue of Tetra. A meeting was held in my constituency. The committee heard submissions from police, technical experts, local residents and anti-mast campaigners, which shows that West Sussex is taking the problems seriously. As I said, it has been supportive with regard to the concerns of West Sussex Conservative Members, many of whom are present. That committee is not going to let the situation go and will take the matter forward. Ultimately, of course, its powers are limited, except in the case of land that it owns, which relates to the point made by the hon. Member for Brighton, Pavilion (Mr. Lepper).

This matter has been handled exceedingly badly. It raises the need for an overhaul of our planning laws in respect of how masts get, or rather do not get, permission before they are sited. I am delighted that the policy of my party, which will, I am sure, be restated from the Front Bench, is to give far more powers back to local people and locally elected representatives to make decisions based on what is sustainable for local people. Such matters make people even more cynical about the ability and preparedness of people in authority to address their fears.

I hope that the Minister for Citizenship and Immigration will give a steer that the Government share my concerns about the lack of confidence that my constituents understandably feel. I also hope that he and his Government will do everything they can to encourage the police authorities that commission masts and the companies that install them to take more account of the local sensitivities of local people, whose confidence has understandably been completely undermined by a system that should be there to protect the public, not to engender fear among them, as it has in my constituency and the constituencies of many other Members.

2.40 pm

Mr. Michael Jabez Foster (Hastings and Rye) (Lab): My contribution will be very brief, because I appreciate that I did not give notice beforehand. I just want to make one or two comments from the eastern end of the county.

It is important that we do not take a Luddite view of an important development in the protection of the citizen and the solving of crime. I want to explain the position from Hastings. The Tetra system came into effect in the Rother area of my constituency only a couple of weeks ago. When speaking to the chief inspector, I was told that the effect has been phenomenal. Whereas in the past, areas of the county were unable to receive any radio contact, the new system is making it possible for officers to be in touch and they can more ably do the job for which they are employed.

I would not go so far as to say that this debate masks the success Sussex police have had recently, but it is worth putting on record that in Hastings crime was down 10 per cent. last year and is also down 10 per cent. this year. That is not the issue this afternoon, however, save to say that these technological advances will help that effort all the more.

I do not discount entirely comments made by hon. Members who have received representations from their constituents; however, I have not received a single representation from my constituents about masts in the Rother area. In the past, I have received representations about mobile phone masts, but in so far as this particular enterprise is concerned, no representations whatever.

Peter Bottomley: Does the hon. Gentleman know where the masts are sited? Would he like to tell us now, so that it can be reported in his local press? Then people might know to whom they should write if they have a problem.

Mr. Foster: I appreciate that the masts are sited across the Rother area, but as to the precise spots, as no one has contacted me, obviously I do not know. Why would I? People are fast to contact their very available and

[Mr. Foster]

accessible Members of Parliament if they have a problem, but that is not the case; the case is that the police say that the system is essential and must not be compromised as a result of certain comments. If unsafe systems can be resolved, we must try to resolve them. However, that is more down to local authorities.

The suggestion that the Home Office is the villain of the pact is wholly inappropriate. The people who made the contract were the Sussex police authority. The Sussex police authority—I do not apologise for saying this again—is Tory-led. Perhaps people in West Sussex, who nominate a goodly number of the members of that authority, should exercise a right of recall if they feel that those they have placed in that position, while generally doing a good job, have made a serious error in the case under discussion. That is not the position as I understand it from the East Sussex end. I know of no problems at my end of the county, so they may just be peculiar to West Sussex.

Tim Loughton: The hon. Gentleman again raises a political point. Perhaps he could tell us what the Sussex police authority would have done if it were Labour led, or what any Labour members of Sussex police authority have called for but had overruled because they were outvoted on the authority. Does he know?

Mr. Foster: Of course I do not know the detail, because it is unimportant. Democracy is about who is in charge, and we know who is in charge on the Sussex police authority. It is Tory led, with a Tory chairman, and if there were a Labour chair and a Labour authority it would be an authority over which I suspect I would have some influence. The hon. Gentleman has less interest in influencing his own party than I would hope to have with mine.

The important point is that the system is working, making it possible for crime to fall in Sussex, as it has done for the past few years and will continue to do. We must not in any way impede the tools that allow the Sussex constabulary to do the job for which it is paid.

Several hon. Members *rose—*

Mr. Deputy Speaker: Order. Before I call the right hon. Gentleman—that is a clue—it seems that I shall have to invoke Mr. Speaker's ruling on winding-up speeches. The debate is local to Sussex, so it is therefore important that all Sussex Members get a fair kick at the ball. It looks like speeches of five, five and 10 minutes. I call Mr. Maude.

2.45 pm

Mr. Francis Maude (Horsham) (Con): I am grateful, Mr. Deputy Speaker, and I can be brief. It is a pleasure to follow the hon. Member for Hastings and Rye (Mr. Foster), and I make an impassioned plea to his constituents: I hope that many of them will write to him. When his local paper picks up on what he said today, I am sure that his postbag will be full. I wish him well in dealing with it.

I congratulate my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) on securing the debate; it is a tribute to his persistence. His constituents have borne the brunt of the rolling out of Tetra masts in West Sussex, which started in the south and is gradually moving northwards. The first two masts being sited in my constituency at Warninglid and Colgate are causing concern, although not a huge amount as they are not in built-up urban areas. My hon. Friend dealt eloquently with the health concerns that certainly exist but which have not been addressed definitively by the Government or any serious authority. It is inevitable that concerns remain, and the public are entitled to be anxious until their concerns are properly addressed; but I see no sign of that yet.

My concern is principally about the planning process that applies to Tetra masts and more broadly to commercial mobile telephone masts. None of us wants to stand in the way of progress. We all have an interest in good emergency services and good emergency communications. We should recognise that they are in our interests and in the interests of all our constituents. Indeed, pretty much all hon. Members have an interest in good mobile telephone communication. We use mobile phones a lot, and we complain bitterly if we do not get a good signal; but we also complain bitterly if mobile phone masts go up where we do not want them.

The planning process is not at all transparent. It does not allow a proper local debate, nor does it give people the sense that, through their elected representatives, such things can be controlled and their concerns addressed. That is one reason for the growing alienation between the governed and those who govern. People have the sense that although they can elect whichever local councillors they like, and whichever MPs they like, it makes no difference to what happens in connection with the things that affect them. That is important.

I appreciate that planning is not the Minister's responsibility, but he has been put up by the Government to answer the debate, and I hope that he will address that problem and show some understanding of the fact that the way in which the system works is causing grave concern. As I say, Tetra masts are merely emerging in my constituency, but the planning concerns that my constituents already have about commercial mobile phone masts are causing growing anxiety about Tetra masts.

One specific instance illustrates the point graphically. An application has been made by T-Mobile to erect a mobile phone mast; it is below 15 m, so ordinary planning permission is not required. It would be sited on a mini-roundabout at the junction between St. Leonard's road and Compton's lane in Horsham. That puts it within 300 yd of four schools—the Millais girls secondary school, the Forest boys secondary school, the Queen Elizabeth II special needs school and the Heron Way primary school. Three pre-school provisions are also to be found in the immediate neighbourhood. As a result, there will be 3,000 children within approximately 300 m of the mast, and some very much nearer.

The Stewart report states that

"caution should be exercised when planning these masts near schools or residential areas."

It seems that the advice is being ignored in that case. Many local people have expressed serious anxiety about the application. It now emerges that T-mobile has withdrawn it, but it is anticipated that it will submit another very slightly revised one shortly. Indeed, it may already have done so.

My constituents feel that the system that currently applies simply does not allow their concerns to be recognised and addressed. As the science advances and the research continues, it may well be established definitively that there is no health risk from immediate and close proximity to Tetra masts and ordinary mobile phone masts, but that has not yet been shown to be the case. The precautionary principle really should be applied but, more than that, my concern is that local people should have a greater sense of being in control of their destiny, and the system should be amended, as my hon. Friend the Member for East Worthing and Shoreham set out very eloquently, to enable local councils to have the final say.

2.51 pm

Mr. Nick Gibb (Bognor Regis and Littlehampton) (Con): It is a pleasure to follow my right hon. Friend the Member for Horsham (Mr. Maude), who is right to raise the matter of public disaffection with the political process and the sense of powerlessness that people now feel under our democratic system. The way the Tetra masts have been rolled out, oblivious to local concerns, is a classic example of that.

I congratulate my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) on securing this very important debate and on his excellent presentation of the issues that are of enormous concern to tens of thousands of people who live in the shadow of a Tetra mast. I share those concerns. One Tetra mast has already been erected on the site of existing masts at Littlehampton police station. It did not need planning permission, and so could be erected despite the fact that it is close to schools, a community hospital and a large number of residential properties.

The siting of the mast near a school, as other hon. Members have said, directly contravenes the Office of the Deputy Prime Minister's code of best practice on mobile network development. There was no consultation with local people or with the local schools. When the mast was switched on, people began to notice problems with their health. They had nosebleeds, headaches, sleeplessness, confusion, loss of memory and skin problems.

A survey similar to the one carried out in Worthing, to which my hon. Friend referred, was conducted in the area around the mast in Littlehampton. Some 350 householders were consulted, 68 per cent. of whom reported health problems. There is also the prospect of a Tetra mast in the Southern Water compound at West park in Aldwick in my constituency. Planning permission was sought for the mast, as it exceeded 15 m, and I am pleased to say that it was refused by Arun district council. That is a totally unacceptable site for a Tetra mast. The compound is in a children's park, which is also frequently used for large-scale social events such as the annual Bognor carnival.

A mast has also been erected at the Bognor Regis golf club in Felpham. Again, no planning permission appears to have been necessary as a mast was already sited there; it was certainly not applied for. That was in June 2004. When the Tetra mast went up at Felpham, some 20 people in the immediate area reported similar health problems. Interestingly, the local campaigners against Tetra masts were sure that the mast had not been switched on, yet the local people insisted that they were suffering from health problems. It later turned out that the campaigners were wrong. The mast had been switched on and the local people were therefore correct. That directly answers the accusation that those people are simply suffering from psychosomatic problems or the power of suggestion.

Mr. Tyrie: It appears that there was a similar experience in Harting in my constituency with respect to the challenge as to whether or not the mast had been turned on. That spills over into concern in other areas, which is exactly what has happened in Sidlesham. An inquiry has been conducted into the mast there, and it is hoped that the inspector's decision will be announced on 7 March. Again, local people are extremely concerned about the health effects of that mast. Does my hon. Friend agree that the only rational way of dealing with this is to give power back to the local people and to allow local decisions to be taken about the siting of these masts? Does he also agree that that is the only reasonable way of reassuring the public about the health risk?

Mr. Gibb: My hon. Friend is right. The more reports there are of genuine health problems, the greater is the onus on us to ensure that research is undertaken into the effects on health. The Home Office and O2 claim that the symptoms are either psychosomatic or the normal occurrence of such ailments, and therefore unconnected with Tetra. I do not accept that. As my hon. Friend the Member for East Worthing and Shoreham has also said, the power of the masts is such that it causes severe interference with television reception in the area around a mast. A special device has to be purchased—at the expense of the home owner, not of O2—to counter that reception interference.

Given the power necessary to cause that interference, and the fact that many people report significant health effects, why is there no Government-funded research into the health effects of living close to a Tetra mast? I understand that Professor Lawrie Challis, of the National Radiological Protection Board mobile telecommunication health research programme, confirmed in a recent meeting that no research is currently being carried out into the health effect of Tetra masts. There has been research into calcium exchanges in cells, but surely the best approach is not to look at each of those isolated areas of research, but to investigate the reported health problems experienced by people living close to Tetra masts, and to isolate those people from the effects of the masts or switch off the masts to see what effect that has on their health. Then research can be conducted to find out what causes particular symptoms.

There has been significant research into issues such as calcium exchanges in cells, and the effect of heat, but no real research has been conducted into the neurological effect of living near a Tetra mast and suffering prolonged exposure. In a written answer to me on 10 June 2004, the Under-Secretary of State for the Home Department, the hon. Member for Don Valley (Caroline Flint), claimed:

> "Defence Science and Technology Laboratory (Dstl) researchers have completed their work on calcium exchanges in cells—the main concern of the Stewart report. They found Tetra exposure had no effect".

[Mr. Gibb]

She went on to say:

"Work is continuing to see if exposure to Tetra can affect electrical activity in brain cells and to assess the effects of Tetra signals on cognitive performance. Quarterly reports are available".

My understanding—the Minister in the Chamber can correct me if I am wrong—is that the research has not been authorised and no funds have been released to finance it. In other words, no research is being carried out into the neurological effect of Tetra masts. I emphasise the word "masts". The Minister replied to other written questions by stating:

"The National Radiological Protection Board (NRPB) has calculated specific absorption rates from Tetra handsets. Even in worst case situations, these were found to be well below international health and safety guidelines. In areas accessible to the public, signals from Tetra masts are very much weaker than those from handsets".

She concluded:

"The NRPB has not carried out any further work on specific absorption rates from Tetra masts".

On the same date, she said:

"The main Microwave Consultants Limited expert currently working on specific absorption rates from Tetra equipment is Dr Philip Chadwick. The research does not include Tetra masts."

In another written answer, she told me:

"King's College London is already assessing the effects of GSM mobile phone handsets on cognitive performance and stress levels. It will extend the study to Tetra handsets in 2005. No work is planned on Tetra base stations or masts."—[*Official Report*, 10 June 2004; Vol. 422, c. 511–30W.]

That is very wrong. There is genuine concern about the safety of the masts. People who live near them are reporting serious health effects as a consequence, and I believe their reports, yet no research has been conducted, or is being carried out, into their complaints or into the general neurological consequences of prolonged proximity to Tetra masts.

The real concern, which I hope the Minister will address, is the effects of resonances set up by magnetic radiation emanating from the masts. The burden seems to have been passed from the Government and O2 to an unfunded but competently managed group of protesters and local residents, led in my area by John O'Brien. Surely the onus should be on O2 and the Home Office to satisfy the public that the masts are safe. I hope that the Minister will give us a commitment to that effect this afternoon.

2.59 pm

Mr. Alistair Carmichael (Orkney and Shetland) (LD): First, may I, like other right hon. and hon. Members, congratulate the hon. Member for East Worthing and Shoreham (Tim Loughton) on securing the debate? For the most part, his comments were measured. He presented his case as a series of questions, and that approach was taken up by other hon. Members—

Mr. Deputy Speaker: Order. Before the hon. Gentleman gets too far, I should point out that the Back-Bench contributions finished a bit earlier than I thought they would, so if the two Opposition Front-Bench spokesmen can square the time a bit, we can go to seven and a half minutes for each of their speeches and 15 minutes for the Minister's.

Mr. Carmichael: I am grateful to you for that advice, Mr. Deputy Speaker, although I may be able to give up some of my time so that the Minister can give us a slightly fuller reply to this wide-ranging debate.

The hon. Member for East Worthing and Shoreham said that the hon. Member for Stroud (Mr. Drew) comes from the wilds of Gloucestershire. If he thinks that Gloucestershire is wild, I am not sure what term he would apply to my constituency. None the less, it is interesting to have the opportunity to observe a debate whose subject is so far removed, geographically speaking, from my constituency. It is also interesting because there are so many themes to which I can relate as a constituency Member. I am thinking in particular of the point made most forcefully by the right hon. Member for Horsham (Mr. Maude), who said that, in so many different ways, and in so many different parts of the country, people feel that they do not have control over their own communities and destinies. That lies at the heart of this subject.

I should also place it on record that the duty of responding to this debate would normally have fallen to my hon. Friend the Member for Lewes (Norman Baker). I know how energetic he has been in pursuit of this subject, because I had to read his file to familiarise myself with the topic in preparation for the debate. He has been thorough—something for which he is widely known, and no doubt admired, in the House.

As the hon. Member for East Worthing and Shoreham said, there is a need for a proper and comprehensive debate. Coming to the subject fairly new, it strikes me that although there has been a multiplicity of studies, there does not seem to have been an overarching look at the effect of masts, as the hon. Member for Bognor Regis and Littlehampton (Mr. Gibb) pointed out.

If I can wear my hat as vice-chairman of the all-party group on telecommunications for a second, the approach taken by O2 in dealing with communities has left something to be desired. Where there is lack of openness and candour, suspicion and concern will inevitably grow. No one who has contributed to the debate has in any way sought to exaggerate those concerns, and they are to be commended for that.

I commend to the Minister the thorough report on mobile phones and health produced by the National Radiological Protection Board at the start of the year. It made a number of recommendations, and I draw his attention to the first two. The first relates to communities' ability to gain access to all the up-to-date information about Tetra and mobile communication masts and phones. The second is that the planning process associated with the erection of mobile phone base stations and masts should be the subject of an independent review. The report called for particular attention to be given to how best to minimise the exposure of potentially vulnerable sub-groups, such as children, and for continuing research on the possible health effects of mobile phone technologies to be strongly supported. As other hon. Members have observed, some time has passed since the publication of

the Stewart report and it would be a worthwhile exercise if the Government were to resurrect that or to revisit its findings.

The other concern that the NRPB report rightly highlighted was the role of Ofcom. We all know that Ofcom is fairly young, and it clearly still has a lot of proving to do. However, it is quite clear that Ofcom has been able to make available rather less information on such matters than is sufficient. The report also recommended that Tetra base stations should be audited in the same way as global system for mobile—GSM—base stations. Until more information becomes available, the board considers that it would be premature to rule out the possibility of health effects on users of Tetra-based equipment and believes that a precautionary approach should be adopted. I think that the Minister will find little in that with which he will be able to argue in principle. We know why the police want Tetra in a broader sense, but surely a proper balance has to be struck.

3.6 pm

Mr. Richard Spring (West Suffolk) (Con): I congratulate my hon. Friend the Member for East Worthing and Shoreham (Tim Loughton) on setting out his case comprehensively and rationally. This subject is a matter of concern not only in Sussex but in many other parts of the country.

I should like, if I may—particularly as you have an understanding of the subject, Mr. Deputy Speaker—to relay my personal experience, because it echoes so powerfully the experience of hon. Members. I discovered that a Tetra mast had been erected on a block of flats in Newmarket in my constituency—90 per cent. of the town of Newmarket is in the county of Suffolk. There were protests and great concern that that had been done in a stealthy way.

As a result of the protests, I intervened and negotiated with the company that had erected the Tetra mast. I spoke at length with the Suffolk constabulary and there was a public meeting. We had agreed that the Tetra mast would be moved from the flats to the top of a hill—or what passes for a hill in East Anglia—just outside Newmarket, and I was confident that that had happened. One morning we all woke up to find that the Tetra mast had been moved, but to that part of Newmarket that is in Cambridgeshire. That was a disgraceful and dishonourable thing to do. I had words with the chief constable of Suffolk, who had no idea that that was happening. We then experienced the ritual with which we are all now so entirely familiar, as the local council challenged the move and lost on appeal, which happens virtually every single time because there is no protection in the law.

That occurrence was so disgraceful because the new Tetra mast was close to a school and to an area of high population concentration. The code of best practice of the operating companies is simply not worth the paper that it is written on. It includes, for example, consultation with the local Member of Parliament—some consultation. There is no effective planning control, and the behaviour of some of the operating companies has been a disgrace and has undermined public confidence.

Five years ago, Sir William Stewart reported on the question of the location of base stations and transmission masts. He talked about the precautionary principle, which we have heard a lot about this afternoon. However, I wonder whether hon. Members noticed that only weeks ago he called for the precautionary principle to be revisited for precisely the reasons that I am suggesting. It has not been applied in practice, because there is no effective planning control. This is a matter of public confidence.

My right hon. Friend the Member for Horsham (Mr. Maude) is absolutely correct; people are alienated by a process in which they feel they have no control whatever over something controversial that might have an impact on their health and on their lives, certainly from an aesthetic point of view at the very least. They feel alienated from the process and from local government, which is there to protect their interests. I say quite dispassionately to the Minister that that is exactly what is happening in practice, with all the attendant consequences.

I introduced a private Member's Bill to try to deal with the problem, but I regret that the Government did not accept it and it did not see the light of day. Let me say just this: the effects of the frequencies of the Tetra system are different from those of normal telecommunications masts because the pace of Tetra electrical impulses is such that they affect the brain and human bodies quite differently. That is of great concern to at least a minority of scientists.

My hon. Friend the Member for Bognor Regis and Littlehampton (Mr. Gibb) was absolutely right to talk about the health concerns. I do not know—none of us can know—whether the outbreaks of dizziness, nausea, and erratic behaviour, particularly in young children in schools close to Tetra masts, are part of some mass hysteria. As all these cancer clusters have developed for no apparent reason—they have been well documented in different parts of the country because they are in the beam of the greatest intensity—we must, as Members of Parliament, adopt the precautionary principle and be very careful.

Cannabis was considered to be completely harmless in the 1960s and 1970s, yet habitual cannabis smokers in California are now suffering from different forms of cancer much earlier than is usual because of the carcinogenic properties of cannabis. At the time, we did not know what the long-term effects of cannabis would be. I simply say, therefore, that we do not know what the health implications of Tetra masts are, but the evidence is of concern and we must respond to it.

The hon. Member for Hastings and Rye (Mr. Foster) was absolutely correct to say that we want an efficacious communications service. Of course we do. We want it for our police and our ambulance services. In theory, Tetra involves a national digital mobile radio communications system that the emergency services find quite valuable. However, I have looked into the matter and discussed it at length, and must say to him that Tetra is based on 1950s and early 1990s technology that can no longer be described as the state of the art, as Airwave claims. It cannot, for example, send graphics, faxes, photos or video streams. It cannot access the police national computer, nor can it send or receive files or fingerprints. It cannot access the internet, and it is expensive. It will cost £3 billion to start up, and there will be 3,350 new base stations, including 87 in the county of Sussex.

[Mr. Richard Spring]

Following the reluctance of police forces to adopt Tetra, the Government agreed to fund its introduction with £500 million, to be shared among all police forces. We heard about the police precept. The cost above the £500 million must be met from the council tax. Of all the stealth taxes introduced by this Government, the one that has caused our constituents the most irritation and concern has been the soaring cost of the council tax. That plays a part in all this and, from that point of view, the situation is entirely unsatisfactory.

In trying to highlight the issue in a non-party political way, as I and many other hon. Members have tried to do, I have been astonished that the Government have not reacted in the way that would be appropriate for a Government in such circumstances, despite private conversations with Ministers and pressure from Labour Members. The fact is that the system, however efficacious, needs careful monitoring. The locations of sites need to be checked, and local people need local control over the local environment. If we do not proceed in that way we shall store up problems for the future.

My final point is party political. The Conservative party—others will share this view—now believes that masts should require full planning permission. We are an overcrowded and small island, which is densely populated in parts. We must protect our citizens from potential health difficulties and the environment in which we live, and give some sense of control to people who increasingly feel that they have less and less control over the things that are important to them in their day-to-day lives.

3.16 pm

The Minister for Citizenship and Immigration (Mr. Desmond Browne): It is a pleasure to follow the hon. Member for West Suffolk (Mr. Spring), even if he did, in his final comments, fail to resist the temptation to adopt a party political stance. However, in view of how the debate has been conducted, perhaps we can forgive him that slight lapse.

I congratulate the hon. Member for East Worthing and Shoreham (Tim Loughton) on securing the debate and on his tenacity and persistence in doing so. He has done the House a service this afternoon, and not only by providing an opportunity for a debate that, although limited geographically, has dealt with issues close to the heart of many constituencies and constituents. I have had my fair share of constituent correspondence on mobile phone masts, although not specifically on Tetra masts. I also congratulate the hon. Gentleman on how he set out his arguments. He was very fair.

The hon. Gentleman said that many questions need and deserve to be answered. He is right, and I shall endeavour in the time available to answer as many as I can. However, I assure all right hon. and hon. Members who have taken part in the debate that, despite the fact that this subject does not fall four-square in my area of Home Office ministerial responsibility, I shall pass on all the comments to the Parliamentary Under-Secretary of State for the Home Department, my hon. Friend the Member for Don Valley (Caroline Flint), who has an unavoidable commitment outside London today dating from long before the debate was fixed.

I shall, of course, also pass on comments to other Ministers in other Departments, where appropriate. However, I do not want to avoid the responsibility to answer the debate as comprehensively as I can in the time available.

Before I discuss some detail, I want to mention the fact that there is one area of dispute between me and the hon. Member for East Worthing and Shoreham on this matter, which is the weight he attaches to the results of the survey conducted in his constituency. I am sure he will accept that although it may never have been intended as a scientific survey, there are concerns about how it was conducted, which would normally affect the view someone took on its conclusions. It would serve no purpose—it would be hypercritical—to list them all, although I have them available, but as a piece of scientific work the survey is significantly flawed. However, it may not be so flawed as a measure of the views of the hon. Gentleman's constituents. To the extent that it helps us to understand our responsibilities, collectively and individually, and my ministerial responsibilities to his constituents, it is valuable. It is far from being a scientific work, however, and there were serious flaws in how those who conducted it communicated with those from whom they wished to extract the information.

The hon. Gentleman laid out the background to the issue well. Although I want to say something about Airwave and the Tetra process, I do not propose to explain to the House what the issue involves, because it seems to me that everybody who is present and has contributed to the debate has a fair idea of what is going on in producing a modern communication system for the police. However, I repeat the view that my hon. Friend the Member for Hastings and Rye (Mr. Foster) shared with the House, which is that police officers are delighted with the new system. A significant number of them use it throughout the United Kingdom.

The increased coverage provided by Airwave means, importantly, that there are no more holes in the system to endanger the safety of police officers. The system's emergency button means that they can summon help quickly and the improved clarity of signals means that they can work more effectively, efficiently and safely than with previous communication systems.

I shall give three examples of improvements. One is the view of Sussex police, who have given positive feedback on clarity, quality, coverage and freedom from interference and eavesdropping—that is important—as well as the functionality of the new system. The hon. Member for West Suffolk criticised the system by implication, saying that it is by no means state of the art and listing a series of things he claims it cannot do. I do not remember exactly what those were, but I recognise in some of them functions that I have been specifically briefed the system can do—in particular, providing access to the police national computer.

I will ensure that that list is gone through and that the hon. Gentleman and other right hon. and hon. Members get a detailed response. I do not think that providing such a response at the moment would be the best use of my time.

Mr. Spring: I accept that the system is of value to our emergency services, but I simply note that it is not used

in other parts of Europe, where people use a system that they feel is better. That system was not considered when Tetra was introduced in this country.

Mr. Browne: I thank the hon. Gentleman for that intervention, which leads me to the first question that the hon. Member for East Worthing and Shoreham asked: why we are using the Tetra system and not Tetrapol, which may be the system that the hon. Member for West Suffolk is referring to? Tetrapol is, as I understand it, a French system that, if it were operated on a similar frequency band to Tetra, would require slightly fewer base stations and, consequently, slightly fewer masts. I have no expertise in the area and rely on advice. I am advised that the comparison is with a low frequency system that does not provide the same coverage or fill in the gaps in coverage that Airwave fills. I am advised also that Tetrapol would not meet the police's communication system requirements.

I have significant information about the extent to which Tetra is used throughout Europe and the rest of the world—it is used extensively—but it would not be the best use of my time to list the locations in which it is used or its geographical spread.

The hon. Member for East Worthing and Shoreham asked why no research was done before implementation. The answer to that was partly given by you, Mr. Deputy Speaker, as you were able to tell the House that the system was piloted in your constituency. That is correct. It is fair to say that the issues of concern to which most hon. Members devoted their attention, outwith the issue of planning, were first raised in the Stewart report of 2000. The issue of planning is a function of the concern about health, as there would be nothing like the concern about planning if there were no underlying concern about health.

All short-term issues raised by that report have been addressed and no concerns have been found. As hon. Gentlemen suggested with their request for specific research, long-term research needs a user base and monitoring over many years so as to gather enough statistics to examine whether there are even any small effects.

Mr. Maude: I appreciate that my point is not the concern of the Minister's Department, but I hope he can comment on it. He says that the short-term issues in the Stewart report have been addressed. I quoted the part of the report that said that caution should be exercised when planning a commercial mobile phone mast in residential areas or close to schools, yet caution is not being exercised. That is one short-term concern expressed in the Stewart report that has simply not been addressed.

Mr. Browne: I do not dismiss the right hon. Gentleman's contribution to this debate. He expects me to treat it seriously, and I do. I listened carefully to the concern he expressed about the Littlehampton mast, but as I understand it that is a T-Mobile mast, which I do not think can be a Tetra mast. However, I understand that he used it as an example.

Mr. Spring: It was a planning example.

Mr. Browne: Well, I am not specifically instructed about every mast—Tetra or otherwise—that there may be in Sussex, but I undertake to respond to all hon. and right hon. Gentlemen on individual masts and on the concerns that they have raised. That is the best way to deal with those concerns.

I am specifically instructed that O2 follows the planning guidelines of the Office of the Deputy Prime Minister. I cannot leave this debate without undertaking to address the concerns raised by hon. Gentlemen, whose accounts of events I trust, although those concerns contradict the information that I have. I can say that the ODPM will consider a revised planning process to include all masts, which is a step in the direction that hon. Gentlemen have encouraged. Currently, as we have heard, not all masts require planning. If they are new and above a certain height, however, they are required to go through the planning process.

With regard to the other suggestions about how the planning process ought to work, and whether the process ought to stop at the decision of the local authority, which appears to be the official Opposition's position on planning for mobile phone masts, I shall have to take further advice, consider the matter and respond to those who have contributed to the debate. However, I wonder whether that is precisely how the Opposition would operate were they ever faced with the responsibility of providing such a system. I wonder whether that is really what they would do: give up the opportunity for an appellate process in the planning system.

Mr. Spring: As it is only a matter of weeks before the Minister finds out exactly what will happen, may I say to him that the system would follow the same appeals process as any other planning element? I want to stress absolutely dispassionately that, at the moment, any attempt by a district council to stop or prevent the construction of a base station or transmission mast, or to have them removed, invariably fails, such is the weakness of the planning support structures for local councils. I want him to know that explicitly.

Mr. Browne: I thank the hon. Gentleman for reinforcing the point that he has already made.

Mr. Spring: I want the Minister to understand it.

Mr. Browne: I do understand it. With respect to the hon. Gentleman, I fully understand the point he made. I intend to consider it and draw it to the attention of the relevant ODPM Minister.

There are understandable public health concerns arising from the siting of mobile phone masts and the development of the network for mobile communication. The Government have responded in a perfectly appropriate way to the Stewart report. There was a second Stewart report at the end of last year, so when hon. Members call for a supplementary Stewart report, they should know that there already is one.

Mr. Spring: We said it should be revisited.

Mr. Browne: The hon. Gentleman may have been referring to some comments that were made in the context of the publication of that second report. All the

[Mr. Browne]

report's recommendations are being taken forward and the relevant research is being conducted. Hon. Members seem to have extensive knowledge of the nature of that research, but it is appropriate that I should set out exactly what the Government's position is. In March 2004, the Minister for Crime Reduction, Policing and Community Safety updated all hon. Members by way of a letter on Tetra health and safety issues.

It is important to note that neither the Stewart report of May 2000 nor the follow-up reports of the National Radiological Protection Board in 2003 and 2005—the 2005 report being Sir William's second on the subject—nor the 2001 report of the NRPB's advisory group on non-ionising radiation concerning Tetra technology found any established evidence of any adverse effects on health from exposure to radio frequency emissions at levels within international guidelines. The Tetra system works within international guidelines.

The AGNIR report recommended eight areas for further research. The Government accepted those recommendations and have advanced them either as part of the mobile telecommunications and health research programme or in the Home Office research programme.

The comprehensive recommendations that have been referred to are further studies on the behaviour of calcium in tissues to determine the extent and significance of any effects that occur; further studies on the effects of amplitude modulation or pulsing; investigation of the possibility that modulated radio frequency fields might somehow increase the likelihood of epileptic seizures; investigation of possible mechanisms by which living cells might demodulate amplitude modulated RF fields; human volunteer studies, which is what hon. Members are calling for, to measure changes in cognitive performance; studies to examine working practices in conditions of exposure to RF radiation from Tetra systems; the inclusion of Tetra-based stations in Ofcom's audit of base stations; and further work on providing more information on exposure from hand portables, which are the part of the system that generates the greatest concern.

The Government contacted reputable, independent organisations to carry out that research, and I am concerned that hon. Members may have misunderstood exactly what has taken place since then. I shall spell it out carefully so that it is properly recorded. The Defence Scientific and Technological Laboratory has looked into the first three recommendations and the fifth. The Burden Neurological Institute, which is part of the MTHR programme, considered the fourth. King's college London and the university of Bradford, which is also part of the MTHR programme, considered the fifth. Imperial college London, the university of Birmingham and the university of Manchester looked at the sixth. The Radiocommunications Agency, which is now Ofcom, looked at the seventh, and Microwave Consultants Ltd. looked into the eighth.

Interim reports relating to all that work are available from the Home Office websites. Final reports are being peer reviewed for publication in the academic press and will be made available on the web as soon as they are available. Although peer review delays publication of the final report, it is an important procedure that gives credibility to the scientific process—

Mr. Deputy Speaker: Order. Time is up.

A21 (West Kent)

3.35 pm

Mr. Archie Norman (Tunbridge Wells) (Con): It is a great pleasure to have the opportunity to raise this fraught issue again. I am grateful to the Minister for giving up his time to respond to the debate. He has been generous with his time on debates on the A21 in the past, in which we have discussed the issue in some detail, and will be familiar with many of the points that I shall raise. I know that he will not want to read out the official script, but will want to respond directly to points raised by me and other hon. Members.

We may be privileged enough to have a visit from the Minister on 8 March, when the Lamberhurst bypass may open. If that is the case, and we would be delighted to see him, I hope that he will take the opportunity to drive down the A21 and experience the delays and difficulties involved. If he does so, I hope that he will manage to avoid the rush hour, otherwise he may arrive too late to cut the red ribbon.

The A21 is the main arterial strategic route from the M25 to Hastings, and provides the economic lifeline not only to my constituency of Tunbridge Wells, and to Tonbridge, but right down to Hastings, which we know to be an area of relative economic deprivation with comparatively high levels of unemployment. I am delighted that the hon. Member for Hastings and Rye (Mr. Foster) is here today. Yet, as a result of a series of ad hoc initiatives over the past 30 years, instead of a strategic approach being taken to the road, there has been an hourglass effect: the road is dual carriageway, then a single-lane bottleneck followed by dual carriageway, then a single lane, then the new dual carriageway at Lamberhurst bypass, then a single lane right down to Hastings, which creates immense frustration to local people, delays at each bottleneck in each rush hour, and safety hazards.

The impact of the problem cannot be underestimated: it is the factor holding back economic development in our area and, more seriously, down to Hastings. That is illustrated by the following quotes. The superintendent of Kent police said:

"The Castle Hill section of the A21 is a nightmare. It adds at least 25 minutes to the journey into Tunbridge Wells. Police movement, despite the assistance of sirens, is inhibited by the current situation."

The managing director of AIM Plastics in Tunbridge Wells said:

"Companies like mine will very soon move away rather than waste our time in a daily unavoidable traffic jam."

It was, of course, the previous hon. Member for Bexhill and Battle, Mr. Charles Wardle, who famously said that

"the probable reason that Harold lost the battle of Hastings was that he was held up on the A21."—[*Official Report*, 11 February 1998; Vol. 325, c. 329.]

One can imagine the dismay felt by people in west Kent and Sussex in July 1997, when the Weald and Downland design, build, finance and operate scheme—the previous Government's plan to improve the A21—was binned and the contractors compensated to the tune of £4 million to £6 million, I believe, and it was announced that instead there would be the trunk roads review. Nevertheless, many local people were prepared to accept that the incoming Government were going to adopt a different approach and were heartened by the announcement by the then Minister for Transport, the right hon. Member for Edinburgh, East and Musselburgh (Dr. Strang), that the Government intended:

"to bring a fresh approach to the process of making decisions on the roads programme."—[*Official Report*, 28 July 1997; Vol. 299, c. 33W.]

People then looked forward to a fresh approach that would be not only environmentally sensitive, but strategic. What emerged, in reality, was a protracted series of consultations and reviews, endless local consultation and tactical prevarication, yet, even today, there is no strategic approach to the overall construction of the route, no deadlines, no serious commitments to a timetable and immense local concern and indecision.

The process began with the trunk roads review, then the "Access to Hastings" study, which recommended "on-line improvements" at Castle Hill and improvements south of Pembury. That study is particularly important because it involved consulting all the local people, and the subsequent report on it was the subject of consultation by all the relevant regional authorities, including the South East England regional assembly, which was almost unanimously in support of the recommendations for improvement. The process was exhaustive and consultative, and it received virtually unanimous approval.

At that point, the Government had all the information required to go ahead with proposals for strategic improvement throughout the route. Indeed, that appeared to be happening. The then Secretary of State for Transport announced shortly afterwards that work would probably start on the A21 at Castle Hill in 2006–07, and a further review would be undertaken to define the best route for improvement for the area south of Pembury. Hope burgeoned and we were all much encouraged. The Government appeared to have a logical strategic approach.

In July 2003, people from the Highways Agency arrived in Tonbridge and Tunbridge Wells and went round the public with computer simulations of the preferred route, showing what it would look like at Castle Hill. We were led to believe that the matter was in hand, the pubic inquiry would ensue and so on. Late in 2004, after much delay and local debate, a preferred route was also defined for the route from Kippings Cross to Lamberhurst, south of Pembury. The Minister and I had discussions on the matter, the Government formed their conclusions with regard to the preferred route, and it was announced to the public. Whether we liked it or not, that was the route that was taken, and it appeared that everything was likely to go ahead.

Ever since then, we have seen slippage and inaction, and I want to illustrate that with some quotes. The first is from the Highways Agency newsletter of November 2002, which said that

"it is expected that construction of the Castle Hill scheme could commence in 2005/6."

Seven months later, in July 2003, the Minister wrote to me—he might remember this—saying:

"The Highways Agency are looking to publish highways orders in 2004"—

last year—

"and hope to start work in 2005/6 with the road opened in 2007/8."

[Mr. Archie Norman]

That was the commitment from the Minister himself. Never have we had a word of apology or explanation for any subsequent delay. In fact, no such orders were published in 2004 and no public inquiry has taken place or is scheduled. Latterly, we have had no word from Ministers and no explanation to hon. Members. Instead, a press release has slipped out from the Highways Agency. It says:

"While both the A21 Tonbridge to Pembury Dualling and A21 Kippings Cross to Lamberhurst Improvement schemes remain in the Government's programme, for schemes of regional importance such as these, priorities and decisions will take into account advice from the regional planning body, the South East Regional Assembly.

The detail of how this will work is still under consideration, but we expect to know more early in 2006."

By which time, of course, the road was meant to be under construction. The press release continues:

"This means that construction ... will not start before the financial year 2008/9 at the earliest."

So we have another consultation, with bodies that have already been consulted and which expressed unanimous approval, and no explanation from the Minister, despite the fact that that is in direct contradiction to his statements in previous letters. Furthermore, we do not even know exactly how the consultation will take place, who will be consulted or how it will work. I have contacted the Highways Agency and am told that it is still waiting to hear from Ministers exactly what form the consultation will take.

There can be little wonder, therefore, that local people regard the process with some cynicism. We started by hearing that we would have a fresh approach to roads decision making; we embarked wholeheartedly on another series of consultations, despite the fact that there had been a public inquiry on the whole thing in 1991 and all the issues had been thrashed through before; we involved the local regional authorities, Kent county council and other such bodies; everybody was in support and the Minister said that we were going ahead. It appeared that we had a strategic approach, as we were dealing with not just Castle Hill but the area south of Pembury—we were going to tackle the whole route. It all looked very encouraging, but it just slipped and slipped, and, even today, there is no commitment on the time scale. We do not even know how further consultation will take place.

Local people may be forgiven for thinking that all of that is a shallow excuse for deferring and spreading out public expenditure. The Minister may want to tell me whether that has anything to do with it. Equally, they may wonder whether the intentions of the Government in respect of this part of west Kent and Sussex were ever sincere. There is widespread cynicism about the Government's intentions. There has always been a belief—colleagues of mine have expressed it—that there never was a sincere intention to do the work. I do not believe that that is true. I believe that the Minister will be as good as his word, but he should recognise that people are now looking for a strategic statement of intent and a commitment on the time scale. We want to know what the consultation is for and whether we can avoid further delay. He will recognise that it will serve very little value. Once the consultation has taken place, when is work likely to start? Is there a coherent time scale, or will the work at Castle Hill dribble on for ever? When will work start south of Pembury? Finally, what process will be undertaken for the preferred route for the area south of Flimwell that was recently announced? That is now going out to consultation.

This is not just a question of convenience or even of economic development, as important as that may be, but of safety. The road is one of the 100 most dangerous roads in Britain. There have been 300 accidents on the Castle Hill stretch in the past five years, four of them fatal. On the Flimwell stretch—a very short stretch of road—there have been 116 accidents in the past four years, seven of them fatal. The longer we delay, the more fatal accidents there will be, the more the future economic development of Hastings and other locations along the route will be held back and the more local people will wonder whether the Government have a coherent roads and transport strategy at all.

3.47 pm

Sir John Stanley (Tonbridge and Malling) (Con): I am grateful to my hon. Friend the Member for Tunbridge Wells (Mr. Norman) for giving his consent for me to contribute to this debate. He has announced his retirement from the House at the next election, and no one could have done more than he has during his time in the House to promote improvements on the A21. I know that his constituents are grateful for his consistent Herculean efforts.

I shall speak about the section of the A21 between Tonbridge and Pembury, which is the part that affects my constituency. The lack of dualling on that section has the most baleful economic consequences for the whole of the business life of the Tonbridge, Southborough and Tunbridge Wells area. It has serious implications for ambulances and the police, and it is a continuous source of acute frustration for any number of motorists who find themselves in a jam between Tonbridge and Pembury at any hour of the day, but particularly during the rush hour. It is a very serious impediment to all those who live in the area.

The history of the A21 is simple. A perfectly good scheme was ready in 1997, having gone through the planning and public inquiry processes. The funding was in place and the scheme was about to go ahead, but since 1997 there have been eight wasted years. A perfectly good scheme was unnecessarily scrapped. The new one included access to Hastings, but this is about access to Tonbridge, Tunbridge Wells and Southborough. Huge amounts of money were wasted on consultancy fees and further inquiries. As of today, we are no further forward and, as we look ahead, we find that there is no construction date and that the whole scheme has now become enveloped in the regional bureaucracy beloved of the present Government.

I say this with great regret, but I have to say it straight to the Minister: the handling of this scheme by the Government has been characteristic of so much of their activity. It has been marked by a huge wastage of public money—taxpayers' money—by ever greater layers of bureaucracy, and by no delivery of goods in the end. Will he set a date today for the start of the construction of the scheme, particularly the dualling of the A21 between Tonbridge and Pembury?

3.51 pm

The Parliamentary Under-Secretary of State for Transport (Mr. David Jamieson): I congratulate the hon. Member for Tunbridge Wells (Mr. Norman) on securing the debate. He and I have something in common: after the next election, neither of us will be here.

Mr. Deputy Speaker: Order. He is not the only one.

Mr. Jamieson: I beg your pardon, Mr. Deputy Speaker. There are more than two of us who will not be here after the next election. However, that will be the choice not of the electorate, but of those who could be standing for the seat.

I was pleased to hear the contribution from the right hon. Member for Tonbridge and Malling (Sir John Stanley) and I am pleased to see my hon. Friend the Member for Hastings and Rye (Mr. Foster), who has been campaigning on the issues all the way along the road for a considerable time. The road is much busier than it was. There is a lot of economic activity around the country, but particularly in the south-east. My hon. Friend recognises that the A21 is vital to his constituency and to economic development in that area.

There are essentially four schemes: Tonbridge to Pembury, Kippings Cross to Lamberhurst, the Lamberhurst bypass, and the Flimwell to Robertsbridge improvements. Before 1997, the only schemes that had been given any priority were the Tonbridge to Pembury scheme and the Lamberhurst bypass. The Kippings Cross to Lamberhurst scheme had no long-term commitment in 1996. There was no funding; there were just some plans. Then there is the Flimwell to Robertsbridge scheme. In fact, many of the improvements—considerable though they were and despite being valuable to many of the communities on that road—were abandoned in 1996 with no view to reinstating them. It is important that we put the debate in context, because we are doing a great deal, as I shall outline.

The debate comes at an opportune time because next Wednesday, 9 March, we will see the opening of the Lamberhurst bypass. Parliamentary business permitting, I hope to be there to cut the tape and see the traffic go through. However, I believe that some parliamentary business may keep a number of us here, rather than allowing us to be elsewhere. The opening of the bypass follows on from my announcement on 17 February this year of the preferred route for the improvement of the Flimwell to Robertsbridge section of the A21. That was the scheme that was abandoned in 1996. Those schemes, along with the entry of two other A21 schemes into the Government's targeted programme of improvements—the Tonbridge to Pembury dualling in July 2003 and the Kippings Cross to Lamberhurst improvement in May 2004—demonstrate the Government's commitment to the upgrading of the A21, not only in Kent, but through East Sussex.

After less than two years of construction, the Lamberhurst bypass will open next week, at a cost of £19 million. Although we had hoped to have an early opening of the bypass last autumn, it is now back on target and will be opened next week. This much-needed bypass will bring relief to the village of Lamberhurst. The sinuous alignment of the A21 there does not comply with current design and operational requirements, and there are steep gradients on either side of the village. As a result, any incident or routine maintenance on the existing road quickly leads to delay and congestion. The volume of traffic now passing through the village causes community severance and a decrease in air quality, particularly at peak times and during the summer months. On completion, the bypass will remove approximately two thirds of existing trunk road traffic from the village. That will reduce congestion, delay and vehicle pollution in the village, which will benefit not only residents but those on longer journeys from the M25—perhaps all the way to my hon. Friend's constituency.

As with all improvements to the A21, this scheme is located in the high weald area of outstanding natural beauty; the design and construction of the scheme has consequently been handled in a way that respects the sensitivity of the environment through which it passes. Of particular note is the land bridge that forms part of the scheme. A land bridge is somewhat wider than a normal bridge with space on each side for planting.

As I mentioned earlier, the scheme for dualling the A21 from the end of the Tonbridge bypass to the start of the Pembury bypass entered the Government's targeted programme of improvements in July 2003. In December 2004, the Government announced the investment of £950 million in regional transport infrastructure in the south-east. That is in addition to the £1 billion being invested in national schemes, which includes a major upgrading of the M25.

Even with that level of investment, the number of schemes coming forward was greater than could be accommodated, and decisions had to be made on which schemes could be included in the programme. It was subsequently decided that the A21 Tonbridge to Pembury dualling scheme would be remitted to the regions for advice on priorities. Remitting schemes to the regions is happening throughout the country. We are trying to engage the local regional bodies in informing decisions on major schemes; in the past, the Highways Agency may have had a link with local bodies, but not the sort that we now intend. If the scheme is a priority for the south-east, I am sure that it will be indicated to us through the Highways Agency; the scheme can then move up the agenda.

Mr. Norman: Will the Minister accept that, as expressed by the Government, the purpose of the "Access to Hastings" study and subsequent consultation was exactly that—to involve the regional authorities and local people so that they could express an opinion on whether improving the A21 was a priority? In a sense, regional involvement has already taken place. Further to that, will he tell us exactly what form the consultation will take, how long it will last and who will be consulted and involved?

Mr. Jamieson: Yes, of course. There was consultation on the multi-modal studies, and some good work was done locally, but we are now prioritising the funding. Funding has been allocated to the various regions as fairly as we can, but we now want the local bodies to give an indication of their priorities for funding.

[Mr. Jamieson]

The hon. Gentleman raised previously the link made in the planning permission for a new Pembury hospital. I emphasise that one condition of the planning permission relating to the A21 restricts the level of occupancy of the hospital until the start of construction of the Tonbridge to Pembury dualling, or until the completion of suitable mitigation measures to junctions on the A21 in the vicinity of the hospital. Options are open to the developer as a result, and the Highways Agency is willing to discuss the way forward in order to obtain the full opening of the hospital in advance of the start of construction of the Tonbridge to Pembury scheme if that should turn out to be the case.

Mr. Norman: Will the Minister give way on that point?

Mr. Jamieson: I shall certainly give way, but it will make it almost impossible to answer the hon. Gentleman in full.

Mr. Deputy Speaker: Order. The Minister still has five minutes.

Mr. Jamieson: Yes, Mr. Deputy Speaker, I know.

Mr. Norman: May I gently point out that the idea of investing £200 million in a new general hospital at Pembury and not doing anything about the road is a manifestly unco-ordinated strategy? Is the Minister telling us that even if the regional bodies say that it is not a priority, the Government will still want to go ahead with the hospital? If so, how does he propose overcoming the planning condition stating that it cannot be achieved?

Mr. Jamieson: Surely the hon. Gentleman will have noted that the Government are providing the funding for the new hospital, as well as the money for the road. He did not say that, and anyone reading the report of the debate might reflect on the probability of either of those things happening under a Conservative Government, if that had continued from 1997, or in the unlikely event of a Conservative Government after the next general election. I have said that whatever the state of progress of the dualling of the section of the road in question, the Highways Agency is willing to consider how the hospital can have a full opening when it is completed.

The Kippings Cross to Lamberhurst improvement entered the Government's targeted programme of improvements in May 2004. The scheme will link the southern end of the Pembury bypass to the northern end of the Lamberhurst bypass. When that scheme and the Tonbridge to Pembury dualling have been completed the A21 will be a continuous dual carriageway from the M25 to the south of Lamberhurst. I am sure that the hon. Gentleman will agree that the completion of those schemes in due course will bring significant improvement to the existing A21 through Kent.

In line with the Government's announcement in December 2004 the scheme will not be constructed until after 2008, and it has also been remitted to the regions for advice on priority. Moving further down the A21, the Government are aware of the problems on the section between Lamberhurst and Flimwell. Both the Kippings Cross to Lamberhurst and Flimwell to Robertsbridge schemes will provide journey time and accident savings, with Kippings Cross to Lamberhurst providing the missing link, so to speak, between the Pembury bypass and the Lamberhurst bypass, and the Flimwell to Robertsbridge stretch providing a reduction in community severance.

The Highways Agency has been liaising with the hon. Gentleman about the development of measures to deal with problems at the largest accident cluster on the relevant stretch of the A21, on which I know my hon. Friend the Member for Hastings and Rye has a view—the Bedgebury junction on the short stretch of dual carriageway north of Flimwell. It is planned that the measures will be implemented in May, and, together with other small scale safety schemes that are to be brought forward as and when they are identified, they are considered sufficient to deal with the safety issues until a scheme for the upgrading can be brought forward in due course.

The matter of the safety of the Bedgebury junction was identified during consultation on the Flimwell to Robertsbridge scheme. Consequently that scheme has been extended northwards to include the junction and a roundabout is now planned to replace the existing junction. The Flimwell to Robertsbridge improvement is the fourth major scheme on the A21. Hon. Members will recall that it is the one that was abandoned in 1996. Although only a small part of the scheme is in Kent—most of it is in East Sussex—it demonstrates the Government's total commitment to the upgrading of the A21.

I announced the preferred route for the scheme only two weeks ago, on 17 February, and that marked yet another major step forward for the A21 to Hastings. In addition to tackling the safety issues at Bedgebury, that five-and-a-half-mile scheme will provide much-needed traffic relief to the villages of Flimwell, Hurst Green and Silver Hill.

To conclude, I hope that the hon. Member for Tunbridge Wells and his right hon. Friend the Member for Tonbridge and Malling will appreciate that with four major schemes on the A21 the Government are committed to its upgrading. The Lamberhurst bypass will open next week and others will follow in due course. I hope that the debate has been a reasonable airing of the issues, but if the hon. Gentleman wants further discussion with me and the Department I shall be happy for that to happen.

4.4 pm

Sitting suspended for a Division in the House.

Freight (Tees Valley)

4.17 pm

Dr. Ashok Kumar (Middlesbrough, South and Cleveland, East) (Lab): I am very happy to have secured the debate after several attempts to do so. I have been lucky.

I want to focus on two things. First, how can we make local freight movements environmentally sound and improve them on non-road connections to the ports of Tees and Hartlepool? Secondly, I want the freight originating in my area to be switched from road to rail. My constituency is a typical Tees valley constituency. Many of my constituents work in traditional industries such as chemicals, steel, heavy engineering and mining—industries that generate a large tonnage of bulk products and use large volumes of bulk products in their manufacturing processes.

Other industries in my constituency are also bulk producers. At Boulby in east Cleveland, we have Britain's only deep potash mine, which directly employs some 600 people and produces potash and rock salt. Teesside is also home to Britain's largest deep-sea ports, which regularly host huge vessels of more than 200,000 tonnes. Tees and Hartlepool—operated by PD Ports, Logistics and Shipping—represent the second largest port in Britain in terms of tonnage and handle a significant amount of the United Kingdom's exports. That tonnage has the potential to grow very rapidly.

More than 53 million tonnes of goods of all sorts are moved through local ports per annum. Steel, chemicals, general goods and potash are all moved in bulk. The port is becoming an important player in roll-on, roll-off ferry freight operations and is also able to handle container traffic. Goods pour in from all continents, although much is moved in ways that do not impact on the local road network. For example, potash and salt from the mine at Boulby are shipped by rail freight wagons direct to the port five times a day. Similarly, often five or more trains per day carry steel to the docks. Many liquid chemicals coming into the port are shipped to the end users by pipeline. However, much of the traffic still ends up on local roads and moves through my constituency on its way further north or to Scotland or the midlands.

A good proportion of such traffic accesses the national road network, but much of it mixes with local traffic on some of the busiest roads in my constituency. The A172, known as the Marton road, takes more than 12,000 vehicles a day. In some places, the road is only slightly wider than the average country highway. It runs through residential areas and also serves the largest hospital in the Tees valley area, the James Cook university hospital. Drastic minimalisation of the HGV traffic using that road would free up the commuter flows and make access to the hospital quicker for everyone.

There is a far bigger reason for it being desirable to improve rail connections to the port: that would allow the port to pursue ambitious expansion plans and also ensure that we could even out UK regional disparities. As most people know, the global shipping trade is increasing almost exponentially. Ship sizes are increasing to accommodate more exports and larger containers. Those factors combine to produce a requirement for increased UK and mainland Europe port capabilities to accommodate the new bigger ships, each carrying more than 8,000 containers. More and larger UK port capacity is required, and deep-sea capacity is necessary for the UK to remain competitive in that important growth market.

The main container-handling ports are in the south of England. Overcrowding and delays at those ports are getting worse. Exporters to the UK do not place great weight on the exact port location. The most important factors are capacity, waiting time and turnaround on unloading and loading. Southampton container terminal has suffered problems with congestion of berths, long dwell times for stored containers and delays for hauliers collecting boxes.

Felixstowe recently opened its completed port extension four years after applying for permission, but the capacity created will cope with only one year's anticipated growth in UK deep-sea container volumes. Other ports, including Felixstowe and Harwich, are awaiting the outcome of public inquiries on planning applications for new terminals. More than 2 million containers entering the UK each year are destined for locations in the north. The southern location of the main UK deep-sea ports means longer road journeys to deliver to the north of England, creating further congestion and pollution.

Bringing containers to the south for road transfer to the north adds, on average, about 150 miles per container to the journey. That process creates congestion and adds to pollution. In the south, the rail lines are already overworked with commuter passenger traffic. Acting to improve connections to Tees port would take pressure off the national UK road network. As recently as July 2004, introducing the Government's transport White Paper, the Secretary of State said:

> "We also intend to take a long-term approach to port development and will publish a review of the policy framework for ports by the end of next year."—[*Official Report*, 20 July 2004; Vol. 424, c. 160.]

PD Ports' deep-sea container port development at Tees port would help to ensure that the UK was in a position to exploit the growing global shipping market and on a level playing field with its European competitors.

The existing port and planned development will attract retailers and others to construct import and distribution centres in the Tees area. There is room to develop up to six distribution centres near Tees port, each capable of providing up to 200 to 300 new jobs. The deep-sea container port development will also create between 200 and 300 new dock-related positions and a significant number of indirect jobs in the ports, logistics and shipping sectors, estimated at between 1,000 and 1,500.

Creating that gateway to the north would remove more than 1 million containers from the UK's southern roads, thereby drastically reducing congestion, but the Government need to take a strategic view of all UK port capacity, particularly that in the north, before deciding whether to allow southern ports to expand. The key to improving UK national port structure and to the aspirations of the ports of Tees and Hartlepool lies in enhancing port rail links.

Vera Baird (Redcar) (Lab): Based on my conversations with the management of Tees port, which

[Vera Baird]

is in my constituency although close to that of my hon. Friend, I can confirm that they are willing and ambitious to expand their container resources hugely. Their proposal would generate about 3,000 jobs, which are much needed in the Tees valley, as it still has higher unemployment than much of the rest of the country. Tees port management asserts that Tees port could supply much of the north of England's container traffic needs. Is it my hon. Friend's understanding that supplying that traffic by rail, which is the optimal way of doing it, would require substantial enhancement of the gauge and tunnelling of rail links? Is he arguing for such investment?

Dr. Kumar: I thank my hon. and learned Friend for that contribution. I am about to turn to the issue of rail. I endorse everything she said; it is in similar spirit to what Tees port management said to me.

Tees port is linked by a spur line originating on the Saltburn to Darlington rail corridor. An analysis of the necessary improvements shows the need for signalling improvements on the spur. It is estimated that those would cost £1.2 million and produce savings in reduced road transport costs of more than £17.9 million in 10 years. The rest of the branch line would need investment to carry what are called "high cube" large containers, which are the industry standard. That would require gauge improvements to a tunnel near Yarm or the provision of a new chord on to the east coast main line near Darlington. That might also look costly, but I believe that that cost would be more than outweighed by the savings made in getting HGVs off the road network.

Where do we go from here? I believe that the essential starting point must be for the Strategic Rail Authority and Network Rail to see the great opportunity of improving links to Tees port. Tragically, as things stand, they do not see it. Indeed, in the key freight document "Gauging Policy", issued in November 2004, the SRA identified only two "strategic route priorities" for gauging improvements. Amazingly, both are in the south. One priority is to improve the line from Southampton to the west midlands; the other is to improve the line from Felixstowe to the east midlands and West Yorkshire. The short and comparatively cheap option of improving the corridor from Tees port to the national network is considered to be only a possible future opportunity.

I ask the Minister to ask the SRA and her officials to query that policy, as it only adds to yet more investment for the relatively wealthy south and does not even begin to address the issue of the key port access improvements identified in the Northern Way growth strategy. Those improvements could be made quickly and cheaply. If PD Ports knew that there was genuine commitment to them, it would be prepared to invest in new expanded port facilities. Indeed, my hon. and learned Friend has heard it say so several times. This is a great opportunity for public investment and for generating private investment.

I conclude by saying that I hope I have enhanced the case for improving the environment and so benefiting my constituents, for helping the economy of part of the north-east and for reducing the environmental overheating of the south-east. In short, I propose a golden solution—a win-win situation for my constituents, the Tees valley in general and the UK as a whole. It richly deserves to be considered an overarching issue for the policy document that the Government are preparing and which will be issued later this year.

I hope that I have made my case seriously and that the Minister responds with positive suggestions.

4.32 pm

The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins): I congratulate my hon. Friend the Member for Middlesbrough, South and Cleveland, East (Dr. Kumar) on securing the debate and on providing the Chamber with the opportunity to discuss sustainable freight distribution in the north and through the Tees port. He has raised several issues that I shall try to address.

The Government are committed to supporting industry by helping to ensure the efficient, free and reliable movement of goods. Our policies to achieve that are set out in "The Future of Transport" and "The Future of Rail" White Papers, providing a framework in which the freight industry can contribute to our continuing economic growth.

We have made real progress. Rail freight volume has increased steadily, rising by more than 45 per cent. since 1995. Almost 19 billion tonnes of freight were moved by rail in 2004. The market share of freight moved by rail has also increased since 1995, and it is estimated that industry has invested some £1.5 billion in rail freight since privatisation.

Certain rail freight initiatives are also being driven forward, the most important of which is the proposal that freight operators and their customers will be given long-term access contracts. That will provide the stability and certainty needed to enable the industry to grow and invest. Indeed, that process has already started. The Office of the Rail Regulator is currently consulting the industry on this very matter.

Of course, structural issues, though important, are not the be all and end all of the Government's support for rail freight. The Department for Transport also provides extremely significant levels of financial support to take freight off road and on to rail through direct and indirect subsidy. Perhaps the most important way in which the Government provide funding is through the funding of the national rail network. Freight-operating companies are charged only for the incremental costs that they impose through their use of the network. All the core costs of the network are picked up through track access charges paid by franchised passenger operators, and by direct grant from the Government.

The Government also provide substantial grant support for freight—well over £20 million a year for each of the next two years. That support has helped to create the impressive growth in rail freight that I mentioned, and the company neutral revenue support scheme has taken more than 600,000 container journeys off the roads in the past year.

However, my hon. Friend really wants to know what the Government are doing for Tees valley, and I am happy to tell him, and my hon. and learned Friend the Member for Redcar (Vera Baird), that the Government are doing a great deal. Two major grants have been

made under the company neutral revenue support scheme to support the transport of intermodal containers out of Tees port by rail. They will provide about £200,000 of funding this year and in each of the next two years, and will take up to 4,000 containers a year off the roads of the Tees valley.

In addition, the Strategic Rail Authority has recently announced a track access grant for the movement of chemical products from Tees port to Workington, which will remove a further 1,462 lorry journeys from the roads. Finally, in 2000, we made two substantial freight facilities grants, totalling over £800,000, to provide funding to support capital investment. That supported the transport of potash to the port, and the facilities became operational in 2002. Those grants are helping to remove 9,700 lorry journeys from the road every year. The Government's commitment to supporting the transfer of freight from road to rail in the Tees valley and beyond should therefore be very clear.

It is, however, vital to ensure that the Government get the best possible value for money from their freight grants programmes, and last month the Department for Transport outlined its proposals for future freight grants through the sustainable distribution fund. That will ensure that grant funding is allocated across rail, water and road schemes in a way that focuses clearly on the objectives of reducing congestion, pollution and the impact on the environment. With the creation of that fund, we were also pleased to announce the reopening of the freight facilities grant—from April 2007—to rail schemes in England, enabling applications to be made for grants to purchase new assets or to replace assets necessary for the carriage of freight by rail. That will help to meet the need for rail freight facilities in the regions, where they can be shown to offer real benefits.

I take my hon. Friend's point about the adverse impact of HGVs on roads and congestion, and the real need to move freight from the road to rail. I can assure him that the way in which congestion impacts on pollution and other environmental issues will be a key factor in determining which schemes receive support. Taking freight on to the railways is not the only way to tackle congestion. We also need to ensure that we make best use of existing road capacity—and the Government are providing important funding to ensure that that is done.

In Middlesbrough, for instance, the council has been awarded a local transport plan block allocation of £3.94 million for 2005–06. That will support small schemes across the borough to reduce congestion and improve accessibility, safety and the local environment. The figure includes more than £800,000 for structural maintenance of the A171 Cargo Fleet lane, which parallels the A172 Marton road and provides access to the western end of Tees port. The Department for Transport has provisionally approved up to £11 million of funding for the major north Middlesbrough accessibility improvements scheme, subject to further development.

The Department is keen to ensure that the freight industry has the necessary support and infrastructure to deliver a continued rise in rail freight movement. I understand my hon. Friend's point about the impact of increased traffic from south-east ports on road networks across the country, including those in the Tees valley. That is why the Government have invested heavily in infrastructure projects that benefit the transfer of freight from port by rail. My hon. and learned Friend raised the issue of PD Teesport's intention to proceed with a container facility there. The Department looks forward to receiving that ambitious application. Indeed, we are doing much ongoing work in order to facilitate the use of large containers on rail.

My hon. Friend spoke about the infrastructure work that has to be done to facilitate that move, but much has already been done. Last October saw the completion of the Felixstowe-Nuneaton gauge enhancement project on time and under budget. That will enable the larger 9 ft 6 in containers to be carried by rail from our largest container port to key freight terminals in the midlands, Wales and the north of England. Likewise, capacity improvements in the Cherwell valley, linking the port of Southampton to the west coast main line, were completed in May last year, which will benefit freight as well as passenger rail.

The SRA has done some extremely good work with the industry in developing a good, value-for-money proposal to make the entire line between Southampton and the west coast main line suitable for 9ft 6in containers. The Government are now discussing with the industry how the project can be funded. However, the enhancement does not need to have the word freight attached to it to be of benefit. The upgrade to the west coast main line is expected to provide increased capacity for freight traffic from the channel ports, and will considerably improve links to the north-west and Scotland. The increased level of track renewals being carried out by Network Rail is also of enormous benefit to freight operators.

As my hon. Friend knows, having inherited a shambles of an infrastructure, the Government are making a huge investment, which is greatly improving the opportunities for carrying freight by rail. Indeed, the Office of the Rail Regulator last week went out to consultation on a new framework for investment in rail infrastructure enhancements. The Government's agenda is to encourage the carriage of freight by rail whenever possible. Clearly, my hon. Friend is rightly impatient for that agenda to benefit his constituency. However, it does not stop at the south-east ports. It is important also for the north-east and the rest of the country.

As I said at the beginning, we are committed to driving forward the continued success of rail freight, both across the country and in the north-east of England. I assure my hon. Friend and my right hon. and learned Friend that, as part of the new regional assessment of transport needs and the new structure of rail, we will endeavour to achieve the best for rail freight and sustainable freight distribution in general.

I congratulate my hon. Friend on securing this debate and for representing his constituents, who I know are concerned about congestion and about the regional development of the north-east. My hon. Friend wants to ensure that the port facilities in his patch create the best possible environment for economic development.

Question put and agreed to.

Adjourned accordingly at sixteen minutes to Five o'clock.

Westminster Hall

Wednesday 2 March 2005

[MR. FRANK COOK *in the Chair*]

Post-primary Schools (Northern Ireland)

Motion made, and Question proposed, That the sitting be now adjourned.—*[Gillian Merron.]*

9.30 am

Mr. Jeffrey M. Donaldson (Lagan Valley) (DUP): I welcome the opportunity offered by this Adjournment debate on admissions arrangements for post-primary schools, a subject that is important to many people in Northern Ireland. Retaining our successful grammar schools and the principle of academic selection in Northern Ireland are key priorities for the Democratic Unionist party. The Province's pupils consistently produce the best examination results in the United Kingdom. The recent consultative document from Northern Ireland's Department of Education on new admissions arrangements to post-primary schools confirms neighbourhood comprehensives as the inevitable outcome of the transfer procedure changes that the Government are seeking. In ruling out academic selection, the Government are excluding the principle that the majority of parents obviously support.

We reject utterly the Government's vision of post-primary education in Northern Ireland. An unaccountable Sinn Fein Minister and the Costello report attempted to ignore the fact that almost two thirds of parents in the Province opposed the Burns report proposals to end academic selection. Now, direct rule Ministers are doing the same. Indeed, I am informed that several schools have applied to the Department for consultation response booklets on behalf of parents, but that the Department has refused to give the schools the booklets, saying that individual parents must contact it directly. I am not aware of such practice in other Departments in Northern Ireland.

Is the Minister afraid of public opinion coming out against the proposals yet again, and thus attempting to limit the parental response? Surely it matters not how a parent obtains the consultation response document. If we are about open government, we should be encouraging more people to participate in the consultation process. Will the Minister deal with such matters in his response? Students should be placed in the school that best suits their needs on the basis of ability, not by postcode or the ability to pay.

Despite excellent exam results in the Province, there are undoubtedly areas for improvement. We need to enhance the qualifications of those not so academically gifted. Children from areas of social deprivation do less well—an issue that we want to address. It is important that more young people from working-class areas reach grammar school and university. It is through a process of academic selection that they are given the best opportunity of proceeding to higher educational attainment.

David Burnside (South Antrim) (UUP): Does the hon. Gentleman agree that the consequence of the imposition of comprehensive education in Northern Ireland will be an independently funded education sector for the well-off and no provision for working-class children? The consequence of comprehensive education in England in the '60s and '70s is to be imposed on us to the detriment of working-class children.

Mr. Donaldson: I thank the hon. Gentleman for that helpful intervention; he is absolutely right. I have spoken to those associated with some of the voluntary grammar schools in Northern Ireland and they are clear that, if the Minister proceeds down the road on which he has embarked, the result may well be that we have private fee-paying schools in Northern Ireland. That will not create the type of social equality that he talks about; it will increase the gap between those who have and those who have not in educational terms.

The current method of testing children at the age of 11 must be improved, so that it is less stressful for them. I have had two young children go through the transfer system and I know the pressures that it places on families. Those in my party support the scrapping of the current 11-plus transfer test, but we believe that it ought to be replaced by a new assessment system that includes academic selection on transfer. Tests could be conducted over a longer period, such as two or three years, and in-class monitoring by teachers during the latter years of primary school could also contribute towards the transfer procedure.

By persisting with their current policy, the Government could rob Northern Ireland of one of its key selling points. It is also flying in the face of what the Minister knows to be the wishes of the majority of people living in Northern Ireland. The public want a system of education that includes academic selection and allows everyone, regardless of their economic background, an opportunity to attend grammar schools—in short, a system that produces pupils educated to the highest standards within the United Kingdom. People in Northern Ireland are proud of what the education system allows individuals to achieve and that academic excellence is open to everyone. At present, the doors of grammar schools are open to everyone in Northern Ireland, not just the rich or those whose parents were educated at grammar schools. Under the Minister's proposals, I fear that the net result, whether he intends it or not, will be the opposite.

Martin McGuinness's consultation received an unprecedented reply from 200,551 households in Northern Ireland. Some 64 per cent. of respondents demanded the retention of academic selection. McGuinness, clearly shocked by the results, tried to massage the figures, but his protestations simply did not wash. He claimed that teaching sectors and unions were in favour of abolishing academic selection. How wrong he was: among teachers in Northern Ireland, the response was an emphatic 62 per cent. in favour of retaining academic selection for determining post-primary placement.

In desperation, McGuinness then tried to claim that the responses were skewed due to the motivation of the grammar sector in Northern Ireland. However, it is clear that almost one third of Northern Ireland households replied, two thirds of which disagreed with

[Mr. Donaldson]

the Minister and current Government policy. Such a high level of return in a Government consultation process is a mark of just how concerned parents are about the current direction of policy.

Not only was that concern reflected in the Department's household consultative responses, the Omnibus survey for the same period also showed a clear majority in favour of retaining academic selection. It is clear that the people of Northern Ireland and the teachers and the parents of children in the Province wish academic selection to be maintained. The majority of political representatives in Northern Ireland also favour academic selection. The Government should not seek to frustrate the wishes of the people of Northern Ireland.

On the day that the Northern Ireland Assembly was suspended, Martin McGuinness moved quickly to abolish the 11-plus without any consideration of an alternative system for post-primary transfer. It is sad that the Government have continued to pursue that flawed and unpopular policy.

Mr. David Trimble (Upper Bann) (UUP): Would it not be fair to say that all Mr. McGuinness did was issue a press release? What then happened was that the Government proceeded to abolish academic selection.

Mr. Donaldson: I thank the right hon. Gentleman for his intervention, and he is right. It is sad that the Government have chosen to go down that road in the face of public opinion.

The issues of the transfer test and retaining our grammar schools are extremely emotive, and we readily accept that there is an expectation among many parents that the current 11-plus should be replaced. However, there is also an expectation that the grammar system and academic excellence should be retained. The way forward is clear: we must retain what is best about our education system while reforming what is outdated and ineffective. The Government, in their haste to end the outdated current 11-plus, have failed to take account of how their actions will destroy what is best for academic achievement. They have signalled the end of academic selection from 2008. Such a policy is folly. Decisions should not be taken on narrow ideological grounds; instead the Government should pursue a fresh direction that is in the best interests of all the children of Northern Ireland.

The Costello report is portrayed as a win for all. Those who opposed academic selection were bought off with the promise that it would go by 2009 and that children could opt out sooner. Those who supported academic selection were told that their primary school children would not be affected by any change on account of the time scale involved in delivering a replacement. Grammar school supporters were informed that grammar schools would stay, even though no explanation has been given as to how schools based on delivering an academic education can find those children best suited for their school without academic selection. Parents were told that they would have maximum opportunities to exercise choice in determining the best school for their child.

However, the reality is that some 60 per cent. of post-primary schools in Northern Ireland are already over-subscribed each year. That situation can only deteriorate under the Government's proposals. New admissions arrangements do not offer parents equal choice: if they live outside the immediate catchment area of the school of their choice, they will lose out. Parents will have to get their child into one of the feeder schools of a so-called "good" school—in the event of over-subscription, those are also catchment-area based, and sometimes tightly so, even down to house numbers. That clearly works in favour of the middle classes and those in towns. How can it possibly be a fairer system than the current one?

The Northern Ireland education ethos has always been of a system offering opportunity for all. Aspects of the system have failed some sections of society, particularly working-class Protestants. The current system requires reform, but it should not be abandoned. The Government propose the replacement of academic selection with a system that would allow the better-off to send their children to modern, vibrant schools, while the underprivileged would be offered no such opportunity.

David Burnside: Does the hon. Gentleman, my friend, agree that there is already evidence in Northern Ireland of people with money moving and buying houses near the best grammar schools in the Province? There are examples in Belfast and in my constituency—in the case of Ballyclare high and Antrim grammar schools—of people moving to take advantage of their wealth, which ordinary working-class people cannot do.

Mr. Donaldson: Again I thank the hon. Gentleman for his intervention; he is absolutely right. I see that happening in my constituency, too. In the city of Lisburn there are two excellent grammar schools—Friends and Wallace high schools—and some excellent secondary schools. However, the developers are already eyeing up available land close to the grammar schools, because they know that those houses will be at a premium and they will be able to name their price. That ridiculous situation creates social inequality, which the Minister says he is determined to address with his proposals. I urge him to set aside the ideological rhetoric and work with politicians and the education sector in Northern Ireland to deliver an education system that commands support across the community. Costello clearly fails to meet those criteria and should be abandoned.

Lady Hermon (North Down) (UUP): Will the hon. Gentleman explain whether he and his colleagues in the Democratic Unionist party support the proposal—not an Ulster Unionist party proposal—that the procedures that apply in England and Wales, whereby parents in the locality of a grammar school can vote to retain it, should apply in Northern Ireland?

Mr. Donaldson: That would be a kind of local referendum to retain a grammar school, and I am not sure that we want to go down that road. However, I am not against the principle of local solutions such as the Dickson plan in Craigavon. I have not heard the Minister explain what will happen with the Dickson plan under his new proposals; I hope that he will address that, because it affects my constituency and that of the right hon. Member for Upper Bann (Mr. Trimble). Are we going to go down the road of local solutions and retain the Dickson plan?

I say to the hon. Lady that I have concerns about the idea of referendums to determine the retention of grammar schools. I would much rather we retain grammar schools within the existing education system so that they are accessible to everyone. That is a solution, and there is a large degree of consensus between our two parties on that issue.

Mr. Trimble: I thank the hon. Gentleman for his reference to the Dickson plan. It is my view, and that of a number of other people in the area, that if selection on the basis of academic merit disappears, the Dickson plan will disappear with it, although the hon. Gentleman may wish to take account of the fact that a significant number of people in the educational establishment seem to be moving towards selection at 14, which is one of the features of the Dickson plan.

Mr. Donaldson: The right hon. Gentleman is absolutely right. That debate has been part of the discussion about Burns and Costello, yet both reports fail adequately to address whether the Dickson plan will be retained. As far as I am aware from my contact with the schools and those affected by it, the Dickson plan has been a success in the Craigavon area. I do not advocate that solution for the whole of Northern Ireland, but I wonder why the Department seems to have ignored the issue.

In respect of how the proposals will work in practice, the accusation has been made that the key stage 2 curriculum is skewed by the existence of the transfer test, because schools devote time to practice tests and encourage the learning of key facts by repetition. None the less, statistics from 2003 show that at key stage 2 in English and mathematics more pupils from Northern Ireland reach the expected standards than their counterparts in Great Britain.

We fully accept the public will that the 11-plus should be abolished as soon as is practical; however, we do not accept that the ending of an imperfect test should be equated with the ending of any form of academic differentiation at 11. Children do not all have the same abilities or interests and it is wrong to suggest that they do so by seeking to enforce a comprehensive system of education in Northern Ireland.

The Government propose the introduction of the pupil profile, which will be drawn up by primary school teachers and may be given to the desired post-primary school prior to a parental interview. However, the Government say that the pupil profile will not be the basis for selection. How can the Minister defend the fact that there is no requirement for parents to show the profile to the receiving school, or even to discuss their child going to the school with either the primary or the post-primary head teacher? Surely the Minister is not so naive as to suppose that parents will automatically, and unerringly, choose the right school for their child, especially if primary teachers are less than honest in their assessment of the pupil's ability. There will be pressures on primary school teachers in drawing up the pupil profile.

How can a child who lives closest to a former grammar school get a place because of the distance criterion, when a child who lives further away but who has more academic ability cannot get in? How can that be just? It will cause confusion to parents who will see the pupil profile as a key and, perhaps, decisive influence on the transfer process. They will in turn often put enormous pressure on primary school teachers and principals to accentuate the child's strengths and downplay its potential weaknesses. The pupil profile without academic selection simply creates false expectations for parents, who will place considerable weight on it, even though the Minister claims that it will not be the basis for selection. If there is no test, and no other tangible means of assessing the child's ability, it is inevitable that parents will see the pupil profile as the basis for selection, even if that is not the Department's intention.

The preparation of the pupil profile will mean additional work for primary school teachers and principals. What consultations have been held with them about the pupil profile? Without objective testing and external moderation, the new admissions arrangements put the P5, P6 and P7 teachers and primary headmasters in the firing line. The pressure on them to state that a child is capable of pursuing an academic course will be tremendous if it is based on class work and a class teacher assessment, albeit moderated within a school. Does the Minister agree that even if the pupil profile is not to be used—or even seen—by the receiving school, primary school teachers will be under greater pressure?

The implications for post-primary schools are also a matter of concern. Under the Government's proposals, each parent has the right to an interview with the school or schools of their choice prior to selection, which could have significant consequences for such schools, with hundreds of one-to-one interviews being required with principals during the November period designated by the Department. The new admissions arrangements refer a great deal to the objectivity of the pupil profile, but there is no indication as to how that objectivity is to be achieved. It cannot possibly be objective if it is based only on internal assessment. It is also not comparable with that for other children of the same age if there is no external moderation. There can be no consistency, as promised in the new arrangements document, if there is not some external moderation. How does the Minister propose to ensure the objectivity and consistency promised in the consultation document?

Despite 35 years of civil unrest, our pupils in both grammar and secondary schools have consistently out-performed their counterparts in Great Britain at GCSE and A-level. In 2002, 58.7 per cent. of Northern Ireland pupils obtained five or more A* to C grades at GCSE compared with 52.5 per cent. of pupils in England and Wales. Fewer of our pupils left without any qualifications. The pattern is similar at A-level, with Northern Ireland pupils out-performing their peers in England and Wales by a considerable margin. So why does the Minister want to change the system when it is working? Why does he want to give us the same system that is failing children in England and Wales? Parents in Northern Ireland cannot understand that.

The Minister's claim that our pupils trail behind Great Britain on the average points statistic is grossly misleading. Employers, universities, pupils and parents regard GCSE grades A* to C as pass grades, but the points system in the Costello report awards points to

[Mr. Donaldson]

grades lower than C. That means that a pupil with five C grades at GCSE would have a lower points score than someone who obtained five D grades and two E grades. Moreover, it has been publicly acknowledged by failing comprehensives in England that they have abandoned GCSEs in favour of BTEC qualifications in order to achieve better results—a practice that is not widespread in Northern Ireland.

The results published by the Programme for International Student Assessment for 2003—an assessment of 15-year-old students—suggest that Northern Ireland has one of the best performing education systems in the world. The average score across all Organisation for Economic Co-operation and Development countries in each subject area was around 500 points. In Northern Ireland, the average scores were 515 in mathematics, 517 in reading and 524 in science. In reading, mathematics and science only two OECD countries did significantly better than Northern Ireland. Only pupils from Finland and Korea performed better in reading, and only Finnish and Japanese pupils did significantly better in science. The Minister was forced to admit:

"the performance of our young people continues to be well above the international average, in all the areas assessed."

The PISA findings did not make pleasant reading for Ministers, as 15-year-olds in England scored worse in mathematics, science and reading than pupils from 17 other industrialised countries. Yet the Minister wants to keep the system in England and to remove the system that is currently succeeding in Northern Ireland by international standards. I and many people in Northern Ireland believe that the Minister has got it wrong. We have a system that is working and when something is working one should not try to fix it. One should try to improve it, but not abandon it as the Minister appears to be doing with his current proposals. Why are the Department and the Government so intent on destroying a post-primary system in Northern Ireland that produces such fine achievements at all levels, only to replace it with a system that has patently failed to produce either good academic standards or social equality in England and Wales?

The question of admissions criteria also needs to be looked at closely. In the end, with more than 60 per cent. of schools in Northern Ireland currently oversubscribed, admissions criteria will be a major factor in determining where pupils are educated and what schools they attend. Four sets of criteria are set out in the consultation document: family-focused, community-based, geographical, and the so-called tie-breakers. The fact is that three of the four are in reality based on geographical criteria. The family-focused criteria include whether any siblings are currently at the school, and clearly the location of the school is a factor in that. As for the community-based criteria, feeder primary schools and the location of the parish are issues; again, geography comes into that. Then we have the geographical criteria themselves, with school-centred and child-centred catchment areas. Finally, there are the tie-breakers, which include a consideration of proximity of a school to home. In fact, one could argue that all four criteria are based on geography to a degree, but certainly the latter three are based primarily on geography.

That, I believe, will result in the kind of situation that the hon. Member for South Antrim (David Burnside) mentioned earlier—some schools will be popular, and parents who can afford to do so will move close to them, because when it comes down to the tie-breaker, it is a matter of either random selection or proximity of a school to home. That will create social inequality in Northern Ireland when it comes to education, and that is simply not acceptable. What are the parents supposed to do in my constituency, in places such as Moira and Annahilt, when they do not have a grammar school within miles, and when the feeder primary schools may be outside the catchment area? Moira in particular is on the edge of the Dickson plan area; parents there are in something of a quandary about all that. They are going to lose out, and why should they? Why should someone lose out simply because of where they were born or where they live?

Mr. Roy Beggs (East Antrim) (UUP): Does the hon. Gentleman agree that pupils from rural areas in all constituencies in Northern Ireland would be immediately disadvantaged?

Mr. Donaldson: I thank the hon. Gentleman for that intervention; that was precisely the point that I was coming to. Especially in rural areas in Northern Ireland, pupils will be significantly disadvantaged because the Department is moving towards the closure of small rural schools and the consolidation of schools. That means that rural pupils, by virtue of where they live, will be significantly disadvantaged in Northern Ireland; that covers a significant proportion of the population in the Province.

Mr. Trimble: I take the point that the hon. Gentleman makes with regard to the consolidation of schools, but is it not the case that what is likely to happen next year is driven entirely by cost, with no effort having been made to consider what is necessary on educational grounds?

Mr. Donaldson: I agree with the right hon. Gentleman, not only on educational grounds, but as regards the very proposals and the new system that the Minister proposes to introduce. It seems that one policy is moving forward and another is being adapted, but the current policy does not reflect the implications of the proposals for transfer arrangements in terms of the location of new primary schools and so on.

Proposals that pupils should attend classes in different schools, and that teachers should teach lessons in more than one school, are impractical and misguided. We wholeheartedly support the development of properly accredited vocational courses and believe that it is important that society, and especially the world of work, recognise vocational qualifications as valid and valuable. We must break the cycle of society believing that only academic qualifications have status. That is where the Minister really ought to be concentrating his efforts. Also, he should be supporting the secondary schools that he claims are underperforming, where pupils in working-class areas are leaving without

qualifications. Would not it be much better if the money that he is to spend on reforming the system and abandoning the current one were spent on investment in underperforming schools, on helping the pupils who need the help most, and in particular on developing vocational-type courses in those schools? Such courses would really, practically benefit the pupils and give them an opportunity for a future career from which they would really benefit.

David Burnside: On that point, does not the fact that the special money—what teachers in my constituency told me last week was the Chancellor's money—does not apply in Northern Ireland prove the Government's hypocrisy with regard to spending on "Education, education, education"? The extra money that the Government apply to education throughout the whole of the United Kingdom is not being applied fairly and on an equitable basis to Northern Ireland schools.

Mr. Donaldson: I agree with the hon. Gentleman and I hope that the Minister will address that point. Whether the Minister thinks that what the hon. Gentleman mentions is the reality or not, it is certainly the perception among many in the teaching and educational profession in Northern Ireland.

Under the Government's proposals, academically focused schools do not exist. It is ironic that specialist schools can exist to provide courses in sports science, drama, the performing arts, technology and computing but not in academic subjects. The Minister needs to address that issue clearly. To ensure a fair system of transfer at 11, the choice of pathways must be equally attractive and valued. Pupils with academic interests and abilities must have the opportunity to pursue those at a grammar school, while those with different talents and interests—who are no less valued—must be able to secure a place in a school that will cater for those. If the Minister believes that his proposals will enable grammar schools to continue in their current form, perhaps he will give us the information that I am afraid is lacking in his consultation document.

Society must be encouraged to afford all post-primary schools equal status. That should not just be bestowed but earned by performance and the resourcing and attitude of the Government towards all schools. The consultation document on new admissions arrangements for post-primary schools and the information on the performance of pupils provide no indication of how the Government intend to ensure objectivity.

As parents, we are not impartial judges of our children's educational potential—we need the input of professionals. Underachievement and inequality do not start at age 11. Any current research findings on school attainment levels show that pupils' performance is markedly affected by social class and cultural capital. For example, a recent survey carried out by the university of London's Institute of Education found that primary school pupils eligible for free school meals—an indicator of family poverty—began with lower scores in maths and literacy and fell further behind as they progressed up the school. That finding is duplicated in the O'Brien research carried out in the Irish Republic.

The current system of post-primary education in Northern Ireland, for all its faults, still sends a significantly higher number of pupils from working-class and disadvantaged backgrounds to higher education. Queen's university and the university of Ulster have among the highest levels of students from working-class backgrounds of all universities in the United Kingdom. I believe that the Minister's proposals will result in a reduction in the number of children from working-class backgrounds who make it through to higher education.

I could say so much more on this subject, but I am mindful that other right hon. and hon. Members may wish to speak before the Minister winds up the debate. However, I want to make an appeal to the Minister. A consensus is developing in Northern Ireland which he ignores at his peril. It is important that this issue should be handled sensitively because the decisions taken today will affect a future generation and will deeply affect Northern Ireland, because one of our best selling points is our education system.

The Minister should draw back from these proposals. At this stage, we do not know when the Northern Ireland Assembly will be reinstated, and there would be a consensus among Opposition Members that the sooner that happens—in the right circumstances and with those parties committed to exclusively peaceful and democratic means in government—the better. The Assembly should have the final say on this issue, representing, as it does, the people of Northern Ireland. The Minister should put this matter on hold until the Assembly is reinstated and allow the local parties to take the decisions on how we move the system forward.

David Burnside: On the very point of the Assembly, if it comes back—I do not expect that it will—would the hon. Gentleman's party give the commitment, as I wish that my party would, that we, the Unionist parties, will take the Department of Education and never again let it go into the hands of Sinn Fein?

Mr. Donaldson: I thank the hon. Gentleman for that intervention. It is my belief that in the current circumstances, with Sinn Fein linked to an organisation that is involved in criminality and terrorism, it should not hold any departmental position, never mind the education portfolio. The Unionist parties should co-operate on this issue. I do not want to see a Sinn Fein Minister with responsibility for education in any future Executive. We need to give that priority, because it is a question of confidence. Many in the education system did not have confidence in the previous Minister and are disappointed that the current one has carried through the very flawed policies adopted by Martin McGuinness.

In conclusion, *The Sunday Times* "Parent Power" survey late last year placed 25 Northern Ireland schools in the top 200 UK secondary schools. Given our comparatively small population, that was a fantastic achievement. Such success will not be maintained by destroying academically oriented schools.

There is still plenty of room for improvement. My party and I want to be at the forefront in helping to achieve those improvements, particularly for children from working-class Protestant backgrounds in Northern Ireland. Investment is needed in those areas and in education and schools in those areas. That would benefit the whole community.

[Mr. Donaldson]

Compromising what is best about our education system is no way to proceed. We want a system that allows all children to reach their full potential.

Mr. Deputy Speaker: It would be helpful if right hon. and hon. Members would indicate early that they intend to contribute. Let me explain why.

It is the common convention in this Chamber to start the first of the three winding-up speeches 30 minutes before conclusion. That would mean that we have 23 minutes left under normal circumstances. However, on issues that have a particular local or regional interest, Mr. Speaker has made available the rule that the Chair can curtail the contributions from the two main Opposition Front-Bench spokespeople to five, rather than 10, minutes each. Someone is clearly after my job because they have looked ahead and seen the prospect of that, and I have a ready and willing offer to accept that rule. It looks as though I will have to apply it.

Therefore, we now have 32 minutes. I hope that right hon. and hon. Members will bear that time curtailment in mind when they make their submission, or when they accept or respond to interventions.

10.8 am

Kate Hoey (Vauxhall) (Lab): I will be very brief because I want to see all my friends from Northern Ireland get the chance to speak.

I just want to make two points. I am a product of a grammar school in Northern Ireland—Belfast royal academy—which, 40 years on, still contains a broad social mix and is producing excellent results. It is quite wrong of my Government to be pushing forward with this whole change to the education system in Northern Ireland.

There is a huge democratic deficit in Northern Ireland. We now have Ministers, some of whom probably had not been to Northern Ireland before they were appointed, trying to change an education system that has served the people of Northern Ireland extremely well. Those Ministers have no mandate in Northern Ireland—not a single person there voted for the Government currently running Northern Ireland, because of the ridiculous democratic deficit of not allowing Labour party members in Northern Ireland to be in any way organised.

I will continue from the final point made by the hon. Member for Lagan Valley (Mr. Donaldson), whom I congratulate on securing this Adjournment debate. He said that the proposals should be withdrawn. The consensus on working towards a change in the transfer system—there is no doubt that change is needed—should be followed, and no decisions should be taken until the Assembly is back. It is wrong for any Minister, and for a Minister of this Government in particular because they take no votes from Northern Ireland, to blunder in, pick up a proposal from a known terrorist, Martin McGuinness, who threw it in at the very last minute of the previous Assembly, and take it on. It is wrong that that should happen. Perhaps my hon. Friend the Minister has just taken over the existing situation. I had hoped that he would listen, learn, look, talk to people, talk to head teachers and parents, and that he would take a different decision. I had hoped that he would not be carried along by the small group of people in the Northern Ireland Department of Education who have wanted to see the end of grammar schools for a very long time. Those people got their chance when Martin McGuinness was running things—I hope that we will never again have someone from his party running education. That small number of officials have been zealous in trying to end grammar schools. I am sorry that my Government are colluding in that, and I hope that, even at this stage, they will draw back from the policy.

There is no doubt that Northern Ireland education stands out in the United Kingdom as the best. We see that clearly from all the results. One particularly important figure is that fewer pupils in Northern Ireland leave school without any GCSEs than anywhere else in the UK. Many people who go to Northern Ireland are willing to take jobs there because of the excellence of the education system. We should not change the system radically in the way that the Minister suggests.

We can all agree that changes need to be made and that improvements are needed in some of our secondary schools. There are some excellent secondary schools in Northern Ireland, however, and the transfer between secondary and grammar schools, in areas where the schools work together is wonderful. Children really do have a choice, and as they grow older and it becomes obvious that they need to be at a different school, that is made much easier by the way in which the system works in Northern Ireland.

If we put an end to the current system, we will see a growth in the private sector—people will buy their way into a better education. At present, that does not happen: very few people are educated privately in Northern Ireland. That is a tribute to the education system. We should not destroy it, and we should certainly not destroy it without the support of the people of Northern Ireland and the representatives of the people of Northern Ireland. The Minister should listen to the Members of Parliament from Northern Ireland.

Mr. Deputy Speaker: There are 27 unallocated minutes available.

10.13 am

Mr. Roy Beggs (East Antrim) (UUP): I will begin my remarks by again reminding the Government that the Ulster Unionist party remains totally opposed to the imposition of a comprehensive education system in Northern Ireland, for good reason. However, that reason, no matter how often it is repeated, not just by politicians but by parents and teachers, seems to be lost on this Government. We simply do not want our grammar school system to be replaced by a comprehensive one that has failed Great Britain.

It is not just Northern Ireland's elected representatives, teachers and parents who believe that the Government's plans are fatally flawed and will destroy the excellent system that already provides the best post-primary education available in the country. The United Kingdom's leading education expert, Dr. Chris Woodhead, expressed the same opinion. Speaking at the launch of Concerned Parents for

Education's "Vision for the Future" document in Belfast last Wednesday, Dr. Woodhead dismissed the Government's plans as "crazy". He said:

"You have the best performing system in the United Kingdom. Why would you want to dismantle that?"

That is the very question that we have repeatedly asked the Government since the suspension of the Assembly in autumn 2002, and that they have consistently failed to answer. Perhaps the Minister will tell the House how grammar schools can be retained without academic selection.

We are rightly proud of our education system in Northern Ireland and are committed to raising standards in all our schools. Every parent wants the highest standard of education for their children. We must support all schools in focusing on the essentials and making the most of each child's abilities and aptitudes, thereby allowing every child to develop to their fullest potential. The comprehensive school system that the Costello proposals will create will inevitably introduce a hitherto unknown level of social division and put a high price on education for everyone. The system will pave the way for the expansion of independent schools, which will charge fees that will be unaffordable for most families. Moreover, in Northern Ireland, more pupils from deprived backgrounds go on to higher education than in England and Wales, and the difference between Northern Ireland and Scotland in that regard is even greater. Everyone in Northern Ireland has access to academic schools, regardless of income, property or domestic location, which is not the case in England and Wales.

I am shocked to hear the Minister, the hon. Member for Brent, East, advocating a comprehensive system that has failed the public and proved to be socially divisive in Great Britain. Rather than producing more division, would not the public be better served if the Government were to employ their resources in improving our primary and secondary schools? How can the Government justify promoting specialist schools in Great Britain, yet deny Northern Ireland the right to retain our academic specialist grammar schools and the opportunity to develop vocational specialisms in secondary schools?

In a statement to the House last year, the former Secretary of State for Education said of the education system in England and Wales,

"we expect all secondary schools to become specialist schools with a centre of excellence. They will now be able to take on a second specialism. High-performing specialist schools could become training schools or leaders of partnerships."—[*Official Report*, 8 July 2004; Vol. 423, c. 1012.]

In Northern Ireland, we have not even got our first centre of excellence and specialism in a secondary school. It strikes me as ironic that the Government support specialist schools in arts, technology, IT and sports, yet they are determined to remove schools that specialise in nothing other than academic excellence.

Parents, teachers and their political representatives have met with insurmountable Government intransigence. Clear and reasoned arguments are falling on deaf ears, and so are the wishes of 64 per cent. of the parents of Northern Ireland who expressed a desire to retain some form of academic selection. Ministers and officials appear determined to press ahead, regardless of how often the arguments are exposed as misleading and unrepresentative. Flawed arguments make for flawed policies. We do not wish to see a flawed comprehensive education system in Northern Ireland. The education of our children and the future of our region must not be based on over-generalised, over-simplistic educational theories.

The Government's Costello plan will introduce selection by postcode. In that way, choice of school will be determined by where people can afford to live rather than by their child's ability. A parent's right to choose the most appropriate and suitable school for their child will be taken away. Parents and a fair system of selection should determine the best schools for their children. As Dr. Woodhead concluded, there is no logic in jumping to the conclusion that if we are getting rid of the 11-plus, we might as well get rid of the grammar school system while we are at it. There is no correlation between the two.

The Ulster Unionist party will continue to work at Westminster in the way that it has done, representing the interests of all parents and protecting our children's education and schools from the Government's failed comprehensive agenda. That is why my party will continue to call for raised standards in all our schools, fight to keep our grammar schools, replace the 11-plus with a fairer system of academic selection, and defend parental choice and oppose the Costello recommendations.

Finally, I again call on the Government to adhere to the democratic wishes of the majority of the population in Northern Ireland, and to spare us from a failed comprehensive system, which has blighted the British education system for generations.

Mr. Deputy Speaker: Twenty-one unallocated minutes are available.

10.19 am

Mr. David Trimble (Upper Bann) (UUP): I wish to make just a few points. One of them concerns the decision taken by Martin McGuinness in his last minutes as Education Minister. Some of these points have been made publicly before, but it is important to make them again.

It is not widely known that there was a ministerial code during the operation of the Northern Ireland Executive. That code prescribed which decisions should be taken centrally and had to be brought before the Executive to be considered. It also contained provisions on how decisions would be made within the Executive. The code was, of course, known to all Ministers and to senior officials in the various Departments. It had not been published, because it was still being revised when the suspension began. Indeed, it was still on my desk. There were other reasons why it was still on my desk, which I might be inclined to go into on another occasion. I simply mention that there was that code.

Under the code, the decision in the education sector on the Burns report had to go to the Executive, but Mr. McGuinness had not yet brought the issue to the Executive. There was a simple reason for that: he knew that the Executive would never approve the decision. I can make that statement absolutely confidently. Even if the decision had been approved by the Executive, it

[Mr. David Trimble]

would not have been approved by the Assembly, and the Minister would never have been able to get the appropriate legislation through the Assembly. That was known to those in the system; that would have been known to senior officials in the Department of Education. I do not know how they could have escaped that knowledge.

We then had the unusual situation of suspension. Of course, there are reasons why the Northern Ireland Executive and Assembly were suspended, which I shall not go into, but in the last half hour before suspension took effect, the press release was issued. The following crossed my mind afterwards and I am sorry now that no one pursued it: I do not think that the purported decision in the press release would have survived judicial review. That is the basis of the decision on which the Minister thinks he is depending. Previous Ministers knew that they were dealing with a purported decision that had no validity in terms of the Northern Ireland Executive, the Northern Ireland Assembly or the Northern Ireland people. Perhaps this Minister did not know that, but what he cannot do is in any way pray in aid the Burns report or what might have happened under the Assembly. What is happening now is entirely his responsibility.

Someone once described comprehensivisation in England as the greatest crime committed against the English working class in the 20th century. There is absolutely no doubt about that. Before comprehensivisation was introduced in England, performance in schools there was above that in Northern Ireland. It was only subsequent to comprehensivisation that performance levels and attainment in Northern Ireland got ahead of those in England, and they have moved steadily ahead. That is the comprehensive effect.

It is perfectly correct, as hon. Members have said, that if the proposals go ahead, we will have a public school sector in Northern Ireland. A fair number of Northern Ireland Members were educated in grammar schools, but I do not think that a single one present would have got to a grammar school had there been a public school system, because if the Minister's proposals go ahead, the only grammar schools will be public schools, where people have to pay substantial fees. People from a working-class or lower middle-class background, who have succeeded through merit, will find that channel denied to them.

I hate to have to say this, but it seems significant that the last time that this idea was attempted in Northern Ireland was in the 1970s by Lord Melchett when he was Education Minister. It was defeated by the opposition of society in Northern Ireland. It seems significant that the only times when this idea has been attempted in Northern Ireland under direct rule has been when we have had public school boys as Education Ministers.

Mr. Deputy Speaker: Seventeen minutes remain unallocated and available.

10.24 am

David Burnside (South Antrim) (UUP): I think that I speak on behalf of all Northern Ireland Members present when I say that this is not a single narrow defence of grammar schools, but a campaign for the whole education system in Northern Ireland. If I can catch the eye of the Chairman of the Northern Ireland Grand Committee next week, I will raise the subject again when we consider the total budget spend for Northern Ireland, because we are suffering badly from expenditure-related problems across the primary, secondary, university and further education sectors.

I want to take up a point made by the hon. Member for Vauxhall (Kate Hoey)—she is not right honourable but she should have been made so a long time ago—about the influence in the Department of Education in Northern Ireland of a small number of people. That is seriously important. The Minister should step back a little and identify the civil servants and the number of representatives of academia in Northern Ireland who have been carrying out a campaign since they gave up their kaftans and sandals in the 1960s and 1970s, when they were outwardly left-wing socialists. That is all they are. They campaigned at that time to undermine the education system in England and Wales, and were successful in destroying it. As my right hon. Friend the Member for Upper Bann (Mr. Trimble) said, they lowered academic standards in England and Wales.

Standards in Northern Ireland were higher because we had a widespread, selective, fair and equal education system. There are people in the Minister's Department, and some of the advisers who were involved in the Burns report and the Costello report, who are, frankly, left-wing retreads. The quality of their academic research is not objective, quantitative or qualitative, and is highly questionable.

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Barry Gardiner): Will the hon. Gentleman give way?

David Burnside: I will in a moment. I am not attacking the integrity of any civil servant in his Department, but there are academics such as Professor Gallagher who submit academic reports that are, in my opinion, highly questionable. I have raised that with the academic authorities at Queen's university in Belfast through the normal channels. The Minister should step back a little and realise that there is a conspiracy in his Department and some sections of academia in Northern Ireland—totally separate from the mainstream opinion of society—to destroy our grammar schools.

Mr. Gardiner: I am grateful to the hon. Gentleman for allowing me to intervene on him, although I did not wish to have to raise such a point. I am very happy for hon. Members and others to criticise me and my decisions in my capacity as the Minister responsible for education in Northern Ireland. However, I do not think that it is either fit or decent for hon. Members in this Chamber to criticise my civil servants in the Department of Education in the manner that we have just heard, and on other occasions, when they know perfectly well that it is not possible for those civil servants to respond. If there are proper criticisms to be made of the policy in Northern Ireland, hon. Members should make them to me and I will respond. They should not make them ad hominem to those who cannot respond.

David Burnside: I address the accusations to the Minister. I ask him to trace the record of his ministerial

position and responsibilities in the Department back to the time of the Assembly, and to consider the bias in the composition of the Costello committee. It was not representative of the academic world, and could not have come to any conclusion other than to be against academic selection. If one considers the background pronouncements, submissions and public statements of those appointed to the committee, one realises that the committee was biased, and that was because of the recommendations from officials in the Minister's Department who are against academic selection. I have made my point strongly, and accept the Minister's defence of his civil servants. I would never attack the integrity of civil servants, who have to do their jobs and who, in Northern Ireland overall, do so excellently. However, there is a bias on subject matter in his Department that needs to be questioned.

In the short time available I turn to one other point that has not been raised so far in this important debate. The Minister should look at the slide presentations that were made during the worst days of the troubles by the Industrial Development Board—now Invest Northern Ireland—at Berkeley street, or in New York or Taiwan, in an effort to get investment into Northern Ireland. Companies said that they did not want to be near Northern Ireland—hopefully, we are past those very bad days, and businesses are investing and will continue to invest in Northern Ireland—but the one thing above all that we were able to sell, despite the troubles and our bad image, was the quality of our education system. The Minister is proposing that we lower the quality of that system, and that will be bad for investment.

When an inward investor comes to Northern Ireland, he looks at the return on the investment, the profitability of the enterprise, the amount of support that he can get, and for an environment in which people can enjoy living and working. He also looks at the quality and availability of an educated work force, and the proposals will damage that. That has not been raised so far and I should like the Minister to take it into account. We need investment in Northern Ireland. Let us not destroy what is good in our academic system. Let us improve primary, secondary and the grammar school system, not destroy it.

Mr. Deputy Speaker: The rule is lifted.

10.30 am

Mr. Alistair Carmichael (Orkney and Shetland) (LD): The course of this debate seems as predictable as everything else that happens in Northern Ireland politics. I now find myself starting at half-past 10.

First, I congratulate the hon. Member for Lagan Valley (Mr. Donaldson) on securing the debate. As one who still looks in on Northern Ireland politics as an outsider I found it fascinating. His presentation was exceptionally measured, well reasoned and detailed. Those are not accusations that I would normally level at him, so he can take the praise on this occasion as being absolutely genuine. One remark struck me in particular. He said that we were dealing with an ideologically driven measure. Coming from this new Labour Government, I find that quite refreshing. I may not necessarily agree with the measure, but it makes a pleasant change.

I can bring something of a different perspective to the debate. Unlike the Northern Ireland Members who have all gone through a grammar school, selection-based system, and unlike the hon. Member for Aylesbury (Mr. Lidington) and the new Labour Minister, I had a comprehensive education. A quick look at *Vacher Dod* tells me about the other two Members. For the benefit of the hon. Member for East Antrim (Mr. Beggs), the new Minister represents Brent, North, not Brent, East. My hon. Friend the Member for Brent, East (Sarah Teather) is rather shorter and has rather less facial hair than the hon. Member for Brent, North (Mr. Gardiner).

It was an excellent education and I want to consider for a few seconds why that was. It has a bearing on the debate. I want to try to widen the context of our considerations this morning. First, I got an excellent education because my school was very much part of my community. There was a strong sense of community. That is also true of Northern Ireland. I sometimes think that if Northern Ireland had a slightly weaker sense of community it might find it rather easier to regulate its affairs, but I say that simply in passing.

I also got an excellent education because I attended a school where there were good, well motivated teaching staff who maintained excellent discipline and because the resources that were given to the school were adequate for the job that was required of it. We always want more resources, especially in an area like education. My experience is that the institutional structure in which we educate our children is often less important than the strength of the community, the integration of the school in the community and the way in which the teaching staff are resourced, the children are disciplined and the school functions as part of that community.

My sisters and I are the first generation of my family to go to higher education and to obtain degrees. I come from, to borrow an expression from the hon. Member for Lagan Valley, a working-class Protestant family. My father was a shepherd. I attended school with the children of doctors and teachers. It is no accident that we are the first generation to attend higher education. I do not think that this was a generation in which the Carmichaels just happened to get smart. We are the product of a generation given opportunities by a comprehensive education system that were denied to previous generations.

I do not say that Northern Ireland should necessarily throw the baby out with the bathwater and go down the same route, because there are few more dangerous things in this place than people considering their experience on this side of the Irish sea—or the north channel in my situation—and then trying to transfer it lock, stock and barrel to the situation in Northern Ireland. However, I say to Northern Ireland Members that they should be measured in their criticism of comprehensive education—there is a lot of good to be had in it, and it is not the end of civilisation as they might know it.

Lady Hermon: I have listened carefully to what the hon. Gentleman has said. He is a strong devolutionist, and, fortunately for him, the Scottish Parliament is in place. Does he therefore agree with Northern Ireland Members who have contributed to the debate through

[Lady Hermon]

interventions or speeches that this decision—a crucial and fundamental decision to change the method of education and selection for generations to come—should be left to the devolved Assembly, rather than being taken by a Labour Minister who is unaccountable to the people of Northern Ireland?

Mr. Carmichael: The hon. Lady has served on sufficient Committees, and has heard me often enough on the Floor of the House, to know that that is exactly my view. I share many of the concerns that have been expressed by Northern Ireland Members this morning, including that relating to the manner in which the matter has been handled by the Government. We live in an age in which we are consulted to the point of extinction, but never listened to. [HON. MEMBERS: "Hear, hear."] This seems to be one of the worst examples of that. I caution the Minister that if he proceeds in this manner and with this determination, he will risk doing damage to more than an education system. He stands to bring the entire political system into disrepute, because if there is such a gulf of opinion between the Government and the governed, be it on education or on any other matter, the process of disengagement from formal parliamentary and party politics will only get worse.

Had I been the Member choosing the subject for debate today, and had I been minded to bring forward a discussion on education, I would have been more inclined to focus on the need for integrated education in Northern Ireland because, in my view, that is the absolute priority. However, we are where we are, and I make that point only for the purpose of putting it on the record.

I was struck by some of the proposals made by the hon. Member for Lagan Valley with regard to reform of the system and the abolition or reform of the 11-plus. I thought that there was a great deal of merit in those proposals. One thing that has struck me both during my research for this debate and in the course of the debate itself is that the new ideas all seem to be coming from one direction. All that we get from the other direction—from the Government—is the question of abolition. They say that it is comprehensive or nothing. It seems to me that there is much scope in the current system for greater flexibility—perhaps for making 14 rather than 11 the cut-off. If such a range and quality of ideas is coming from the Democratic Unionist party, the Ulster Unionist party and the Alliance party, why is that not the fulcrum of the debate?

I see that I have taken up nine minutes of the debate; I had not intended to speak for as long as that. I conclude by saying that the Minister ignores the consensus on this issue at his peril.

10.39 am

Mr. David Lidington (Aylesbury) (Con): First, may I congratulate the hon. Member for Lagan Valley (Mr. Donaldson) on securing the debate? It is a subject that, in my journeys to Northern Ireland, I have found to be of huge interest and concern to parents and teachers from all backgrounds and communities.

We have heard today from representatives of both Unionist parties, and I should put it on record that yesterday morning I had a meeting in County Tyrone with Monsignor Denis Faul and representatives from the Catholic grammar schools, who wanted to make clear their outright opposition to the Government's proposals. This is not an issue that divides people along sectarian lines.

I am glad too that we were able to get a slight moderation from the hon. Member for Orkney and Shetland (Mr. Carmichael) of his party's customary hostility to academic selection in all its forms—a hostility that the Liberal Democrats have expressed often in speeches and votes in both the House of Commons and local authorities in England and Wales in recent years.

Today's debate has centred on the Government's proposal to end academic selection from 2008. As we have heard from the hon. Members for Lagan Valley and for East Antrim (Mr. Beggs), there is no evidence that that will improve academic attainment within Northern Ireland. In fact, the English evidence suggests that the opposite is likely. What we see in Northern Ireland is better results in public examinations than in Great Britain and a better record of enabling pupils from all backgrounds to get into higher education. Would that Great Britain could match the standards currently achieved in Northern Ireland.

Everybody accepts that there has to be a mechanism of some sort for determining admissions to schools that are oversubscribed. The Government's consultation document makes it clear that they are looking at two basic options. The first is random selection—some form of lottery with a Minister or one of his officials saying metaphorically to parents, "It could be you". I can think of nothing that is more likely to provoke confusion and uncertainty among parents, who want to have a clear idea of where their children are likely to go to school.

The second option, which is more likely to happen if the proposals become law, is that the distance between home and school will in practice decide where a child should be educated at secondary level. After all, that is what happens in most of England. If that happens, it will place at a particular disadvantage parents and children from rural areas who will almost by definition be further away from schools, which for the most part will be in towns. As the right hon. Member for Upper Bann (Mr. Trimble) said, the Government's model will also place at a disadvantage children living in poor, working-class areas, who will be more likely to be trapped in a neighbourhood comprehensive in the same way as they are trapped in so many inner cities in England and Wales at the moment.

I want to say a quick word about the proposals in the Government document on pupil entitlement, because it has not been mentioned much. The minimum figure of 24 courses for GCSE and 27 for A-level is somewhat arbitrary. We are all in favour of a broad-based curriculum, but to impose such a rigid total is likely to mean one of two things: either split-site schools, perhaps the worst mistake of 1960s educational reform with children being bussed around from one site to another, or an accelerated programme for the closure of small schools, particularly in rural areas, with pupils herded together in large comprehensives. One thing that we know from the English experience and international evidence is that disciplinary and pastoral problems are much more difficult to manage in large secondary schools than in schools with fewer pupils.

There is a better way, and I want to make it absolutely clear that if, as I hope, a Conservative Government are elected this year, my party would abandon this misguided policy immediately. The hon. Member for Lagan Valley made it clear that many constructive approaches can be taken to address the problems that exist with schooling in Northern Ireland. Certainly, we should consider international evidence and build on the idea of the pupil profile to create an alternative mechanism for academic selection to that of the 11-plus exam. We should focus on how to improve schools that are not working well, and in Northern Ireland, as in Great Britain, we should work to establish those high-quality technical and vocational routes through secondary education that Rab Butler saw as essential way back in 1944, but which the United Kingdom has never managed to operate successfully in the decades since then.

I want to give the Minister time to respond, so I shall make my final point. I have always found him to be a genial and pleasant parliamentary colleague and opponent, but I believe he has been sent to the debate today to defend a cowardly, mendacious policy that will be destructive to the life chances of thousands of children throughout Northern Ireland. It is cowardly because the Minister and the Government know that every test of public opinion in Northern Ireland shows a decisive majority opposed to what the Government want to do. The response booklet, which was published with the Government's consultation document, shows that parents were not even asked directly to express an opinion on whether they support the end of academic selection. That amounts to trying to cheat the people of Northern Ireland of a clear say over the future of the education system in the Province.

Despite the language and the promises about the proposals being designed to improve children's education, they are driven by another motive: ideological prejudice. The central proposal, which is to dismantle that part of the Northern Ireland system that works best, is both paradoxical and a flagrantly destructive way to go about education reform.

I hope that the Minister will listen to the debate and to the views of people in Northern Ireland and that even at this late stage the Government will show that they are willing to think again.

10.47 am

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Barry Gardiner): I will speak fast; I will take no interventions—solely because in the time available I want to try to answer the many questions that have already been raised.

I welcome the opportunity to address the points made by the hon. Member for Lagan Valley (Mr. Donaldson). I was astonished by some of the remarks made by the hon. Member for Aylesbury (Mr. Lidington). He must forgive us for wondering whether he read anything but extracts from the document, as he cited only the two criteria suggested as possible tie-breakers—after all the other criteria had been exhausted—as the most likely means that would be adopted for admitting children to post-primary schools in Northern Ireland. That is less than worthy.

Hon. Members will know that on 28 January I published for consultation options for admissions arrangements to post-primary schools in Northern Ireland. As we are in consultation, I am in listening mode; it would not, therefore, be appropriate for me to pre-judge the consultation process, but I want it to be based on facts, not on the rumours or speculation that are regularly reported. The consultation is not about re-running the old arguments about whether the transfer tests should end; it is a consultation on how we should proceed after 2008, when the transfer tests have gone.

While responding to the points raised in the debate, I should like to take this opportunity to lay the facts before the Chamber. I assure hon. Members that their views will be taken into account along with the other responses to the issues covered by the consultation. I intend to publish a summary of the consultation responses after they have all been received and analysed.

Today, and over the past weeks and months, I have heard much about schools, and how the new admissions arrangements may affect successful schools. I am no different from any other hon. Member present in that I greatly value good schools, and I respect and admire the work of their teachers and other staff. However, my focus is not and should not be on schools; it is and must be on children. My focus is not the school's success but the child's. What matters is not a school's position in a league table, but that more children are achieving better results and realising their potential.

The hon. Member for Lagan Valley will be aware that, even in his own constituency, there are wide variations. In some schools almost all pupils achieve five or more GCSEs at grades A* to C, but in others, the figure is below 20 per cent. and even as low as single figures. I cannot believe that he is therefore satisfied that the present arrangements are serving all pupils in his constituency equally well and that they are being given the best opportunities to realise their potential.

Even before the consultation was published, there was a great deal of public comment, widely reported in the media, about the proposed new post-primary arrangements. Many have said that they want an education system that gives every child a good education regardless of their social background, the area in which they live or their wealth. Many have said that we need a system that opens up opportunities for every child rather than closing them down, gives all children an opportunity to realise their potential, and leaves them with a positive attitude to education that will have a lasting effect. Likewise, many have said that we need a system that recognises the value of different types of learning, including academic, vocational and work-related learning. We need a flexible, realistic and relevant curriculum that recognises and rewards those different types of learning and provides clear progression routes for all young people, whether it is into further or higher education or the workplace.

I cannot stress too strongly that I agree wholeheartedly with all of those remarks; they are exactly what we are trying to achieve, and I believe that the new arrangements for post-primary education will provide all of those things. However, there appear to be misconceptions, confusion and uncertainty about the new arrangements, so let me clarify what the new arrangements are not about.

First, let me say, as I have said many times before, that the new arrangements for post-primary education are not about abolishing grammar schools. There is a

[Mr. Barry Gardiner]

clear demand for an academic style of education, as evidenced in the responses to the Burns consultation and in correspondence that I have received. Grammar schools have a key role in the new arrangements and will continue to provide that style of education. However, like all good schools, they are about much more than whom they admit. Parents consider them to be good schools because of the curriculum that they offer, the pace of teaching and learning, the facilities and range of opportunities available, the quality of teaching, the leadership, the tradition and the sense of community. Changing the admissions process will not change those aspects of a school or the value that a school can add to the education of their pupils.

Secondly, the new arrangements are not about imposing a "one size fits all" approach. I want all pupils to have access to the entitlement framework and to a wide menu of general and applied courses. Schools will decide how to do that—working with other schools and the further education sector—and what the precise mix of courses will be. Those arrangements will be developed at local level to respond to local needs. That is hardly a centrally imposed, "one size fits all" approach, as has been suggested.

Thirdly, the new arrangements are not about introducing a comprehensive system. We all recognise that pupils have a range of different educational needs. I want there to be a range of school types, each offering a distinctive approach. I want all schools to develop their curricular strengths, to become centres of excellence and to share their expertise and experience with their neighbours. Parents and pupils will choose the approach and the courses that best meet the child's educational needs and his or her interests, aptitudes and aspirations—

Lady Hermon: On a point of order, Mr. Deputy Speaker. I seek your guidance, because I had understood that we were having an Adjournment debate about admissions arrangements for post-primary schools in Northern Ireland. Is it acceptable that the Minister will not take a single intervention in what is supposed to be a debate on a very important issue?

Mr. Deputy Speaker: I have been lenient with the range of the debate already. The Minister must be allowed to respond to the many points that have been made in whatever way he sees fit.

Mr. Gardiner: Parents and pupils will choose the approach and the courses that best meet the child's educational needs and his or her interests, aptitudes and aspirations, rather than trying to shoe-horn them into either an academic or non-academic pathway.

If those are not the features of the new system, what are? The new arrangements will focus on the child. Each child is unique. They have different learning needs; they mature at different rates and their interests can change over time. The system must be able to recognise and respond to those needs.

Kate Hoey: On a point of order, Mr. Deputy Speaker. Is it in order for the Minister simply to be reading from a prepared speech that is not reflecting what has been said in the debate? It is rather patronising, because it implies that we know nothing about education in Northern Ireland. *[Interruption.]*

Mr. Deputy Speaker: Order. I must point out that, had I been of the opinion that the Minister was out of order, I would have drawn him to order. I resent people questioning my judgment.

Mr. Gardiner: The new post-primary arrangements will raise standards for all by building on the strengths of the current system while addressing the weaknesses; by providing flexibility and choice in schools and courses, enabling young people to keep options open; by engaging and motivating young people, recognising and rewarding their achievements at different levels and in different types of education; and by giving all young people an education that is relevant to the needs of the economy and society in the 21st century.

Today's debate focuses on how children will transfer from primary to post-primary schools. The Costello working group concluded that no form of academic selection would remove the high-stakes, high-stress element and that academic selection at age 11 is itself educationally unsound, as that age is too young to commit pupils to particular educational pathways.

Mr. Trimble: On a point of order, Mr. Deputy Speaker. I do not wish to challenge your judgment; I seek your advice. Several hon. Members have spoken in the debate. Would it be possible for you to find some way in which to encourage the Minister to respond to specific points that hon. Members have made rather than make a generalised speech? His speech is in and about the subject matter, but it does not deal with specific points that hon. Members have made.

Mr. Deputy Speaker: I hear what the right hon. Gentleman says, but I remind the Chamber that the Minister must respond to a debate of about an hour and 15 minutes in something like 13 minutes. In my view, that is a Gargantuan task and, if certain points are not covered in his treatise, I am fairly sure that the permanent secretary, who is also present in the Chamber, will be engaging in correspondence on the Minister's behalf.

Mr. Gardiner: It is clear that hon. Members want to take up as much time as possible in the debate with points of order, so that I cannot answer their questions.

As hon. Members will know, in January 2004 the Government accepted the recommendation that future transfer arrangements should be made on the basis of informed parental choice—parents making informed decisions about the school preferences that they should express on the transfer form. I believe that it is the right and responsibility of parents to make the decision about the most appropriate schooling for their child. I trust parents to make that choice. The hon. Member for Lagan Valley and those who agree with him must explain why they think that they know so much better than the child's own parents.

Let me be clear. I know that sometimes parents will get things wrong, too. They are capable of deluding themselves about their child's talents and capabilities,

but no one cares more about getting that individual decision right than the parent. Parents are not infallible any more than educationalists are, but they have the right to make mistakes for their child. Other people do not. We expect doctors to recommend a course of treatment for a child, but we would not allow a doctor to enforce a decision against the will of the parents. Why should it be different in education?

Advocates of academic selection have suggested that there are suitable alternative methods of selection; they have done so today. However, Northern Ireland has never been satisfied with its various systems of academic selection. That has been a feature of the education system for more than 50 years and, during that time, it has gone through several changes, each time in search of a better system. But the problems still exist. Methods used have included different types of tests as well as combinations of tests and forms of teacher assessment, all of which were found wanting. None of the suggestions that I have heard recently differs significantly from those already tried, tested and rejected.

The key word in the phrase "informed parental choice" is "informed". So how will parents be informed? The pupil profile will be central to that process. It will provide parents with clear and objective information about their child's progress, achievements, interests and aspirations. It is being piloted extensively by the Council for the Curriculum, Examinations and Assessment to ensure that teachers are satisfied that it is manageable and usable—

Mr. Deputy Speaker: Order.

Mr. Carmichael: On a point of order, Mr. Deputy Speaker. I am very grateful to you for taking this point of order. At the commencement of his speech, the Minister said that he would not take interventions because a lot of points to which he was required to reply were raised during the debate. It was apparent to me, even from this distance, that the Minister was speaking from a typewritten text. Presumably, points raised during the debate will have been added to the manuscript. Would it be in order for you, Mr. Deputy Speaker, to require the Minister to place a copy of the speech from which he has just been reading in the Library, so that we may see it and make our own judgment?

Mr. Deputy Speaker: That is not a point of order. Furthermore, the hon. Gentleman is taking time from the next debate.

Rural Bus Services (Norfolk)

11.1 am

Mr. Henry Bellingham (North-West Norfolk) (Con): The House will know that local bus services in counties such as Norfolk are vital to many people. A large number of people without access to private transport rely on those services. For example, local buses bring 500,000 people into King's Lynn town centre and that excludes those buses that bring in students to the local educational colleges and schools. Bus passengers contribute £12.5 million to the retail economy, and that shows the importance of bus services to King's Lynn.

The days of Eastern Counties' double-decker buses plying routes around Norfolk two-thirds or three-quarters empty are over. There is now a new breed of bus company in Norfolk. Most are privately owned, flexible, highly focused, well managed and with highly motivated work forces. One such example is Norfolk Green, based in King's Lynn in my constituency. Its managing director is Ben Colson, who has a huge amount of experience in the industry. His company, founded in 1992, runs 39 buses with an average age of 7.5 years, slightly ahead of the industry average. Its buses cover roughly 4 million km a year, operate on 850 miles of mostly unclassified rural roads with variable maintenance and carry 1.2 million passenger journeys a year. The company employs 75 people, most of whom are on flexible working arrangements to fit their needs, and the buses put a substantial amount of money into the local economy. Norfolk Green is typical of the new generation of bus companies in Norfolk and East Anglia.

However, life for the medium-sized rural and urban bus operator is becoming more and more difficult and challenging. First, traffic congestion is unquestionably getting worse and worse; it is costing the UK economy £25 billion a year. Scaled down by population alone, that represents an additional cost of £1.8 million for King's Lynn. In fact, King's Lynn is more congested than average; peak-hour journey speed on London road is about 3 mph, lower than that of central London before congestion charging. The real cost of congestion in King's Lynn is probably more than £3 million a year.

Modern buses cost roughly £30 an hour, or £1 for every two minutes, to operate. In the King's Lynn area, that is slightly more than the average fare paid; every two minutes of extra time on the timetable because of congestion means that bus companies have to carry one extra passenger. Bus industry costs are rising at roughly 9 per cent. a year. The main culprits are employer and public liability insurance premiums and fleet insurance premiums. In addition, there has been a very big increase in regulatory pressures, which I shall come to in a moment.

First, I should like to say a word or two about the situation in King's Lynn and West Norfolk. We are seeing a number of planning decisions that have consistently tilted the balance in favour of car use. Recently, we have had a number of developments of out-of-town and edge-of-town shopping stores. All of them are geared entirely to the car user, and unfortunately we do not yet have a park-and-ride scheme in King's Lynn.

[Mr. Henry Bellingham]

Furthermore, roadworks in King's Lynn never appear to be properly co-ordinated; I hope that my local borough and county councils will get to grips with that. I can understand why the environmental health department is keen that work does not continue after 6 o'clock, because of intrusive noise to residents. However, at one stage last summer, there was resurfacing on Gaywood road and work at the South Gate scheme, the Loke road junction and the Anglia Canners access junction, and the result was almost total gridlock in King's Lynn. There was a total lack of co-ordination between the borough council and the county council; I hope they will address that.

I turn to some national regulatory issues that affect the industry and the bus operators in our Norfolk constituencies. For the period between 2004 and 2007–08, there is a swathe of significant new transport-specific EU directives. Some of them are perfectly acceptable—especially those that will improve health and safety and those that are aimed at helping the disabled—and taken individually they might not be crippling. However, there is a concern that their total cumulative weight will bear down on companies and destroy wealth and, possibly, jobs as well.

Let us look at the cost of some of these directives. First, there is an EU directive to change weekly driver rest periods, which is expected later this year. That will take away flexibility in the way that drivers can be rostered to work, and it will have the effect of reducing bus services on Saturdays. That could have a significant impact on teenagers and other youngsters who want to have access to various leisure services and facilities in Norfolk. The additional cost to Norfolk Green's operation, if it does not abandon or reduce service levels, will be approximately £60,000 a year.

The EU new recording devices directive replaces paper recording with an EU-wide digital recording device scheme. The capital costs of that to Norfolk Green will be £40,000 over five years, plus half a clerk to administer the scheme. It will bring no improvement in safety; it is merely an EU-wide measure for conformity.

The EU directive on the financial standing requirements will come into force in January next year. It requires each operator to have financial headroom in their bank accounts; that sum will be set in relation to the size of their fleet. It also requires non-euro states to reset that sum every five years by reference to the euro. That means that Norfolk Green must have an extra £102,000 in its bank account. That is a significant sum. The one-off cost to Norfolk Green will be £10,000 a year.

Mr. Keith Simpson (Mid-Norfolk) (Con): Everything that my hon. Friend has said so far applies in my constituency. To reinforce the point he is making, can I draw attention to a constituent of mine? Mr. David Pursey is the managing director of Anglian Bus and Coach Ltd., which operates in both Norfolk and Suffolk. He has said that to get licensed in 24 hours' time, he has to prove to the traffic commissioner that he has £162,000 of headroom in the bank. That has meant that he has had to refinance his bus fleet. He and other bus operators are not against having financial stability and probity, but this will eventually put many bus companies out of business, which will be detrimental to our constituents.

Mr. Bellingham: My hon. Friend reinforces the point. He mentions the extra financial headroom that is required of that bus company, and it is a slightly larger sum than the £102,000 that Norfolk Green will need.

It is one thing if directives are properly consulted on, but the change to operators' licences that will be introduced in 2006 was not consulted on. Currently, operators can opt for either a national or an EU-wide fleet operation status. I gather that, as part of implementing the directive, the UK Government, for their own administrative convenience, amalgamated the two tiers into one at the higher international cost level. The cost to Norfolk Green in this case will be £31,000 a year. I ask the Minister: did the UK Government have any choice in that matter? Could they have implemented at the lower, national level, or were they obliged by the EU directive to go for the higher international cost level?

We then have the EU directive on driver retraining, which requires all bus drivers to receive a minimum number of days' retraining per annum, regardless of their individual standards, professionalism and experience over previous years. Norfolk Green said to me that if it cannot source the extra drivers—there is a local and national shortage—bus services will have to be cut. The additional cost to Norfolk Green would be £20,000 a year.

Then there is the EU draft directive on driver age; there is no start date yet. That will increase the minimum age for bus drivers from 21 to 24, thereby reducing career prospects and attractiveness in the industry, which is a pity. The additional costs resulting from that will depend on the age mix of staff at the introduction of the directive, but there will certainly be an extra cost to industry. Will we, as a country, have any flexibility to perhaps get a derogation from that directive?

I want to mention the Disability Discrimination Act 1995, which is mainly a UK piece of legislation, and which most people support. My concern, in terms of the road transport industry, is that under the Act there is a reasonableness test for buildings and other built structures, and particularly for houses, but there is an absolute requirement for the road transport directive to be implemented. The regulatory impact assessment carried out by the Department showed that a financially positive change would result for urban bus services, but not for rural bus services. Norfolk Green, for example, will have to spend a lot of money replacing vehicles over the next 10 years. The new compliant vehicles will cost roughly £75,000, whereas the modern non-compliant ones cost £50,000. The compliant vehicles are wider, lower and cannot always access some very small rural lanes, thereby leading possibly to less access for some communities.

There will be a substantial additional cost to Norfolk Green as a result of the DDA—roughly £57,000 a year. However, that is a measure that will benefit bus users in Norfolk, and we welcome it. The problem is that all these other EU directives will be a cost and a drag on the business, and will reduce the money available for investment.

Mr. Richard Bacon (South Norfolk) (Con): My hon. Friend has been listing a whole litany of regulations,

most of which, with the honourable exception of the Disability Discrimination Act, seem to be making things worse rather than better. Does he agree that there are some very simple things that bus companies and local authorities could do to make things better? For example, constituents of mine found out by accident of a late-night bus service, run by Simonds bus company, from Norwich to my constituency. When I asked the county council whether the timetable could be made available on every single bus, they said that timetables were distributed through parish contacts, libraries and so on. Does my hon. Friend agree that a simple rule that the timetable for a bus must always be available and displayed on the bus would do a whole lot more good for consumers than many of the regulations that he has been talking about?

Mr. Bellingham: I agree. That is a common-sense suggestion from my hon. Friend, and I can tell him that most of the bus companies in my constituency have gone down that path, and that is to be welcomed. Obviously, in this climate of extra regulation, most bus companies will bend over backwards to try to make life easier for the travelling public.

The last directive that is of great concern is the road transport directive, which is coming in on 23 March. I gather that we will hear more details about that from the Department imminently. The UK had an individual opt-out from the original EU working time directive. That came in under health and safety; it was not under the social chapter. The working time directive restricts the working week for particular employees to 48 hours. As I understand it, the road transport directive came in under what is called a horizontal amending directive procedure. That overrules the original working time directive, and there is no UK individual opt-out. It will substantially increase the cost to many of our bus companies. A similar directive has been applied to junior doctors' hours and it costs the NHS a great deal of money. This provision will cost the rural and urban bus companies a substantial amount of money. I will explain why in a moment. It will add about £45,000 to Norfolk Green's costs. The total costs of all the extra regulations will be £236,000 a year for Norfolk Green. That is a substantial sum to a medium-sized company.

On top of those EU directives there are all the other burdens that are being put on business at the moment. Only last week, the British Chambers of Commerce estimated that the total cost of the extra burdens that have been imposed on business since the previous election is now £40 billion a year. That includes all the extra employment and social costs, in addition to the road transport-specific directives and costs.

Mr. Anthony D. Wright (Great Yarmouth) (Lab): I congratulate the hon. Gentleman on securing this debate. Does he not accept that part of the burden that we now face was created in the early '80s, when deregulation of the bus services occurred? In my constituency, we had Eastern Counties running a good rural service from Great Yarmouth to King's Lynn, Norwich and other parts. We also had our own bus undertaking—the blue bus undertaking—which was regarded as one of the best in the region.

The bus service that we had in those early days was decimated. The burden is now on the residents of Norfolk, who are suffering through lack of services in many areas. The rural bus subsidy grant is trying to assist by giving more services to remote areas, such as parts of both my constituency and the hon. Gentleman's constituency.

Mr. Bellingham: I am grateful to the hon. Gentleman for that take on the overall situation. Some of his points are valid, but I would point out that small independent operators in my constituency are running services from Spalding to King's Lynn and on to Cromer, and from Cambridge to Wisbech to King's Lynn and on to Cromer. Many of the smaller villages are involved. For example, there is a service from King's Lynn to Gayton to Great Massingham to Harpley. Many of those services had lapsed under the old regime. There was the regular sight of large Eastern Counties double-decker buses going round Norfolk's lanes, most of them three quarters or half empty. It was not an economic way of operating. We now have many more flexible operators providing services. They are doing their level best in a difficult regulatory environment.

I want to say a few more words about the road transport directive. It was aimed mainly at long-distance drivers. Obviously, they come under more stress. It is much more monotonous to drive down a motorway. Someone driving a lorry or a bus on a long journey comes under more stress and there is a greater likelihood of their getting tired. Someone driving in an urban or rural environment and going over shorter distances faces much less stress. That is why the EU brought in an exemption under the road transport directive for journeys of less than 50 km. As I understand it, having talked to various experts from the industry, the idea was to exempt urban and bus companies. That is obviously sensible, because such journeys are shorter and should not be subject to the directive. However, many of Norfolk Green's routes are more than 50 km long.

I know that the Minister is having meetings with the Confederation of Passenger Transport UK. The industry is rightly pressing for that limit of 50 km to be raised to 80 km. That would solve many of the problems. We are not asking for drivers to be made to work longer hours or for them to take risks on health and safety. I understand, however, that several Norfolk bus companies are having difficult discussions with drivers, who are worried that they will lose substantial sums under the directive. They may well be considering alternative employment, where there are obviously other opportunities. That cannot be good for the industry.

As we want the Minister to have at least 10 minutes for the winding-up speech, I will conclude. The Government must carefully consider whether, through discussions with their EU colleagues and with the Commission, that 50 km limit can be raised to 80 km. Can the Minister say anything about the other directives, where there may be some scope for flexibility? Can she tell us anything about the overall picture for the future of rural bus services? As I mentioned, we have a significant number of dynamic companies serving our constituents in Norfolk. They are exceptionally focused and efficient companies with highly motivated work forces, but the overall burden of regulation on business has now reached the stage where they will have to take difficult decisions and probably reduce the number of services. That will be to the detriment of our

[Mr. Bellingham]

constituents, so I hope that the Minister will be able to answer some of those points and give us some cause and hope for optimism.

11.20 am

The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins): I congratulate the hon. Member for North-West Norfolk (Mr. Bellingham) on securing this important debate.

The hon. Gentleman raised the issue of congestion in King's Lynn, particularly focusing on the lack of co-ordination of roadworks. He will be delighted to know that the Traffic Management Act 2004 will help considerably in ensuring such co-ordination. As he will know, local authorities will have the power to fine, for instance, utility companies for digging up the road and overstaying their welcome. We are currently looking at the implementation of that Act, and it should help a lot.

Another congestion issue is bus priority measures, which many local authorities have introduced via their local transport plans to great effect. I urge the hon. Gentleman's local councils to consider them. He also mentioned the impact of planning decisions that are geared to the car user. His local authorities should consider a park-and-ride scheme for King's Lynn, as I understand that one does not exist at the moment, to ensure that people park their cars outside and then take the bus into town.

Many of the details about the EC directives could be best dealt with by correspondence. For instance, the road transport directive to which the hon. Gentleman referred does not apply to local journeys under 50 km. If he really is concerned about raising the level to 80 km, I would be interested to hear from Norfolk Green, or any other local bus operator, and the confederation about how that would affect rural bus services. We do not want to create any obstacles for rural bus services, but I am concerned that he doubts whether we should be pushing for driver retraining. In my experience of using buses in rural areas and that of my constituents, driver training is vital. A bus user's confidence is reliant on the driver's attitude. For a passenger who happens to be disabled, whether or not that involves using a wheelchair, driver response is vital. I do not know exactly what the hon. Gentleman's concerns are about that directive, but I would not like any reduction in the focus on retraining.

Mr. Bellingham: Yes, but the point is that some drivers are very experienced and extremely proficient. I know that a number of the drivers in my constituency were recruited from the armed forces, where they had experience driving heavy vehicles, and after some years in the commercial sector they have a huge amount of experience. My point was that surely it should be up to the company to decide whether they need retraining, rather than being mandated by a EU directive.

Charlotte Atkins: Possibly that is the case, but we are dealing not necessarily with a good local firm such as Norfolk Green, but with the general situation. I have heard stories that I would not like to repeat here about particular drivers in particular companies who desperately need training.

On the point about the shortage of drivers, I believe that many companies are doing innovative work in, first, creating more flexible working for drivers to make the job more attractive and, secondly, recruiting drivers who are already trained from Poland, the Czech Republic and other such places. On the Disability Discrimination Act 1995, I would not want to tell my rural constituents that they should receive less of a service in terms of disability access than their urban neighbours, so I would be very concerned about reducing the level of responsibility.

The hon. Gentleman talked about access to lanes. As I shall say later in my speech, many rural services now offer flexible, demand-responsive buses, which tend to be the smaller vehicles. The Government have significantly improved the funding arrangements for rural bus services, and Norfolk in particular has benefited. During the past seven years from 1998, nearly £450 million has been allocated specifically for the support of rural bus services, mainly through the rural bus subsidy grant, providing some 2,200 new or improved bus services. Norfolk has had the highest allocation of RBSG of any local authority in the country—£2.4 million this year alone, rising to £2.5 million in 2005–06. That is a large sum by any stretch of the imagination.

My hon. Friend the Member for Great Yarmouth (Mr. Wright) referred to deregulation. Sure enough, far from being a golden age of rural bus services, under deregulation such services were heavily reduced. We are bringing back a range of subsidies to ensure that rural residents receive the same sort of service as urban residents.

Mr. Anthony D. Wright: On the point that people deserve an equal service, does my hon. Friend accept that there are people in many rural areas, such as parts of my constituency in the northern parishes, who still suffer from a lack of service? I understand that there probably are not enough passengers to fill a bus, but such people should still be able to travel backwards and forwards to and from work by public transport if required.

Charlotte Atkins: Absolutely, because many rural households do not have access to a car.

Norfolk has been allocated a total of £16.5 million since 1998 under the rural bus subsidy grant. That supports some 70 rural bus services in the county and more than 1.6 million passenger journeys, which is a good start. Increasingly, those services are flexible, so that they can be used by a range of people who do not necessarily want to use a scheduled bus service. Recent examples of the services set up by RBSG funding include a feeder bus from villages in west Norfolk into the Cromer-King's Lynn service, and a flexibus service in the Acle area, which links into a half-hourly Peterborough, Norwich, Great Yarmouth and Lowestoft service. The RBSG also supports a bus service originally set up by five parishes in South Norfolk using parish transport grants. That is another way in which local people can help to ensure that their services remain helpful to the local community.

The use of demand-responsive transport and feeder services forms part of many of the developments that we are introducing in rural bus services. Norfolk has

16 demand-responsive services, and an increasing number of such services are being developed to take advantage of the relaxed rules that the Department has introduced. That means that subsidies can be obtained for flexibly routed services. Already, 100 such services have been registered since the change was introduced last year. That is important because in rural areas it is not always feasible to have a scheduled bus going every hour throughout the day. It is important to have a feeder service. An example is the feeder car service in the Great Massingham area. So we can be proud of many things happening in Norfolk. Norfolk Green will benefit from many Government subsidies—subsidies that did not exist before 1997. I am proud of our record on rural buses. My own constituency includes a large rural area, and we have much to be proud of in what we have been doing. I have not been able to go through the details—

Mr. Deputy Speaker (Mr. Frank Cook): Order.

11.30 am

Sitting suspended until Two o'clock.

Broadcasting (North-west)

2 pm

Mr. Peter Kilfoyle (Liverpool, Walton) (Lab): I am pleased to have secured this debate. As I shall illustrate, its full title—broadcasting in the north-west—covers a multitude of sins. I am particularly pleased that my right hon. Friend the Minister is here to answer on behalf of the Government. He has his serried ranks of advisers with him, as well as his redoubtable Parliamentary Private Secretary, my hon. Friend the Member for Wirral, South (Mr. Chapman), who, as a Merseyside MP himself, will have mixed feelings and be acutely aware of the imbalance in the north-west.

Once the debate was secured, Mr. Cook—

Mr. Deputy Speaker (Mr. Frank Cook): Order. I have no wish to disturb the hon. Gentleman's flow, so I should mention something early. He will see from the front of my Bench that the decision was taken by the House, in its wisdom or otherwise, that the four senior members of the Chairmen's Panel who occupy this Chair should be addressed as Mr. Deputy Speaker.

Mr. Kilfoyle: I apologise, Mr. Deputy Speaker; I know that familiarity breeds contempt and I would not like to earn your contempt at this time and place.

When the subject was announced, it provoked interest from the Department for Culture, Media and Sport. The hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) contacted me, as did Ofcom and the BBC. However, I was not contacted, other than en passant by a Westminster correspondent, by ITV, which was illustrative of its attitude towards what goes on in this place—more of that later. My hon. Friend the Member for Knowsley, North and Sefton, East (Mr. Howarth) and I also contacted our television expert in the person of Mr. Phil Redmond of Mersey Television.

Let me put on the record how great and diverse an amount of television talent, in all its many manifestations, there is on Merseyside. As I mentioned, Phil Redmond is an outstandingly successfully producer; we have award-winning writers such as Jimmy McGovern, Willy Russell, Alan Bleasdale and Frank Cottrell Boyce, as well as a galaxy of stars who learned their performing skills on Merseyside. In short, we have a massive pool of creative talent in the city and the sub-region. It is partly out of concern for their professional well-being and to ensure that they have the opportunity to increase and promote the offerings that they make to the world of television and general broadcasting that we are here today. I should also say that in BBC Radio Merseyside we have one of the most widely listened to radio stations in the country. The north-west is a vibrant centre of broadcasting.

I applied for this debate in the aftermath of the BBC announcement that it would relocate £500 million-worth of resources to Manchester—Manchester, not the north-west; the BBC's press releases referred to Manchester. As one would expect, the local Manchester newspaper took a similar line. For example, on 21 January the *Manchester Evening News* reported that:

"Manchester is to boost its credentials as a major TV centre as independent companies follow the BBC's lead and head north."

[Mr. Kilfoyle]

Therefore, not only was the BBC to relocate part of its operations to Manchester, but the relocation of independents associated with some of the BBC departments that were transferring was on the cards. There is a question about what that means for the wider north-west.

In order to consider the matter in more detail, it was necessary to speak to representatives of various media interests and to read documentation. I read a report, "A New Vision for the BBC in the North", written by Mr. John Dickie, head of BBC public affairs. I thought that title reflected a typically London-centric view of the country: "in the north," "oop north"—it could be anywhere north of Watford." Nothing would have made the slightest difference to Mr. Dickie and his cohorts at the BBC—he went on ad nauseam in that document to emphasise just how little thought had gone into the ramifications of a transfer to Manchester, as opposed to the north or even the north-west, which is our concern in this debate.

Happily, I had a far more fruitful meeting with representatives of Ofcom, in which we looked at the review of public service broadcasting published in early February. Although I was appreciative of the range of its considerations, and of its intentions for public service broadcasting, especially regionally, there are gaps that need to be filled. For example, looking more closely at the proposals reveals that the new production partnership fund proposed by ITV plc is hardly generous: its value is £9 million over three years. We may say that that is a straw in the wind, although I would not disagree that it is heading in the right direction. However, £9 million distributed around the regions and nations of this sceptred isle is not a great deal to shell out to achieve the stated objective, which is to support the delivery of new ITV1 production requirements. In fact, I would argue that that is a derisory amount. Nevertheless, I accept that it is going in the right direction.

The aim is to introduce plurality through a thriving production sector, and to that end there will be an increased quota for ITV1's out-of-London production and commitment. However, as in all matters, the devil is in the detail. Ofcom stipulates a quota of 50 per cent. by value and volume, but what is out-of-London production, and how does it relate to quality and, critically, to the regional dimension? It is fair to cite a programme such as "Trisha", which is hardly enlightening to the good burghers of the north-west—one may as well watch Jerry Springer speaking in Swahili as watch some of those shows. Nevertheless, it could be defined as part of the 50 per cent. out-of-London production quota. What does that quota mean and who will actually make it?

We questioned Ofcom very closely on the potential for companies to set up shell companies that, to all intents and purposes, are new producers but that could very well involve the same personnel and owners under another guise. I was relieved to discover that Ofcom has thought about the potential for that. It says that it has means of ensuring that that does not happen and that there is new production in the regions. However, the definition is still loose.

The proposal is to maintain "typically" 5.5 hours per week of regional news. Well, the regional news in the north-west is hardly reflective of the north-west; it is probably more reflective of Greater Manchester. I was surprised when Ofcom told me that it had been assured—certainly by Granada, and I think by the BBC—that more bodies were being put out there on news gathering to increase coverage. I had to report—I am sure that colleagues will endorse this—that our subjective experience is quite the reverse: we think that there is less coverage of the north-west, or at least of huge parts of the region. Coverage does not spread to cover all parts of the region.

That assurance comes on the back of a long history of our being told one thing by the BBC and ITV, but seeing another. That was particularly the case with ITV when it was Granada and at the time of licence renewal, when there was talk of how the obligations under the licence would be met in terms of comprehensive coverage of a region, but the promised coverage simply did not materialise. Unless there is enforcement by the regulator, I have little faith that the undertakings entered into will be met. Ofcom tells me that it is determined to ensure that enforcement takes place and that it will monitor things closely, although I have to confess that I do not know what measures can be taken if people are once again in breach. The history in our region is one of increasing withdrawal from the commitments to the intra-regional coverage that we have been led to expect.

When we met Ofcom, I was particularly taken with one idea—that of the public service publisher. I have had the opportunity to speak to others and to read a little about that and it seems to be an extremely welcome idea. I understand that the public service publisher would be based in one of the regions away from the normal centres of media activity. No one will disagree with that. The idea has great potential to allow many things to happen at even sub-regional or local community level. A friend of mine, Mike Short, who used to be a producer for "World in Action", has involved himself in a co-operative exercise called Toxteth Television in the south end of Liverpool, and he is looking at a venture in my constituency in the north end of Liverpool. The idea is to enable communities to have access to the airwaves in a way that is meaningful to them and results in broadcasting that reflects their interests, instead of some of the tripe that is recycled by terrestrial and other broadcasters and force-fed to the nation. Perhaps such ventures will begin to release some of the great television potential that has hitherto gone unrealised.

We have great hopes for that idea in terms of its being located in the north-west and fitting in with the north-west digital platform. The north-west digital platform is not an easy concept for people such as me, who are naïve about broadcasting technology, to take in, but my understanding is that it will act as a gateway for the multitude of potential channels that will be open from 2008, with the onset of digitalisation. The question is how that can best be used to the advantage of all—producers and consumers—and to enhance the quality of broadcasting in every sense. It has been developed through Mersey Television and is supported by other organisations in the north-west and by people such as John Roberts of United Utilities, who is a prominent

supporter of it, and John Bills of Trinity Mirror group newspapers. Those substantial individuals can see the merits of the north-west digital platform, how it can fit neatly with the public service publisher, and how it will, in turn, affect small community groups. I quoted Toxteth Television—a local group in my city—but with the new technologies that would be equally appropriate to Tower Hamlets television.

Referring to my earlier comments about the huge reservoir of talent that we have on Merseyside, the new technology means that we can use that talent, not only for the benefit of our local community, but for the benefit of communities and producers throughout the United Kingdom. Merseyside already has some advantages—as well as talent, I believe that we are the most wired-up city, literally and metaphorically, in the United Kingdom. We have the technology in place with which to do some marvellous things.

I bear in mind Ofcom's own definition of the public service publisher and what it is intended to do. It is to be

"charged with developing services and content that take full advantage of new distribution technologies . . . a free-to-view premier content service and community services."

I hope that the Minister will respond with some encouraging words about the public service publisher, and where he thinks that that idea will end up. Although I understand that he cannot make a pledge on behalf of Merseyside any more than he can make a pledge on behalf of Sheffield, he will understand the arguments that are being made: that we do not want a London-centric broadcasting industry to be replaced by a London-and-Manchester-centric broadcasting industry. The new technologies allow us to be far more diverse than has hitherto been possible. We are entering an era in which we will have the choice instantaneously between watching a biopic of Mother Teresa or looking at the Chubby Chasers website, whatever our predilection might be. That is the kind of opportunity that the technology allows. It gives freedom of choice for the individual to access all the many sources of broadcasting.

I have a particular concern about some of the weaknesses in current legislation—

Mr. George Howarth (Knowsley, North and Sefton, East) (Lab): My hon. Friend rather brushed over the Chubby Chasers website. It may be for the benefit of the House to know that my hon. Friend enjoys iconic status on that particular website. Could he tell us a bit more about that?

Mr. Kilfoyle: That is one of those fables that are best left to gather dust. It originates with my hon. Friend the Member for Ealing, North (Mr. Pound), who is fond of fabricating exotic tales about people's status on even more exotic websites.

I return to the subject of the north-west digital platform. In 1989 Granada was challenged for the ITV franchise by North West Television, which offered to put the north-west into television service. Hon. Members will remember well the bold and imaginative plan to turn the focus away from being part of what was then regarded widely as a national cartel, and is now a national plc, to becoming a stand-alone, regionally focused broadcaster that made programmes for the north-west. There was nothing too dramatic in that, but it was a little too radical for its time. Sixteen years have passed, technology has moved on and the consolidation foreseen by North West Television has now begun. The people who identified with the region in the Bernstein era have all gone. It is fair to say that that arm of television has become just another business. It has lost the distinctiveness that Granada used to have.

We need a clear and simple mechanism of communication, knowledge transfer and information exchange and exhibition, as well as some celebratory space for people in the north-west in what will become a crowded and cluttered digital landscape. We do not know exactly where we shall go, but we are worried that, unless we are careful, we will be inundated not only with choice, but with mediocrity so lacking in clear identity that it would be a disservice not to flag up such matters now.

ITV is in retreat from regional programmes. Channel 4 and Five are national by definition. Both the public service publisher to which I alluded and the north-west digital platform are exciting and valid, but unproven concepts. We must look for a wee bit of certainty. In today's statement, the Secretary of State said that she had left an opening so that that the funding regime might change at some point in the future, but I thought that that was vague. I certainly hope that the Government are not considering doing it in the short term. Will my right hon. Friend the Minister clarify the position?

At present, only one public service broadcaster—the BBC—by its remit and by funding, reaches from national to regional to truly local services through, for example, its strong local radio services in my home town. The BBC wants to play to that strength and has announced plans to base a series of local digital television services on its existing local radio network, but there are difficulties with that and such proposals need to be thought through. The whole point about the technology is that developments are ongoing and not yet complete, and we do not know what the outcomes will be. We must be prepared to make the best and most varied possible use of those developments.

I wish to refer briefly to the move to Manchester by the BBC, which gave rise to the debate. The BBC is to move between 1,700 and 1,800 people to Manchester by 2010, but my research with the *Manchester Evening News* shows that, with independents moving there, too, the number of people moving might be between 2,500 and 3,000, which is a sizeable number. It is not for me to say to the BBC which of its departments it moves to Manchester, but it strikes me that BBC Online could well be based in Merseyside and enhance its service rather than have it diminished by the move. We have to be careful with new technology because of the provisos that I gave about it still being developed, but we have to recognise that location is not the determinant of where a service is best provided. Look at Manchester, where—once again—we will end up with empire building. The old Manchester building houses 700 or 800 people now, but a new centre is to be built and new hard infrastructure provided. Is that needed in Manchester?

I do not want to sound as though I am carping and whinging about Manchester and its success. I wish Manchester all the very best. It has done some good things, not least in television. In the old days, it provided not only the light entertainment typified by Granada's

[Mr. Kilfoyle]

"Coronation Street", but some very good investigative programmes, such as "World in Action". I would not detract from Manchester's history or its capacity and ability to promote itself and do well, but I honestly believe that when we look at the totality of the north-west—a heavily populated, relatively compact but diverse region—I question whether the concentration of facilities and investment in Manchester is something for the north-west as a whole to be pleased about.

I should point out our history. At one time, television facilities were promised—indeed, they were provided at one stage—by ITV, or Granada as it then was, in Lancaster, Preston, Liverpool and Chester. However, the ITV company clawed back from that provision, starting with the "This Morning" show with Richard and Judy, which was produced in Merseyside but was pulled out and taken to London. ITV has a mere token presence in Liverpool now. Not long ago, I asked it about the building in Liverpool in which it is housed, and I was told that it would be the base from which it would cover Liverpool's year of being the European capital of culture in 2008. However, I read the following week in the local newspaper that it was selling the building to national museums and galleries on Merseyside.

We have a history of not getting a fair share of the pie, and I do not believe that we are getting a fair share now. The truth of the matter is that the technology allows businesses—whether the BBC or ITV—to locate in a whole variety places. ITV is now being consolidated into one company, but despite its best wishes and the 50 per cent. of regionally produced programmes, I believe that ITV will become more London-centric. All Manchester is doing is following what happened for a while in the '70s. We are consolidating the BBC on two sites instead of one. I do not think that it is meeting the regional requirement in terms of jobs or best value. It is not reflecting, in any shape or form, what I understand still to be a prime requirement on both independent television and the BBC: ensuring that there is regional content that really reflects regional needs and diversity.

2.29 pm

Mr. David Watts (St. Helens, North) (Lab): I congratulate my hon. Friend the Member for Liverpool, Walton (Mr. Kilfoyle) on securing this important debate. I am a big supporter of BBC North West and ITV, but I believe that both organisations as they stand now are failing the north-west public. Regional programmes and news have declined in recent years, and the quality and content of the programmes is on a downward spiral. If both ITV and the BBC are to justify their charter and licence obligations, we should be able to expect high standards from both organisations. As far as I can see there is reduced coverage of local and national political issues. There is a lot less coverage of Westminster and party conferences. I was amazed to discover that ITV no longer had a desk at party conferences. ITV journalists wandered around without a base. It was difficult for politicians who wanted to talk to them about some of the issues that were being addressed at the conference to get in touch with them. It is certainly a step backwards, in my view.

The current affairs programmes that we see on both BBC and ITV in the north-west are of a lower quality and the coverage is not what it used to be. Most of the current programmes are of the "Kilroy" variety. They take complex issues and turn them into soundbites. They prefer to provoke political punch-ups than to get to the bottom of a complex issue or to inform the general public. They are more of an entertainment. They deal with trivia, gossip and scandal. A typical example would be the recent programme in which a prospective parliamentary candidate was selected. I do not know whether any other Members watched that, but I watched with horror as a racist was eventually chosen as the most suitable candidate to stand in the forthcoming general election. That is unacceptable television. It drags standards down even lower.

Dr. John Pugh (Southport) (LD): Although I agree with the sentiments, I had the good fortune to speak to some of the contestants on that programme. One thing that came out of their experience was that they had increasing respect for existing MPs and how hard they work.

Mr. Watts: I take the point. Most people were horrified, but people said to me that having watched the potential candidates they appreciated that politicians had a difficult job and had to take some tough decisions from time to time. Those programmes do nothing to inform the general public. They do not help people to digest complex issues and to come to a firm conclusion on them. They are almost turning our TV in the north-west into a daily *Hello!* magazine where the quality is now so poor that if a topic does not involve gossip or scandal, it is not worth covering.

That does not mean that all our programmes are bad. I should like to pay tribute to Jim Hancock's programme. Jim is knowledgeable. He is well researched. He is fair and he tries to deal in a sensitive and informative way with the current issues. However, at one time we could have expected to see Jim popping up with local issues in the current affairs programme during the week. I do not see that now, and when I asked him why he told me that he does put issues forward to the BBC but often they cannot be found a place within the current affairs programme.

Mr. Kilfoyle: Given that Jim Hancock's contribution is like a pearl cast before swine compared with so much of the rest, who does my hon. Friend think is responsible for allowing the programme makers or the commissioning editors steadily to degrade the quality of the shows on offer on television?

Mr. Watts: The responsibility lies with the management of those organisations. The north-west group of MPs will be inviting the head of the regional programme news to a meeting to discuss some of the issues that we are raising. Generally most of us are dissatisfied with the management of both those organisations as regards regional programming. It will be difficult to change both organisations. When I speak to representatives of the BBC and ITV, they seem to think that politicians should support them because they are there. They say, "Well, we are Granada and we have existed for many years, so just support us." The only

justification for granting a charter, and for allowing people to be charged a licence fee, is that the broadcasters provide good-quality programmes and deal with regional issues. If they fail to do that, we will have to look at other forms of media, and my hon. Friend the Member for Liverpool, Walton has suggested ways to do that.

There must be a complete review of both those organisations. The regulator needs to look far more closely at the content of their programmes. He also needs to hold them to the agreements they made when the charters were first signed, because I do not believe that they are maintaining the conditions of their charter. They should be challenged on a regular basis if that can be proved, and I think evidence could be provided to demonstrate that.

Mr. Kilfoyle: My hon. Friend will recall that I mentioned that all the major players made contact with me to discuss the subject of this debate and its impact on them, with the exception of Granada. Nobody from its management has bothered to make a representation of their views on today's debate and how it relates to them. As this debate is about the region that was Granada's birthplace and with which it is identified, does my hon. Friend not think that that smacks of arrogance towards those who have a legitimate concern about public service broadcasting in the north-west?

Mr. Watts: It undoubtedly demonstrates that there is an element in each organisation that does not have enough respect for the charter it signed up to and its individual responsibilities. Those organisations are not slow to come forward when their charter is due for renewal; in fact, we fall over them during that short period. But they seem to believe that once the charter has been granted they can do whatever they want for the rest of the time—they can reduce the amount of political coverage or regional programming, or dumb down programmes that were flagship shows in the past.

I obviously welcome the BBC decision to decentralise, but it does not go far enough. When I first went to BBC television centre as a newly elected MP, I was amazed. I was staggered by the size of the operation. Someone offered to show me around the centre, and they took me to one floor that dealt only with e-mails, and hundreds of staff were located there. It has hundreds, if not thousands, of journalists, and it occupies some of the most expensive real estate in the world. It delivers the broadcasting we need in the most costly way. Why should not some of that work go out to other regions?

The BBC's decision to decentralise is a small step; we need to do much more. We have a right to expect the BBC to decentralise as much it can, and to be a national body that represents different regions and to provide jobs and opportunities for the creative talents that exist in those regions so that they can flourish. My hon. Friend the Member for Liverpool, Walton highlighted that that talent does exist in areas such as the north-west, and specifically in places such as Liverpool.

Mr. Kilfoyle: My hon. Friend touched on the important point of the cost of the land and the buildings that the BBC owns in London and elsewhere. Would he therefore agree that the amount of money that is being spent on a new centre in Manchester would be best spent on commissioning new programmes across the region rather than on another great big piece of capital investment, especially when it is questionable whether that is actually required?

Mr. Watts: I think so. I hope that the decentralisation of BBC services will be a continual programme, and that over the coming years more and more of those functions will be put out to the regions. I certainly think they should be spread around regions; I do not see why Manchester or Liverpool, or any one centre, should get the whole of the operation.

Frankly, I think that the BBC is very bad at managing its resources. People quite rightly criticise the size of the licence fee and the amount of money that the general public have to pay for the BBC. The least it can do is ensure that it is as cost-efficient as it can be. It cannot be cost-efficient while the majority of the programmes and the majority of the organisation are based in London. That runs counter to any logical argument. The second thing that people can expect from the BBC is higher quality. It should set the targets for other media and broadcasters to follow. It is running scared of satellite services. It is dumbing down programmes and running after the same sort of audience. In doing so, it is doing a disservice to itself and to the general public.

Our democratic system relies on the information flow to the general public. If we are not going to use the television systems—the BBCs and the ITVs—to get over the complex issues and to start to debate them, and to explain what we are doing in places such as this one about addressing those serious issues, how will we have a thriving democracy?

It is about time that the Government took a tough line with these people and set out clear, precise, rational ideas about what they want from the BBC and from the independent ITV services. The regulator should take a much tougher line if they fail to meet standards. We want to see them not just once every five years or whenever the charter is renewed. We should have a regular review to ensure that they are delivering what they promised. In terms of both the BBC and ITV services, failures are taking place.

I hope that this debate will start one within the BBC and ITV, and I hope that they will start to realise that they cannot take the support that I think they enjoy from most people in this Room unless they deliver the product that we expect them to. It is a sad day when MPs have to stand up and say that.

I am not having a go at individuals in the BBC or ITV. I like most of the people who work in both those services. Many of the creative people and the people in front of the camera understand what we are saying. If they were not employed by those organisations, they would be making the same points as myself and my hon. Friend the Member for Liverpool, Walton have made today. I hope that the management will start to examine the issue. We need to hand some things back.

Mr. Kilfoyle: I share my hon. Friend's admiration for many of the individuals. Does he not think that because of the nature of the institutions and the effect on individuals, we end up with a situation where, as I understand it, as the departments move from London, the independents that supply them move up from

[Mr. Kilfoyle]

London to Manchester? Hat Trick Productions is among those. Ironically, it is owned by a fellow Evertonian and Liverpool person, Jimmy Mulville. I am not saying that he is any less committed to Merseyside than any of us would be, but the institutions stick together. Their interests are knitted into each other. The individual ceases to have an individual perspective on what is good in the wider context of broadcasting.

Mr. Watts: My hon. Friend is far more knowledgeable about these things than I, but I take the point that he made. We do not just want the existing services decentralised to our region. We want our region to be able to develop its own programmes and to focus on local issues in current affairs, general programmes and news. We want a north-west based service that deals with north-west issues.

It is ironic that when I meet people in the media around here, they often come from the north-west. My hon. Friend just mentioned one such person. It is amazing. One falls over such people down here. All those people have to travel down to London to make a career in television and it is a disgrace. As I said, it makes no economic or cultural sense. The sooner we get back to a system where the BBC represents us all and not just a small elite in London, the better.

2.44 pm

Mr. George Howarth (Knowsley, North and Sefton, East) (Lab): I, too, congratulate my hon. Friend the Member for Liverpool, Walton (Mr. Kilfoyle) on his good fortune in securing this debate and on the comprehensive way in which he introduced the subject.

We are all anxious to emphasise that this is not another scouser whinge. We are not complaining that Manchester is getting a bigger share of the cake or voicing sub-regional enmity towards Manchester based on football rivalry or some esoteric event in the past. We are certainly not going to bring the hon. Member for Henley (Mr. Johnson) into the debate; enough has been said on that subject. What my hon. Friend has described is a systemic failure. Large corporations do not know how to provide services that are essentially regional in character—that is the truth of the matter. The business logic of their position is always to go back to what they know best and centralise everything, usually in London. My hon. Friend, other people and I have tried to address these problems over the years, and he rehearsed the arguments more fully than I need to. Repeatedly, we have been given assurances about services that would be located on Merseyside and for a short while they have been, but as soon as it has become inconvenient to maintain them, away they go. Until the next time there is some negotiation about charters or licence fees, the issue is completely forgotten about. That is how large corporate bodies operate.

I listened to the statement made by the Secretary of State for Culture, Media and Sportin the Chamber this afternoon. I was particularly encouraged by what she said about regional broadcasting—that "To reflect the whole of the United Kingdom and its different and diverse communities, the BBC also needs to make sure that a significant slice of production takes place outside London. It needs to provide a specific range of services for the UK's nations and regions. People should see the full diversity of the UK and their local communities reflected in mainstream as well as regional programming." That is what is to happen in the BBC, and is precisely the direction in which my hon. Friends the Members for Liverpool, Walton and for St. Helens, North (Mr. Watts) and I are trying to steer provision.

Mr. Watts: Does my hon. Friend agree that unless the Government, the regulator or both stipulate precisely what they want in the charter—the proportion of programmes that are to be made outside London—it is likely that the BBC will resist increasing that proportion more than it has to? Does he believe that the regulator should set out the proportion of programmes that should be made in the regions?

Mr. Howarth: I agree, but there are such proportions tied to the charter and the arrangements that Ofcom is negotiating with ITV. My contention is that the issue is not so much about what the proportions should be, but about how the BBC goes about its business. As my hon. Friend the Member for Liverpool, Walton mentioned, it could do exactly what it is doing now but simply put a brass plate on a building and say that it is achieving the required proportion because it has an office in some part of Liverpool or Manchester. Ofcom is particularly alert to that possibility and, hopefully, will police the issue more fully in future.

Mr. Kilfoyle: I ask my hon. Friend to reconsider what our hon. Friend the Member for St. Helens, North has said. I understand him to be saying that something should be written in legislation to ensure that neither ITV plc nor the BBC can evade their responsibilities.

Mr. Howarth: Generally, I agree; I simply did not want to get involved in a debate about proportions, although I intend to cover how such matters should be guaranteed in future. My hon. Friends make a good point.

My first point is similar to one made by my hon. Friend the Member for St. Helens, North about what gets covered by whom and where. The current preoccupation in news and current affairs is with headline issues. If there is a big issue in Liverpool and stations have someone available, they might send a film crew out to cover it, but there are all sorts of things going on below the radar that nobody covers.

I have a specific example. On Monday morning my hon. Friend and I attended an event in his constituency organised by the Young Women's Christian Association. It involved a group of—from what I could gather—teenage and single mothers talking about the difficulties that they experienced. Their agenda was for better buggy access to public transport and more breastfeeding facilities in all sorts of places. What took place was a fascinating discussion about how they got to where they were, the problems that they face and what they think that schools should have done. I will not bore the Chamber with what they think about men in general, but it is not very flattering. That would have made fascinating television, but who turned up? The

St. Helens Star, Radio Merseyside and a couple of other print journalists attended, but nobody from the television companies did so, even though it would have been a fascinating film. Such activity is replicated all over Merseyside, and probably all over the north-west, and nobody expresses the slightest interest in it.

My second point, to which my hon. Friend the Member for Liverpool, Walton also referred, is that there is an enormous amount of talent. Liverpool John Moores university, with which I have an association as an alumnus and as the father of another graduate—my oldest son—has an excellent facility for training film and television programme makers. In fact, it covers the whole gamut of media studies—a branch of learning that takes a knocking in some quarters but covers a growing market with a growing number of jobs. There are talented people on Merseyside but, as my hon. Friend the Member for St. Helens, North said, they mostly end up having to go somewhere else. How do young potential programme and film makers get into the corporations that have the power to commission programmes? I do not know, but there are some things that can be done to encourage them.

The same is true of young musicians. My hon. Friend the Member for Liverpool, Walton is involved in the Mersey music industry and was instrumental in the organisation of a very good concert in support of UNICEF. There are a lot of young musicians about, but how do they ever get showcased? Who takes any interest in them? If there were another Beatles out there, would anybody actually spot them? I do not know that anybody is producing the music programmes that provide local or regional opportunities.

Mr. Kilfoyle: My hon. Friend makes an interesting point. The first time that the Beatles made a breakthrough was when they played Granada's evening magazine programme, which introduced them to a wider audience outside Merseyside. That is the very type of programme that the channels want to do away with, so what opportunities will there be for those young people to get a break?

Mr. Howarth: As ever, my hon. Friend adds great weight to my argument. A serious amount of young talent is simply not being tapped, but what can be done about it?

My hon. Friend mentioned the potential of a north-west digital platform. Like my right hon. Friend the Minister, when I was young I trained in engineering, but as my family will confirm, I am so technophobic now that my sister-in-law managed to receive 14 texts from my new mobile phone that I never sent. I am hopelessly incompetent with technology, and if I were to show the next part of my speech to my family they would laugh loudly.

The north-west digital platform is made up of three constituent parts: first, a digital television channel; secondly, a digital content hub and, thirdly, a broadband internet site—that is how my hon. Friend managed to link it into his Chubby Chasers website, about which he earlier refused to reveal more. That is the basic proposal from Phil Redmond of Mersey Television, who says:

"The platform will initially occupy a dedicated television channel available on digital satellite (BSkyB), digital terrestrial (Freeview) and digital cable (Telewest e.g.). This channel will become the region's digital shop-window promoting and showcasing regionally produced content, products and services on a free-to-air basis."

That is where we want to go. That is how all that young talent will be identified and developed.

At this stage, it is only a proposal on the Secretary of State's desk, but Ofcom is proposing a public service publishing fund of £300 million. A public service publisher means something slightly different from the traditional publisher. There will be an access fund—a way of commissioning that is outside the stultifying central way of doing things at present. I support Ofcom's proposal, which provides a means by which the deficiencies that we have described can be put right. It is important not only to get the money in place but to ensure that the fund is properly administered in a way that meets the regional objectives and that it can be accessed by independent people outside ITV, Five, Channel 4 and the BBC. The only way we will expand regional input and output is by encouraging more independent people to be involved and giving them the means to do it.

To return to the point made by my hon. Friend the Member for Liverpool, Walton in an intervention, my right hon. Friend the Minister should ensure that such matters are nailed down in legislation where that is appropriate, or, if it is not appropriate, in proper regulations. Too many promises have been made that were never delivered because there was no statutory basis on which they were given. If Ofcom says that something will be done, it should be codified and monitored to ensure that it actually does what it says it will do.

The BBC has an obligation to consider the potential on Merseyside—my hon. Friends and I include St. Helens, Knowsley and Sefton as well as Liverpool in that area, and my hon. Friend the Member for Wirral, South (Mr. Chapman) would add Wirral, too. The potential is there and if BBC Online can be relocated, I hope that my hon. Friend and his ministerial colleagues will point the BBC in the direction of Merseyside because we have a great deal to offer.

There are many things that can be done and there is a great deal of potential out there. I hope that the Government, whom I support in almost everything, will act as the catalyst to ensure that the potential is used to make programmes and films, that performing is encouraged and that they ensure that the fascinating things that are going on below the radar are broadcast so people can see what is going on at community level.

3 pm

Dr. John Pugh (Southport) (LD): When I entered the room, I was genuinely horrified to hear the hon. Member for Liverpool, Walton (Mr. Kilfoyle) speaking. I know that that is a common reaction, but in my case it was because I had mistimed the sitting. My hon. Friend the Member for Bath (Mr. Foster) asked me to speak on his behalf in this debate and, despite my grovelling apologies for being late, that decision will have a beneficial outcome, because I can guarantee that I will be even more supportive of the general thrust of the hon. Gentleman's argument—possibly even more so than my hon. Friend.

I was sorry to miss the first part of the hon. Gentleman's contribution. He has bravely broken the golden rule of the politician, which is not to annoy the

[Dr. John Pugh]

media—a rule to which I subscribe in most circumstances. Very few people break that rule. The Mayor of London is an exception and the hon. Member for St. Helens, North (Mr. Watts) has done it to some extent on this occasion, but politicians normally do not do it. People might have expected the hon. Member for Liverpool, Walton to defer to that rule and not put his city before transient popularity, but he seems to have done precisely the reverse.

There is a false choice on offer, because the BBC can genuinely be persuaded that it is in its interest to look harder at Liverpool. That is not an anti-Manchester point, but a recognition of the position that I hope the BBC will bear in mind. The BBC needs to take into account important sub-regional interests and genuine sub-regional differences, which should be reflected in regional broadcasting. I welcome the move of the BBC and its executive to the north. In turn, the BBC should welcome the wealth and diversity of talent that it will find there and recognise that, whatever it thinks, the north-west is not homogenous and that centralisation exclusively in Manchester might be a mistake.

We are all aware, as are broadcasters in Merseyside, how poor the BBC facilities are. I understand that there is only one small studio in Paradise street that contains little modern, up-to-date equipment and requires considerable technical assistance from the Manchester end. That is not desirable in Liverpool, a capital of culture and one of Britain's major cities. I concur with the sentiments of the hon. Member for Liverpool, Walton and I support their general thrust.

Public service broadcasting in general was mentioned by the hon. Member for St. Helens, North, who has observed, as do we all, what I call the tabloidisation of the BBC and its tendency to reduce serious issues to simple conflicts of opinion. One can understand to some extent the BBC's point of view—it feels obliged to demonstrate that it can get the ratings to justify the money that it charges the public, so it has two competing objectives: first, to get the ratings, and secondly, to be a responsible public service broadcaster. The result is a muddle, because those are two different things: one deals with what is attractive to the public and the other deals with what is important to the public, and the two things do not necessarily coincide. There is a resolution to that difficulty for the BBC, which is to make the genuinely important things attractive. That is not impossible; it can and should be done.

I concur with the sentiments expressed by other hon. Members. Regional journalism, whether in the broadcast media or the press, and even local journalism in our own areas, is in many ways individualistic, sharp-edged. It has a great deal to contribute. Since coming to Westminster, I have been amazed by the somewhat herd-like tendencies of the parliamentary lobby and the national media. Perhaps I may give a recent, slightly controversial example. If I were to tell my local press that I was to make an announcement about something on Monday, they would say, "Well, we'll wait until Monday. You go ahead and do it and we will report you then." However, I note that in their pre-election run-up the Conservatives tell us each Sunday what they will announce on Monday and receive massive coverage throughout the BBC. That strikes me as a bizarre journalistic response, but that is by the bye.

Mr. Watts: Does the hon. Gentleman agree that the media pursue such policies because that takes less time and effort than delving into a subject, researching it and providing the resources to carry out such activity? It is much simpler to deal with soundbites. One of the things that worries me about the BBC, which should set standards, is that it is not putting into programmes the resources needed to make sure that they are well produced, well researched and deal with the important issues that we face daily.

Dr. Pugh: Yes, research takes time and money but might fill no more column inches than the tittle-tattle to which the hon. Gentleman has drawn attention. A relatively trivial exchange at Prime Minister's Question Time can fill the same slot as a substantially and expensively researched programme that contains genuinely novel information. We need a strong regional voice but, as the hon. Member for Liverpool, Walton said, one that reflects the diversity of the region.

3.6 pm

Mr. John Whittingdale (Maldon and East Chelmsford) (Con): I congratulate the hon. Member for Liverpool, Walton (Mr. Kilfoyle) on obtaining the debate on a day when broadcasting is particularly topical and when most of us are focusing on the BBC. I hope that that will mean that his remarks receive even greater attention than they would otherwise.

As a Member of Parliament who represents a constituency in Essex, which is some way removed from north-west England, I take a relatively neutral position in the debate between Manchester and Liverpool. The hon. Gentleman is correct to say that, when I read the subject of his debate on the Order Paper, I was not entirely clear what he wished to pursue. He informed me helpfully of that before the debate, so I shall be brief.

Mr. Kilfoyle: When I spoke to the hon. Gentleman, I was not entirely clear myself about the subject matter of the debate. He should not be put off by the fact that he represents an Essex constituency. After all, the hon. Member for Henley (Mr. Johnson) received copious coverage in the north-west not so long ago.

Mr. Whittingdale: It is my hon. Friend's experience that causes me to be even more cautious and perhaps more brief than I would usually be.

The hon. Gentleman said that ITV had apparently shown little interest in his debate, but I want to say a few words in defence of ITV. It sent me a brief on its activities in the north-west for use in the debate, which I shall be happy to share with him after our discussions if he has not seen it. ITV has been a regionally structured entity. We have recently seen the coming together of the regional companies to form ITV plc, which is probably in the interests of ITV in the new, much more competitive broadcasting environment. We have also received assurances, which I hope will be kept to, that ITV will remain very much regionally focused. Granada, its regional company in the north-west, is

perhaps one of the best-known companies—if not the best known—in the group. ITV has made clear to me that it employs 1,000 core staff in the region and that it contributes £150 million to the creative economy in the north-west, which I understand is now the heart of ITV's children's programming.

The hon. Member for St. Helens, North (Mr. Watts) referred to the controversial production, "Vote for Me", which I, too, watched with some horror. Having seen the effect on the music industry of "Pop Idol", I was concerned that "Vote for Me" might have a similar effect on the House of Commons. The fact that almost no one watched it is therefore of some comfort to me. I do not think that we can expect Mr. Hilton-Potts to arrive here after the general election.

Dr. Pugh: It seems that the ratings for the Parliamentary channel are somewhat similar.

Mr. Whittingdale: That is true, although I have been critical of the way in which all broadcasters—the BBC, in particular—have tended to marginalise parliamentary coverage. There is a dedicated BBC Parliament channel, so they might consider that there is less need to cover the activities of Parliament on the main channels, but that is a serious mistake. I was glad to learn that rumours that "Yesterday in Parliament" was to be done away with are untrue.

ITV has a good record on regional production. It has a quota of about 33 per cent., but actually achieves about 51 per cent. It does so because it believes that it is in its interests to do so, not because it is required of it by statute.

Mr. Kilfoyle: Surely the reason that ITV's regional production exceeds 50 per cent. is purely historical, in that it was formed by regional companies coming together. The question of what constitutes a regionally produced programme remains. What does that term mean? The hon. Gentleman might recall that I mentioned the example of the "Trisha" programme.

Mr. Whittingdale: The precise definition of what is a regional production occupied us at considerable length in our deliberations on the Communications Bill. To some extent, regional programming is more important to the viewer than regional production. Viewers want to watch programmes that relate specifically to their region; the location of the office of the company that made the programme does not necessarily matter to them.

That brings me to the question of regional programming, and the difficulty that ITV will face in continuing to sustain it at present levels. Ofcom analysis highlighted the competitive pressure that ITV now faces and the fact that producing regional programming is much more costly than network production. If I recall correctly, about two thirds of the total cost of the public service obligation on ITV stems from regional programming obligations.

Mr. Kilfoyle: The hon. Gentleman is confusing me. Ofcom does not address programming; it addresses ITV1's quota for out-of-London production. The hon. Gentleman appears to be defending ITV when it is not necessarily being attacked, except in terms of that single definition. What does he think out-of-London production actually means?

Mr. Whittingdale: The hon. Gentleman is right to distinguish between regional production and regional programming; they are totally different, and the quota I mentioned is for regional production. However, I also want to talk about regional programming, because that is important in terms of reflecting the way of life in the north-west. It is an expensive activity for ITV to undertake—indeed, in some cases, the regional production quotas may increase costs. Ofcom rightly identifies a problem in that ITV is having to compete against broadcasters that are not subject to public service obligations, and the value that ITV currently enjoys from having access to the analogue spectrum is diminishing as a result of the steady growth of digital penetration. Ofcom rightly flagged up the problems ITV will face, which led it to recommend that the obligation for non-news and current affairs regional programming should be reduced.

Two hon. Members referred to the Ofcom proposal for a public service publisher. I do not find that option attractive: I am not drawn to the idea of creating another nationalised broadcaster at a time when there is a proliferation of channels. However, I regret the Secretary of State's apparent dismissal of the recommendation of Lord Burns to allow commercial broadcasters to have access to licence fee money. We understand that that was supported by Lord Birt in No. 10 Downing street, but it did not find favour in the Department for Culture, Media and Sport. I regret that, because that recommendation provides a potential solution to the problem that ITV will face in maintaining public service broadcasting. If people believe that it is important that commercial television companies continue to offer regional programming, whether from the north-west or elsewhere, supporting them to do so seems an appropriate use of public money. That could have been achieved under that recommendation in the Burns report.

ITV is a commercial company. It must compete and survive in the marketplace, unlike the BBC. The BBC receives £2.8 billion of public money and is rightly subject to strong public service obligations. It has something like 27,000 employees, and I entirely share the feelings expressed by the hon. Member for St. Helens, North about visiting television centre and seeing miles and miles of corridors. There is no question that it is expensive to produce programmes in London and the south-east, and the BBC has a duty to be present across the whole of the United Kingdom. For that reason, I support, so far as it goes, the transfer of programme making away from London to Manchester. I understand the feeling of the Merseyside Members here today that Manchester may not seem a huge improvement on London. The BBC, on the other hand, says that the move will help to create a hub of media excellence, which is what it is trying to do in Manchester.

Where I feel the BBC could do more, and from which Merseyside could benefit—as would every area of the United Kingdom—would be to increase by a significant amount the proportion of its programmes made by independent production companies. The Government imposed on the BBC a requirement to

[Mr. Whittingdale]

meet a 25 per cent. quota of independent production. It is a disgrace that, for a number of years in succession, the BBC has failed to meet that quota. It has now said that it will view it as an absolute minimum and has talked about creating a window of opportunity for the next 25 per cent. I was interested in the Secretary of State's remark a couple of hours ago that she feels that that may not go far enough. I certainly do not feel that it goes far enough. The BBC has enormous power to encourage the creative economy in Merseyside and throughout the United Kingdom by investing more in independent production. I urge the Secretary of State to do more than just consider that.

The other area that I should like to touch on is radio. When discussing broadcasting, it is very easy to concentrate on television and forget about radio. Radio is very locally based and some of the most successful radio stations are plugged into the centre of their communities. I also welcome, therefore, the opportunities that the Communications Act 2003 will provide for even more localised radio stations, such as community radio.

I end by agreeing strongly with the hon. Member for Liverpool, Walton about the potential for alternative forms of broadcasting, particularly the internet and through the growth of new technology. There is no doubt that the world is changing very rapidly indeed. In some ways, the idea of the BBC or ITV dominating the broadcasting sector will not survive for much longer. As we move into an age of multimedia convergence, the opportunities for extremely localised broadcasting—Toxteth Television or the Chubby Chasers website, which I am clearly going to have rush from the Chamber to access—represent a potentially very important new sector in the media. I congratulate the hon. Gentleman on obtaining this debate and wish him well in his efforts to attract even more of the creative economy into his city.

3.18 pm

The Minister for Sport and Tourism (Mr. Richard Caborn): I shall try to remain within the confines of the title of the debate—broadcasting in the north-west of England—and not stray too far from that.

I congratulate my hon. Friend the Member for Liverpool, Walton (Mr. Kilfoyle) on securing the debate. He knows as well as other hon. Members who have participated that it has been the subject of a number of Adjournment debates in the House. There is tremendous interest in regional television, particularly in an age when broadcasting is increasingly a global business. I am particularly reassured to see so much affection for programmes that reflect the identities of different groups and regions around the country. I suppose, to use the jargon, that it is a case of "think globally, act locally".

I should like to take this opportunity to emphasise the Government's real commitment to the regional dimension of public service broadcasting. That has been reflected this afternoon in the statement on the broadcasting Green Paper made by my right hon. Friend the Secretary of State. We also built it into the Communications Act 2003, ensuring that broadcasters continue to invest time and money in producing high quality programmes for the regions.

A key challenge that now faces the regulator—Ofcom—is how public service obligations, such as programming for the nations and the regions, can best be maintained in a period of rapidly increasing competition and the huge impact of digital take-up. That is where Ofcom's review of public service television broadcasting and the future extent of regional broadcasting on commercial channels become important. The third and final phase of Ofcom's review was published a few weeks ago and has been fed into the charter review process. The charter review Green Paper has been published today.

An important part of Ofcom's review is the examination of ITV's public service obligations and the requirements placed on it to produce a certain amount of regional programming. Those obligations are set out in the 2003 Act, and Ofcom has the responsibility of implementing them. Notably, it has to define what constitutes, in the words of section 287 of the Act, a "sufficient amount" of regional programming in the context of ITV's overall public service obligations. As has been indicated, ITV has already pledged £50 million to ensure continued investment in its regional network production.

Mr. Kilfoyle: What does a "sufficient amount" mean?

Mr. Caborn: As the hon. Member for Maldon and East Chelmsford (Mr. Whittingdale) said, that was the subject of debate during the passage of the Communications Act. It is Ofcom's responsibility under section 287 of the 2003 Act to determine what is a "sufficient amount" of regional programming.

As I said, ITV has already pledged £50 million to ensure continued investment in its regional network production. That will secure a move to more out-of-London production. ITV has shown further commitment to regional news by beginning a £40 million investment programme in its digital news centres across the UK.

Ofcom is therefore faced with some hard choices. Those who disagree with its conclusions that the current regional broadcasting quotas are unsustainable need to be able to demonstrate either that ITV can sustain all its public service broadcasting obligations regardless of the impact of increased competition, or that some other element of its obligations should be removed.

Mr. Watts: I expect the ITV companies to pursue the argument that has been advanced by the hon. Member for Maldon and East Chelmsford—that financial pressures mean that they cannot do what we would like them to do. Can my right hon. Friend assure me that he will resist any push by the regulator or the ITV companies to diminish the amount of regional programming? I have no doubt that there is an ITV offensive now going on—we heard that the Opposition spokesman has been briefed—and I suspect that it relates to the justification for not fulfilling the charter.

Mr. Caborn: One could take that view. However, central to the third phase of Ofcom's consultation will

be the importance of fulfilling the public sector broadcasting regional requirement. That is on the agenda right now. Those issues must be addressed now, when we have some time to develop a sustainable model that could continue throughout the whole of the switchover period.

One of the ways in which we can ensure that broadcasting reflects the diversity of the region is to increase out-of-London production, in line with the move to regionalise and to move economic activity out of the south-east and London arising from the Gershon report. Where the Government have direct control, we have taken a political decision. We asked Gershon to examine how we could move civil servants out of London into the regions. That was clearly a political decision that matches what is happening in the Northern Way and what we have done through the regional development agencies. We believe that the current economic model, with under-utilisation in some regions and potential overheating in others, is not a good one, so the Government are trying to rebalance the economy by leading from the front.

We must also consider major investments, which are drivers of economic growth and wealth creation—universities, transport infrastructure and broadcasting, which we are discussing now. We welcomed the BBC's decision. There was no intervention by Government, because the BBC is independent of Government. We should congratulate the BBC on the proposals to move a large part of its business to Manchester. I know that my hon. Friends have some doubts about it, but in the macro-scheme of things, we should welcome the fact that the Beeb has taken the decision to move out of London into the regions—not just to Manchester, but to Birmingham and Bristol as well. Where it has started to move out in a systematic way, it ought to be supported.

Mr. Kilfoyle: I understand where the Minister is coming from, but surely he recognises that it is a London-centric mindset that drives the proposal. There is no real commitment to diversify across the country. Manchester would be like a colonial outpost for the BBC: it would be relocating something that is not indigenous to the region, because its thinking is set in a different mode.

Mr. Caborn: I do not accept that rationale at all. What about Bristol, Birmingham and Manchester? If I may be so bold as to say so, I think that my hon. Friend has tunnel vision. He ought to be looking at how the centre of excellence and the critical mass can be used in the north-west.

Another, quite unrelated, issue on which discussions took place in the north-west was how the region could it get its two airports, John Lennon and Manchester, working together for the north-west, rather than allowing them to operate in total opposition and competition with each other. I would suggest that, on this issue, there is no reason at all why Liverpool and Manchester cannot come together in the creative industries. I am not just talking about the Beeb but the whole creative industries infrastructure. One of the biggest areas of growth now in terms of wealth creation is within the creative industries, of which this is part.

Mr. Kilfoyle: The Minister mentions Glasgow, Bristol and Birmingham. I can tell him exactly what they are getting: a commissioning editor, comedy, in Glasgow; a commissioning editor, documentaries, in Bristol; a commissioning editor, factual and entertainment for day time—whatever that may mean—in Birmingham; and nothing at all in Manchester in the short term.

Mr. Caborn: When we talk about the BBC moving out of London, it should be seen as part of a synergy of activity within the creative industries, which are now an important area of wealth creation. The Government welcome that. As the hon. Member for Maldon and East Chelmsford said, the role of the ITV structure is also important. There is a lot of added value to be gained by the developments in the creative industries. Our universities have now woken up, albeit somewhat late, to that potential; they are now part of that critical mass in the creative industries using intellectual property. Now there is the merging of television, computerisation and design, we are seeing a significant growth in the regions that was not there before.

I hear what my hon. Friend the Member for Liverpool, Walton says about talent, whether among writers or composers. That talent has now found a platform inside the region that it never had before. In my city of Sheffield, our creative industries are employing well over 2,000 people in quality jobs. That activity is strongly linked with the universities. Yes, I could argue that the BBC and to a lesser extent ITV have not actually got the investment into Sheffield, but into somewhere in Leeds. There is an argument about centralisation within the region, but it is better for the BBC and ITV to move out of London into the regions first; then we can argue about how we will distribute that development within the regions. We are not just talking about broadcasting. The changes have to be seen in a wider context.

Health Services (Hemel Hempstead)

3.30 pm

Mr. Tony McWalter (Hemel Hempstead) (Lab/Co-op): I am glad to see that the Under-Secretary of State for Health, my hon. Friend the Member for South Thanet (Dr. Ladyman)—the Minister for Thanet—is here. We shall be able to resume our discussion, and possibly our duels, on this matter.

I want to focus on acute services in my constituency. However, it is worth saying at the outset that there has recently been steady progress on many fronts on health in my constituency. For instance, in the past those who had had strokes were often left with very little support or assistance. However, recently a new stroke unit at Hemel Hempstead hospital has been offering a much-extended and appropriate service. I should like to place on the record my thanks to the many voluntary bodies that campaigned so hard for that, including Dacorum hospital action group, and to the Government for having the courage to increase national insurance by 1p to raise the funds to improve our health services.

Although similar developments for some other serious conditions are at an earlier stage in terms of effective provision, I am encouraged by the Minister's recent reply to me about the provision of nursing specialists for conditions such as Parkinson's disease and multiple sclerosis. In general, there has been a very welcome focus on the plight of those with chronic long-term conditions. For that group to be helped, health services need to be willing to have a close liaison with social services. Hertfordshire has been a leading authority in making progress in that area, with explicit Government support. A good Government produce real benefits, particularly for those groups of people who have reached a time of life or who are in such a condition that they need the help of others. In that regard, the Government are a good Government carrying out their mandate. However, it is inevitable that in an Adjournment debate I should focus on those areas in which the train looks a bit as if it is coming off the rails, and that is my intention.

As far as the community that I represent is concerned, the body that occasions so much grief is called the Bedfordshire and Hertfordshire strategic health authority. I want to make it clear that I realise that health provision needs to be planned outside the scope of a single constituency—or possibly that of a single county, although that would be more difficult. However, a lot of the complaints that I wish to make relate very much to the people who have been given that job and how they have chosen to do it.

It was pretty unusual that a newspaper advert by the Bedfordshire and Hertfordshire health authority—"Healthcare fit for Herts"—was taken to the Advertising Standards Authority, which found that the advertisement was deceptive. That is an astonishing thing to happen to a public body, and there ought to be much more public accountability when that kind of thing happens. Recently, that health authority had another shot: "Better care for sick children", it said. In that advertisement it talked about there being a bigger, purpose-built ward, although we know that beds for children in the area are going to be reduced from 35 to 26. That advertisement, too, will doubtless end up at the Advertising Standards Authority, but this time we would welcome the Minister's interest in the fact that a public body has used public money to give a demonstrably false impression to the public.

It has not simply been that. An edition of the *Health Service Journal* recently had a brief headline; the letter F was followed by three stars, which were followed by the word "off". One does not need to be a genius to work out what the stars stood for. That expression was used repeatedly by the chief executive of the strategic health authority and was directed at the chief executive of the West Hertfordshire Hospitals trust at a Christmas dinner.

The result of that exchange was that it made the headlines of the *Health Service Journal*, as it should, as an example of the sort of behaviour that should not be tolerated in public servants. It also occasioned the resignation of the chief executive of that trust, someone who had the trust of the community that I represent. The person who preceded the current occupant of the chief executive's chair of the strategic health authority, John de Braux, also had that trust.

The previous incumbent was Jane Herbert. She made every effort to understand the Hertfordshire health economy and the role that Hemel Hempstead hospital in particular, and the large undeveloped site next to it, could play in trying to secure improved health provision for the people of my constituency and those around it.

I put it to the Minister that not simply is such behaviour, on the face of it, at least problematic, but it is extremely strange that there seems to be no way in which that behaviour can be called into question, as it should be.

The advertisement that I mentioned gave what I can only call a pernicious interpretation of a health strategy that people have been using. The pernicious interpretation involves projecting forward to 2012, when, we are told, there will be marvellous new facilities at Hatfield and Watford. I have in front of me an artist's impression of a field, which is yet to be designated, and a wonderful new hospital at Hatfield. So far, so good. I hope that the people of Hatfield enjoy their new facility. That is not the issue. The issue is whether, as part of that strategy, we should be planning for a reduced service in certain areas of the county.

On Monday, I went to a meeting to discuss the reconfiguration of children's services in my area; it was not a reconfiguration, but a contraction—from a significant number of beds to rather less. The pernicious interpretation of the strategy involves the idea of creating a hospital at Watford one day, costing, let us say, £330 million. It will be accessible by some kind of monorail from Hemel Hempstead, which will get people there in, let us say, 10 minutes. I suspect that if that were the case, there might not be too much worry in my constituency about the health facilities that people need being quite far away. As it stands, they could be enormously far away.

That does not apply only to health. In 1993, my local further education college was combined with a college in Watford. Then, all the services at Hemel Hempstead began to be contracted. As a result, there is little FE provision for my constituents, because Watford is too far away. Kids stay on at school doing unsuitable subjects, because the alternatives are non-existent.

The Government say that they want national health service customers to have choice. My constituents want the choice of being treated in their local hospital, not only because it is convenient and gives them a good service, but because as things stand Watford is a hospital in the process of demolition. To move a service from a perfectly functioning hospital with a large number of new facilities to a hospital that is in the process of being demolished is entirely perverse.

If that is the strategy, one should at the very least make the best possible use of the excellent hospital at one's disposal, while perhaps reconfiguring services or doing demolition jobs at the target hospital. Indeed, that is exactly what has happened elsewhere in Hertfordshire in the relationship between Stevenage hospital and hospitals in the Welwyn-Hatfield area. Services have been established at Stevenage to try to ensure that at least Stevenage plays an appropriate role in the transition process, which is anything but finalised and has yet to get even an outline business case.

Why is not Hemel Hempstead playing such a role? The answer is, because we are severely disaffected with the strategic health authority. It wants to ensure that we are brought into line by effectively taking every decision as quickly as it can in what I can only describe as a malevolent way. There is no rational argument here. The language that is used and the advertisements that we are forced to plough through, all have the effect of marginalising the process of rationality.

One of the issues that we have tried to get across repeatedly—utterly unsuccessfully so far, but with the Minister's help perhaps that can change—is the fact that efforts are being made to get a regeneration programme going in Hertfordshire. I have taken a particular interest in that regeneration programme because there is land in my constituency that is in public ownership and not in the green belt. Without any infraction on amenity space it could provide a site for a significant programme of affordable housing for our youngsters and for the next generation.

That land is potentially available and yet whenever we mention that Hemel Hempstead might take some of the regeneration that Hertfordshire is expected to achieve, there has never been any suggestion of trying to improve the health infrastructure to service that enlarged community. That is not because it is not a reasonable thing to request, but because we have a health authority that is entirely unreasonable and deaf to rational argument. When I put those arguments to the strategic health authority board there was a stony silence. When the board asked whether there were any questions, the answer was "No." There were no questions, no interest and no engagement. The response was simply, "Mr. McWalter, you are from Hemel Hempstead. You are out of the loop and the quicker you get out of the room, the better." Well, we are not going away.

There is a desperate democratic deficit in all this. I sat in a room on Monday and people on a top table had the power of decision in these matters. Where was their democratic mandate? I represent a parliamentary constituency. I ought to have a say. But the people who were taking the decision included the chair of the local primary care trust. She voted in favour of these proposals. I think she was leant on somewhat, but I cannot believe that more than 1 per cent. of my constituents would vote in favour of these plans. The main political parties at the next election will all be opposed to them. If somebody stood at the next election on a pro-strategic health authority ticket—a "Consolidate Children's Services at Watford" party—I wonder exactly how many votes they would get. The only votes would be from people who accidentally put their cross in the wrong box. Yet the chair of the primary care trust voted for them and not for the huge majority of people in my area. That is a democratic deficit.

We are also told that the Government will not carry out any major reconfiguring of services. That is bad news for the strategic health authority because it really does not like Dacorum primary care trust. It is the oddball—the one that the authority could not bribe its way to get. I use that term not in the sense of personal benefits but in the sense that when Watford looked as though it would oppose the plans, along came a £330 million development to stuff its mouth with gold and ensure that it came into line. My constituency was never offered that. The reality now is that the strategic health authority has decided that our primary care trust does not need its own chief executive, so it will give us a joint one. Who with? Watford. Where is she based? Watford. There is a de facto joining together of primary care trusts to quieten further the voice of my constituents on these important matters.

Many people in the country are seeing the benefits of having a Government who have had a passion for health and a commitment to improvement, to making an investment in our health services and to changing tack from the story of asset stripping and provision reduction that characterised health in the 1980s and 1990s. That resulted in proposals that all Hertfordshire hospitals should close, that there should be only one and that the system should be much smaller to be economical. We fought off the report proposing that, called "The Right Approach", and we fought off a number of other threats.

This debate is not about the closure of Hemel Hempstead hospital but about service displacement, irrationality, profligacy and an authority that should be much more democratically accountable than it is now. I ask the Minister to review the events that I have described with a view, as I have asked before, to suspending those who treat people in such a way, to inquiring into the falsehoods perpetrated in advertisements and, eventually, to giving us some people whom we can trust to listen to our arguments.

3.48 pm

The Parliamentary Under-Secretary of State for Health (Dr. Stephen Ladyman): I congratulate my hon. Friend the Member for Hemel Hempstead (Mr. McWalter) on yet again securing a debate on this matter. I know that it is of great concern to him and his constituents. I responded to the debate that he secured in December 2003. I have had meetings with him, and my officials and I have studied the reports that he has written in recent months. He has for many years been a fervent supporter of his local hospital and the services that it provides. Whatever else his constituents may have concerns about, they can be sure that they have a Member of Parliament who is tireless in campaigning on their behalf.

Like the people of Hemel Hempstead, my hon. Friend is eager to secure the high-quality health services that any community should expect. That vision is shared by

[Dr. Stephen Ladyman]

the Department of Health and the local national health service in Bedfordshire and Hertfordshire. I am sorry that he feels that advertisements placed by the strategic health authority have been unfair or misleading. Misleading adverts should not be placed, and I shall be interested to hear the views of the Advertising Standards Authority.

It is a fact that we need to change if we are to improve. Our health care system is under pressure. Patients are still waiting too long for their operations, and many hospitals are in a poor state and need updating. My hon. Friend is absolutely right. The huge amount of money that the Government are putting into health care is driving improvements nationally, including in his constituency, but we still have a lot to do, and those pressures need to be addressed. That has been the case for many years, but we realise that we in Whitehall cannot make decisions about local matters, because we do not know areas as well as local people do. That is why, under our "Shifting the Balance of Power" policy, we pushed decision making down to local areas.

Frankly, across Beds and Herts some health services, particularly the major hospitals, are unlikely to be able to deliver the quality of, and continuous improvement in, care that we expect in England in the 21st century. In West Herts the situation is particularly acute, with the local trust zero star rated. The NHS cannot accept that, and the local NHS is right to demand that it be addressed. That is why there was an initial process to consider changes in health care in the area. That was followed by a formal public consultation known as "Investing in Your Health", which ran from March to December 2003.

Due process was followed in that matter. When local NHS organisations have under consideration a proposal for service change they must comply with the consultation requirements of sections 7 and 11 of the Health and Social Care Act 2001. Section 7 requires the NHS to consult relevant overview and scrutiny committees on service changes that are of a substantial nature. Nobody disputes that the changes described by my hon. Friend are of a substantial nature. Section 11 requires NHS organisations to consult and involve patients, the public and their representatives in the planning and development of services, and in decisions affecting the operation of services.

Following the consultation process, the scrutiny committees had the opportunity to refer the issue to my right hon. Friend the Secretary of State for Health for intervention. They did not do so. As a result—I know that this will and does upset my hon. Friend—even if he were able to convince me of his case, I have no basis for intervention in this matter. It was a matter for local determination, and decisions must now remain with the local NHS.

During the consultation period, two options for the future reconfiguration of hospital services were proposed. Both entailed retaining six major hospitals in Beds and Herts, including Hemel Hempstead and Watford general hospitals. As my hon. Friend is aware, option 2 was preferred, which would mean a new hospital at Hatfield with a cancer centre, and development of Watford hospital as a major acute hospital and Hemel as a major non-acute hospital.

I appreciate that that is not the option preferred by my hon. Friend, but this is not about winners and losers; it is about benefits for users of health services across the two counties, and that was the major driver for change. Following on from the consultation process, last April and again in June Department of Health officials reviewed the deliverability of the proposals decided on by the local NHS, and they were satisfied that they were deliverable. In particular, they were satisfied that the two proposed major acute developments could fit on their proposed sites and meet the highest NHS design and space standards; that the proposals were properly costed and likely to be affordable within a reasonable projection of the health community's resources; that the authority had already completed a significant public consultation, in which the proposals were supported by the vast majority of stakeholders—I accept that that does not include my hon. Friend and his constituents—and that the trusts and the strategic health authority understood the challenge of delivering the scheme, and were committed to making the necessary project management resources available.

An earlier peer review by the capital investment unit for the London strategic investment unit formed similar conclusions. As a result, the scheme was approved by Ministers and announced last July. The scheme is now finalising its procurement strategy and recruiting to its project team so that it can develop its outline business case with a view to procurement commencing in 2006 or early 2007, and construction potentially starting in 2009. I want to assure my hon. Friend that under option 2, Hemel Hempstead hospital has a future and will receive investment of around £25 million to develop it into a modern, high-quality major hospital specialising in planned surgery.

I also understand that Dacorum primary care trust is developing plans for the site, including an intermediate care facility and possibly a general practitioner surgery and mental health in-patient facilities. I am assured that Hemel hospital will have more patient contacts than Watford and will continue to play a vital role in health service provision for the people of Hertfordshire.

My hon Friend raised concerns about the children's consultation process. May I state clearly that no decision has been made? I understand that Bedfordshire and Hertfordshire strategic health authority has honoured the commitment given during the "Investing in Your Health" consultation process to talk with local people about how it achieves the services laid out in option 2. I am pleased to note that over the past few months the health authority has been listening to the views of local people on the proposals and important issues, such as the opening times for the Hemel children's accident and emergency unit and the design of the new units.

At a meeting held on Monday, which was open to the public, the proposals on the children's review were unanimously agreed. My hon. Friend might have views as to whether the chairman of the local PCT should have agreed them, but the fact was that they were unanimously agreed. Some of these proposals include a children's rapid assessment unit at Hemel hospital open 12 hours a day, every day, alongside the main accident and emergency department; a rapid referral clinic run alongside the children's out-patient departments at Hemel Hempstead and Watford, offering an alternative

to treatment in accident and emergency; a new, specially designed children's day unit at Hemel Hempstead hospital, staffed by specialist children's doctors and nurses and providing planned treatment and surgery; an enhanced community nursing team to ensure that more children could be cared for at home; and a children's in-patient ward at Watford hospital.

I would advise my hon. Friend to get access to the national service framework for children, which we have recently published, and compare the proposals with the best practice that is set out in the national service framework. If he does not believe that the proposals match that best practice guidance, that would provide him with valuable ammunition with which to challenge the proposals.

I also appreciate my hon. Friend's concerns regarding the single chief executive for the two local primary care trusts, but may I remind him once again that that is a local decision for the local PCT trust board? I understand that both PCTs are happy with the current arrangements.

My hon. Friend also raised concerns about transport around Watford hospital. I am aware that a transport and access group, drawn from a range of bodies, is studying how public transport can be improved.

In the final minute available to me, I shall deal with the points made by my hon. Friend in respect of the national position and put them in context. The latest round of revenue allocations to PCTs, covering the period 2006–07 and 2007–08, were announced on 9 February 2005 and represent a £135 billion investment in the NHS over two years. That is equivalent to an average increase of 9.2 per cent. for 2006–07 and 9.4 per cent. for 2007–08—an average of 19.5 per cent. over the two years. As a result of the 2006–08 allocations, Dacorum PCT will receive record increases in funding. For the current three-year allocation period, covering 2003–04 to 2005–06, Dacorum PCT has received a total increase in its funding of over £33 million, which is an increase of 31.8 per cent. For the two-year allocation period covering 2006–07 to 2007–08, the PCT will receive a total increase of £28.2 million, which is an increase of 18.5 per cent.

I realise that that will provide little comfort to my hon. Friend, who will continue to campaign passionately for Hemel Hempstead hospital, and I have no doubt that between now and any political events that may come up in the near future, he and I will be discussing it further. I hope that we will continue this debate in the Chamber after those political events and that his constituents continue to have a wonderful constituency MP who works hard on behalf of the people who put him here and will continue to do so in future.

Subsidised Ferries (EU Regulations)

4 pm

Mr. Alan Reid (Argyll and Bute) (LD): I thank the Speaker for selecting this important topic for debate this afternoon. I know that other hon. Members who represent Scottish constituencies that have ferry ports will want to catch your eye, Mr. Deputy Speaker.

It is obvious that ferry services are important for islanders. The islands and peninsulas of the west of Scotland have been served for many years by the state-owed Caledonian MacBrayne shipping company, known locally as CalMac. The importance of shipping to the islands is reflected by the well known parody of the 24th psalm.

"The earth is the Lord's, and all it contains, except the Western Isles, which belong to MacBrayne's."

That parody shows how important ferry services are to islanders. They dictate much of island life.

Owing to the small populations on the islands, the CalMac services are viable only because the company receives an annual subsidy from the Scottish Executive. However, because of that subsidy, European Union regulations dictate that those services must be put out to competitive tender. There is no demand from islanders for those services to be put out to tender, but tenders are being forced on the Scottish Executive by the 1992 European maritime cabotage regulations. It is important to note that that demand did not originate in Brussels. It originated much nearer home, from the British Tory Government. That Government held the presidency of the European Union in 1992 and, during the term of their presidency, they pushed the regulations through Europe.

At the start of the British presidency, the then Transport Secretary, John MacGregor—now Lord MacGregor—boasted in a written answer that he would

"take forward the increasingly rigorous application of the state aid rules in the transport sector so as to provide for full and proper competition in the single market."

He certainly succeeded in that aim: he drove the regulations through the Council. However, Lord MacGregor clearly did not have a clue what he was talking about because, in the same written answer, he said:

"The anachronism of the United Kingdom and some other member states having their coastal trades open while the rest did not will be ended."—[*Official Report, House of Commons*, 24 June 1992; Vol. 210, c. 247–248W.]

The written answer made it clear that Lord MacGregor was completely unaware that, within the United Kingdom, Caledonian MacBrayne-operated services were not open to competition. When, as President of the Council, he signed the legislation into law, he seemed unaware of the situation on the CalMac routes. So we have a set of European rules that were foisted on us by a Tory Government who did not have a clue about the reality of ferry services in Scotland.

It is interesting to note that the legislation came into effect on 1 January 1993, yet here we are 12 years later without Britain being compliant with the regulations. During the latter years of the Tory Government, both Secretaries of State for Scotland—now Lord Lang of Monkton and Lord Forsyth of Drumlean—wisely

[Mr. Alan Reid]

ignored the legislation that their Cabinet colleague had promoted. Even the arch-privatiser, Lord Forsyth, decided that it was a privatisation too far.

The Commission noticed eventually that the United Kingdom was not complying with the legislation and shortly after the establishment of the Scottish Parliament in 1999, it ordered the Scottish Executive to comply. However, the Scottish Executive have found it difficult to comply with the legislation and, after six years of discussion and consultation, they have still not succeeded in coming up with a workable solution.

It is important to remember that the legislation was designed to open up the lucrative sea routes to holiday islands in the Mediterranean and the Aegean to competition.

Mr. Brian H. Donohoe (Cunninghame, South) (Lab): I am grateful to the hon. Gentleman for securing the debate. Let us consider the Greeks, for example. Is he aware that, even at this stage, they have not complied? The Italians are still not complying. If the Scottish Executive wanted to use a bit of initiative, they could overcome the problem.

Mr. Reid: I am grateful to the hon. Gentleman for his intervention. I was not aware that the Greeks were still not complying, although I knew that they had a derogation until 2004.

The measure is completely impractical for the unprofitable routes in the west of Scotland. In the second half of this year, the UK will again hold the EU presidency. My purpose in requesting the debate was to draw the House's attention to how unworkable the proposal is, and, assuming that the Government are still in office and that a certain event does not remove them before then, to ask them to use the power and influence of the presidency to get these unworkable European rules changed, so that the tender does not have to go ahead. A British presidency was responsible for creating this mess; let us make another British presidency bring it to an end.

I now want to turn to why the European rules are unworkable in the west of Scotland context. If left purely to the market, there would be sailings only to the larger islands and in winter, even those large islands would receive a very poor service; the small islands would have no service at all, so a subsidy is clearly necessary. Under the EU rules that means a tender; a tender means a contract and a contract must have a tight specification. That means complete timetable inflexibility for the six years of the contract. Under the current arrangements, no one in the public or the private sector would dream of trying to set a ferry timetable six years in advance, but under these rules, that is what has to be done. Until now, timetables have been reviewed every six months and can be altered as circumstances change. That flexibility will go with the tender.

Six years is the maximum length of the contract that the EU rules allow, but a six-year contract is clearly not long enough to allow the operator to think of the long term and develop the services. The vessels themselves will still be the property of the Scottish Executive, but the operator will be responsible for the maintenance during the six years of the contract. A vessel normally has a working life of about 25 years, but the operator will simply skimp on maintenance and not care what state the vessels are in at the end of the six-year contract. We all know that we look after our own car far better than a hire car, and that is inevitably what will happen in this case.

The European legislation ignores the fact that shipping services comprise many elements: vessels and crews, and land-based infrastructure such as piers and harbours. In order to implement the legislation, the Scottish Executive will be forced to set up a vessel-owning company with the generic name of Vesco and an operating company with the generic name of Opsco. They have to be set up as two separate companies instead of being integrated into one company, as at present. Clearly, that will cause problems.

The piers and harbours are owned by many different organisations, some by CalMac, some by local authorities, some by trusts. A multiplicity of contracts between Vesco, Opsco and the port and harbour authorities will be necessary, which reminds me of the railways fiasco. The situation has been called Railtrack on water and we are heading for the same sort of mess.

Another problem is what happens if the operator, Opsco, goes bankrupt. I doubt if the Scottish Executive will have retained the expertise necessary to step in and pick up the pieces. Any private shipping company asked to step in at short notice will be able to hold the Executive to ransom. After only a few days without a ferry service the islands will start to run out of food and other essential materials.

In order to compete with the private companies, CalMac will be forced to transfer the employment of its crews offshore to avoid paying United Kingdom employers' national insurance contributions, which will cost the Treasury £1 million a year. Under the EU rules, the Scottish Executive cannot insist on the vessels remaining under a UK flag; they can sail under the flag of any EU country. But other EU countries have lower standards for training and expertise of the crews than Britain, so standards will inevitably fall.

In order to enforce a contract it clearly needs penalty clauses for lateness or failure to complete a sailing. However, that also leads to problems. Already, because of the penalty clauses in rail contracts, connecting trains will not wait at the station if the boat is late. We will now be faced with the same situation with the ferries. The boats will not wait for the late trains for fear of the penalty clause.

Inevitably, we will get into a situation when passengers from the train at Oban, say, could even be sprinting along the pier, only to see the captain order the gangway up in order to avoid the penalty clause. To some small islands, the next sailing could be three days later. That is clearly a farcical situation, but it is what we will be faced with under a penalty clause system. A huge majority of my constituents want CalMac to continue to operate these lifeline services. CalMac has its faults—nobody would say that it is perfect—and it certainly has plenty, but a public body can be lobbied and pressurised into making changes, whereas a private sector body will be interested only in conforming to the timetable, avoiding penalty clauses and making a profit.

Crews often live on the islands and are part of the local community. In the small islands, a large proportion of the work force work for CalMac. The crews have a commitment to those islands, whereas a private operator, with crews possibly from the far side of Europe, will not have same commitment to the island communities.

The legislation has already wasted a great deal of taxpayers' money. CalMac has spent considerable sums engaging consultants and has devoted a great deal of time and energy to preparing for the tendering process that would have been better spent improving ferry services.

One of the principles of the European Union is subsidiarity, which is supposed to be about devolving power to local communities. However, the Scottish Parliament is against the tendering, as are the local communities. The Government should back those communities in Europe.

As I have said before, the Tory Minister who was responsible for the legislation had not a clue about the situation in the west of Scotland. He was simply following the "if it moves, privatise it" ideology that gave us Railtrack. Rail privatisation failed. I know that my hon. Friend the Member for Orkney and Shetland (Mr. Carmichael) wants to catch your eye, Mr. Deputy Speaker, and he will be able to tell the House how these regulations failed the Northern Isles.

It is also interesting to note that the regulations do not apply to buses. European Governments can subsidise buses without the need for competitive tenders. There is no sense in the rules applying to ferries but not to buses. The Scottish Executive could subsidise the bus to Skye without a tender, so why not the ferry to Tiree? There is no logic in that at all.

I have explained all the problems that the regulations will cause. In the second half of this year, Britain will be in a uniquely influential position in Europe through holding the presidency. I urge the Government to use that position to persuade the Commission and the Council of Ministers that it simply does not make sense to enforce the rules in the fragile economies of the peninsulas and islands of the west of Scotland. They were designed for the lucrative Mediterranean, where competition might make sense.

This unwanted legislation could well wreck those economies completely. It was never designed for such a situation. I remind the Minister that even Lord Forsyth shied away from implementing it. I hope that the Government will not support such a privatisation and I appeal to them to do all that they can to end these unwanted and unworkable rules.

4.14 pm

Mr. Alistair Carmichael (Orkney and Shetland) (LD): I congratulate my hon. Friend the Member for Argyll and Bute (Mr. Reid) on securing the debate and on having presented a detailed and cogent case on behalf of his island and peninsula communities. I know well the importance of such services to his constituents, as I was born and brought up on one of the islands in his constituency, as well as representing an island constituency.

My hon. Friend highlighted a number of the problems that have resulted from competitive tendering. Such problems are well known to us in the Northern Isles because we are one step down from the situation currently faced by the Western Isles. We have had one round of competitive tendering. The tender was called in early by the Scottish Executive and we are now going through the tendering process for the second time. Many of the fears that my hon. Friend outlined today have been well founded in our experience.

The matter to which I wish to bring the House's attention today, and on which I seek Government support, is that in the course of the re-tendering process, we have been told that the EU Commission has decided that state aid rules should exclude livestock transportation, so that livestock is to be treated in the same way as any other freight transport. The impact of that on Shetland farmers and crofters is an increase of up to 50 per cent. in the costs that will be exigible for the transportation of sheep and cattle to mainland Scotland. My farmers and crofters are already operating on exceptionally tight margins, so that will be a critical issue to be resolved in the next few months.

Yet again, I find myself frustrated in the extreme that although state aid rules are intended to ensure open competition, they operate in a narrow, restrictive way that excludes constituents of mine and, I suspect, other peripheral island communities from participating in the marketplace. The European Commission is supposed to operate according to the treaty of Amsterdam, subject to the special treatment of peripherality, as it is called. Island and remote communities can be treated differently, and it is an immense source of frustration to me that that never seems to apply in practice. It is a small point, but I hope that if the opportunity arises for the Minister to support our case, she will do so.

4.16 pm

Mr. Calum MacDonald (Western Isles) (Lab): I should like to congratulate the hon. Member for Argyll and Bute (Mr. Reid) on securing the debate on this important issue, and should like to make two quick points, as I agree pretty much with everything that he said. If it were possible to amend the European regulations, that would be a terrific breakthrough. Can the Minister enlighten us as to whether that is possible?

My first point is that one of the difficulties that people have is not knowing whether the whole tendering process was initiated at the behest of the Commission and forced upon the Government, or less cleverly, whether it was initiated by the Executive themselves. If people could be sure that it was forced on the Government by the Commission, they would not necessarily be happier, but would realise that such matters have to be accepted without breaking the law. Can the Minister address that point and give a reassurance that it is not something that the Government have initiated or rushed into, and that it has been forced on them? If so, that would be welcome.

My second point, which was touched on by the hon. Member for Argyll and Bute, concerns the question of the terms and conditions of employees of CalMac, and its health and safety record, which, we would all agree, is second to none. There is concern that the tendering process will threaten both the terms and conditions of

[Mr. Calum MacDonald]

those employees and CalMac's health and safety record. The Minister will know that the National Union of Rail, Maritime and Transport Workers is currently balloting, trying possibly to call industrial action, and we would all agree that it would be disastrous if that went ahead. It would be helpful if the Minister could give a reassurance that nothing in the tendering process will diminish the continuing commitment of CalMac and the Government to the health and safety record that it has established on the west coast, as well as to the employees' terms and conditions.

4.18 pm

The Parliamentary Under-Secretary of State for Transport (Charlotte Atkins): I congratulate the hon. Member for Argyll and Bute (Mr. Reid) on securing this important debate, and other hon. Members on being here to represent their constituents on this important issue.

Let me first set out the situation, so that hon. Members are absolutely clear about it. Clearly, the Government have not chosen the situation. In terms of UK law, responsibility for transport links in Scotland lies within the devolved sector, by virtue of the Scotland Act 1998. As hon. Gentlemen know, the Department for Transport's Ministers have absolutely no say in what ferry services in Scotland should be subsidised, what the specifications are, or what the balance should be between subsidy provision and revenue from the farebox. Crucially, neither do the UK Government have any financial responsibility for any subsidy provided in Scotland. They are matters for local judgment in Scotland. The Scottish Executive have adequate policy and financial powers to support and maintain the lifeline ferry services.

It is important to make it clear that there is no threat to those services. The Scottish Executive specify the level of service, and will continue to do so. EU guidelines allow alterations to be made to the contract during the six-year period. It is not a matter of setting the level in stone six years in advance and sticking to it throughout. The service pattern can be changed. Neither the Scottish Executive nor the UK Government are, however, free-handed on the method by which such services are procured. Both are strictly bound by the UK's participation in the EU and by what EU policy and practice require.

The hon. Gentleman pleaded with the Government to change the rules, but whether or not we hold the EU presidency—I am grateful to the hon. Gentleman for reaffirming his belief that we will be returned to government after the general election, whenever that is—and having said that the Commission has the monopoly and the initiative to make changes, the presidency is a neutral chairmanship and does not have the chance to suggest changes to the regulations. We want to make progress on a range of issues, but an amendment to the regulations does not fall within our ambit.

As hon. Members will know, the EU policy of particular relevance is the single internal market in services and goods and in the movement of citizens and labour. As one would expect, there is a direct application of that doctrine in shipping services, as shipping is pre-eminently a service industry. Most services operating within the EU do so commercially without particular or distorting subsidy. That applies from Finland and Cyprus to Portugal and the UK. Where it is found that the single market is not being correctly applied, the Commission properly investigates and challenges the policies of member states. Where it is not satisfied that specific policies are being applied in accordance with treaty obligations, it is empowered to take member states to court, to seek rectification and to recover any money improperly applied as state aid. All that is inherent in the accession treaty signed by the UK. So we have no choice.

Inevitably, EU policy on the single market is also translated into EU regulation for purposes of enforcement. There is also, however, provision for addressing circumstances in which, exceptionally, shipping services cannot be sustained on a purely commercial basis. These are cases in which everyone agrees that subsidy is necessary and appropriate. In the case that we are examining today, regulation 3577/92 applies as the requirement specific to the supply of shipping services in EU member states.

A basic single-market freedom is the freedom to provide services competitively. That applies in shipping, too. It also applies specifically to the freedom to provide those services in return for a subsidy. As all Members know, article 4(1) is key. It states that member states must impose public service obligations on a non-discriminatory basis in respect of all Community shipowners.

The crucial words are "on a non-discriminatory basis." An exclusive financial arrangement between a subsidy provider, in this case the Scottish Executive, and a service provider, in this case Caledonian MacBrayne, fails the test. With the completion of a single market, other prospective operators of shipping services must have the opportunity to bid for whatever subsidy the public authority considers to be justified. Accordingly, the current arrangements must be replaced by those that comply with regulation 3577/92.

Mr. Carmichael: Does the Minister appreciate my frustration and that of my constituents that, time after time, the regulations are applied in a way that is, frankly, discriminatory? They discriminate against those of us who live in areas that are geographically remote and who rely on such services. As I said, that in itself contravenes the treaty of Amsterdam and the concept of peripherality. Why do the Government never argue that case in Europe?

Charlotte Atkins: As the hon. Member for Argyll and Bute stated, this Government did not negotiate the article. At present, we are stuck with something that was done by the previous Conservative Government. I appreciate the point that the hon. Member for Orkney and Shetland (Mr. Carmichael) made that the lifeline services are crucial to his constituency, and the very fact that it is remote indicates that when the tendering exercise does take place it is unlikely that many other companies would want to tender for the services, as they are specialist services. However, we must accept that they have to be subject to a competitive tender.

Mr. Reid: The Minister correctly said that the problem was article 4(1), but surely there must be a mechanism by which European law can be changed. The Government are a big player in Europe. Can they not go to Europe and say that they want the article changed?

Charlotte Atkins: Clearly, that is an issue for the Commission, which is able to initiate the process, and, if that happens, there must be agreement right across Europe. That is the issue. Hon. Gentlemen said that other countries were not carrying out the requirements of the regulation, but the Commission can take action against them, as it can against the UK Government.

The Scottish Executive have made quite a lot of progress with the Commission, which has already acknowledged the special circumstances of ferry services in the Clyde and Western Isles. Indeed, it has indicated that it is content to regard the current bundle of services as the basis of a single contract, and that, instead of cherry-picking, the contract should not be split into individual services for tendering purposes.

The Commission has also accepted the idea of retaining the specialised ships used for these services in Scottish Executive hands, leaving only the operation of the services with those ships as the basis of the contract. It has also accepted the idea of some mainland-to-mainland services forming part of the lifeline services to the islands, and it has offered a de minimis clause for lightly used services below a threshold of 100,000 passengers a year. That package is a tribute to the negotiating skills of the Scottish Executive, but, having conceded all that, the Commission now expect contracting to proceed through open competitive tendering, and we have no powers to change that.

The issue of competitive tendering is still being clarified with the Transport Commissioner, Mr. Barrot. Article 4(1) of the regulation requires the award of a contract on a basis that transparently demonstrates that there has been no discrimination among potential community bidders. How can one do that without having a competitive tender?

Clearly, if there were another way of doing it, we could propose that, but it is difficult to find a way that would ensure transparency. We have a problem, but we must move forward. The Scottish Executive have made progress with the Commission, and I believe that they will be able to take the matter forward. The services will be protected by the work that the Scottish Executive are already doing.

I appreciate that the uncertainty has been of real concern to hon. Members who are in the Chamber today, but it is important that we move forward to ensure that services are provided on a legal basis that we can defend, if necessary.

Question put and agreed to.

Adjourned accordingly at twenty-nine minutes past Four o'clock.

Westminster Hall

Thursday 3 March 2005

[MR. JOHN MCWILLIAM *in the Chair*]

Decent Homes

[Relevant documents: Fifth Report of the Office of the Deputy Prime Minister: Housing, Planning, Local Government and the Regions Committee, Session 2003–04, HC 46–I, and the Government's response thereto, Cm. 6266.]

Motion made, and Question proposed, That the sitting be now adjourned.—*[Paul Clark.]*

2.30 pm

Andrew Bennett (Denton and Reddish) (Lab): I am grateful for the opportunity to debate the Select Committee's report "Decent Homes".

I suspect that this may be our last chance to debate Select Committee reports in this Session, so before I do so, I thank the Clerks who have served on various Select Committees that I have chaired for the past 10 years. I want to put on record my appreciation of all their hard work and all the work that has been done in the Committee offices—

Mr. Deputy Speaker: Order. May I join the hon. Gentleman in thanking all the Clerks who have served me in all the Select Committees that I have chaired in the past 20 or so years for all their hard work, as this is probably the last chance that I, too, will have to thank them?

Andrew Bennett: Select Committees play an important part in the work of the House of Commons, and the work done by the Clerks in the Committee offices makes all that possible.

I also thank Ben Kochan, the specialist assistant, who has worked hard on a series of reports on housing and planning for the Committee during the past 12 months. We are also grateful to the two specialist advisers, Peter Chapman and John Bryson, who have worked hard for the Committee. Specialist advisers are particularly important because they give up a great deal of their time to give personal tutorials to members of Committees.

Finally, I express my appreciation of the other members of the Committee. Sadly, not many of them are in the Chamber today, but I am grateful to my hon. Friend the Member for Sheffield, Attercliffe (Mr. Betts) for being here, and for the contributions made by all members of the Committee to the report.

It is a little sad that although we have been bidding for a debate on the report since we published it on 27 April 2004, it has taken us some time to secure one. Sometimes when we produce a report, the Government are very enthusiastic about doing some of the things that we want. The kindest thing that I can say about the Government's response to this report, however, is that it was a very firm thumbs down. I am disappointed, but I understand the Minister's difficulties.

Key to the report were the Committee's congratulations to the Government on setting the target for decent homes and for the very real prospects of achieving it by 2010 in the vast majority of cases. Such an achievement would be considerable. To live in homes that are inadequate saps individuals and families, children in particular.

There are a few caveats. We may achieve the target for most public sector rented accommodation, but I suspect that the Government have set a lower target for the private sector, and that only 70 per cent. of those homes will reach the decent standard met by the rest of the sector. That is a little disappointing, but we are making real progress. I have some sympathy for the Government in that, although it would be nice to install amenities such as a good bathroom, a good kitchen and other facilities in the private sector homes of elderly people, the disruption that that might cause them in the last few years of their lives may be disproportionate to the benefit that they would gain by having those facilities in their homes—facilities from which someone else will benefit.

One major disappointment is that the Government have encouraged local tenants to vote on whether they want their properties transferred to new housing associations—stock transfer companies—or arm's length management organisations, or to stay with the local authority. If people are asked to vote and, having heard all the arguments pressed unfairly to encourage them to transfer to an ALMO or a stock transfer company they still vote to stay with the local authority, it is mean and unfair for the Government to say, "If you vote to stay with the local authority, you're not going to get a decent home because we're not going to let the local authority borrow the money against the future rent income that is necessary to do the work."

There was a glimmer of hope at the Labour party conference, when the Deputy Prime Minister made it clear that he recognised the problem and said that there would be a fourth way, allowing local authority tenants who opted to stay with the local authority to get their houses up to the decent homes standard. Since the Labour party conference, there has been no indication that the Government will put the Deputy Prime Minister's words into practice, and that is disappointing. We will end up with a situation in which people who voted to transfer will almost certainly get a decent home, whereas those who voted to stay with the local authority will be penalised because they had enthusiasm for locally elected, democratic councillor control rather than for the appointment of people on housing association boards.

Mr. Edward Davey (Kingston and Surbiton) (LD): The hon. Gentleman is making a very important point. Will he explain how he wants the Government to change their policy to ensure that the fourth option is possible? For example, does he think that prudential borrowing powers, which were included in the Local Government Act 2003 for other aspects of capital powers for local authorities, should be extended to housing?

Andrew Bennett: That is certainly one possibility. I find it crazy that, according to the Government, it is perfectly all right for a housing association to borrow money because that money will be repaid from the rents

[Andrew Bennett]

of the properties and the interest paid on it, yet it is wrong for the local authority to borrow money on exactly the same basis, with exactly the same guarantee that it will be repaid.

All sorts of nonsense come from the European Union and the Treasury about what counts as public borrowing. It is asserted that public borrowing is somehow bad, but private borrowing is perfectly all right. We should have challenged such nonsense long ago.

Mr. John Hayes (South Holland and The Deepings) (Con): As usual, the hon. Gentleman is making a persuasive case with his fierce criticism of the Minister. I presume that he means that the money that local authorities borrow would be ring-fenced, so that a council would not borrow against its housing stock to spend on other services, but money borrowed against its housing stock would be ring-fenced and then reinvested in housing. Is that the point that he is making?

Andrew Bennett: Very firmly. As I understand it, the housing accounts are already ring-fenced, so it is not a question of councils borrowing money against their housing stock to spend on casinos or anything else. You borrow the money to achieve the decent homes standard in council property that is rented by the local authority—

Mr. Deputy Speaker: Order. As a former treasurer, I have not borrowed that money for a great many years—when the hon. Gentleman refers to "you", he is referring to me.

Andrew Bennett: I am sorry, Mr. Deputy Speaker. Let me make it clear that local authorities should be able to borrow money to achieve the decent homes standard for all the stock in their area.

Mr. David Drew (Stroud) (Lab/Co-op): Does my hon. Friend agree that the biggest problem with the ballots is that there is no constraint on the local authority to spend the moneys that it receives on housing improvements? As the Minister knows, some of us would be much happier if that money was ring-fenced. If local authorities are to have their money ring-fenced for council stock, surely that should also be the case for stock that may go into the private sector.

Andrew Bennett: Yes, I accept that argument. I do not want to spend too long on that subject, however; I just want to make the point that in our report we were disappointed that so far the Government have made no progress in that area.

The Select Committee is very pleased that we have a decent homes standard, but some elements were not perfectly thought out originally; and, although we hope the standard will be achieved by 2010, the emphasis was not quite right. It was a mistake to put so much emphasis on the need for kitchens and bathrooms to be less than 20 years old. I have made the point several times in the Select Committee and in the House. When I am in London, I rent accommodation in the Barbican, which is still council-owned. It was built in the late 1960s and early 1970s, and the standard of the bathroom and the kitchen, which are still the original rooms, is far higher than those being installed as a result of modernisation. The emphasis should be on not the age but the fitness of the kitchen or bathroom.

The decent homes target did not contain enough about energy efficiency. It had nothing about the quality of the estate that people live in. When people are proud of the house in which they live, the front garden—the area around the house—is crucial. Time after time, constituents have told me that they were desperate for housing, but when they were offered somewhere they did not even get inside the front door because they were put off by the appearance of the estate. I am disappointed that there was nothing about the environmental quality of estates in the original decent homes standard.

The final point missing from the decent homes standard is good noise insulation. It is not simply a question of the party wall. Although it is worrying that in too much rented accommodation one can still hear everything that goes on next door, which can be disturbing, often one can even hear everything that is going on in the next bedroom or a room in the same house. Again, that is unsatisfactory, particularly when one has teenage youngsters who need somewhere to study without constant interruption from a younger sibling. Noise standards are important, and they were not in the original decent homes standard.

The Select Committee said that to achieve the standard by 2010 is a good step, but we want a decent homes-plus standard. That is why I am particularly disappointed that the Government said "No way." I understand the difficulty: with two targets, there may be some confusion. However, the Government should consider adding to the decent homes standard, a decent homes-plus standard, and consider especially the question of the quality of the estate. If one wants good tenants who take pride in their property, the quality of their estate and the environment in which they live will be as important a consideration as the quality inside the house. The introduction of the decent homes standard now, with no addition, will create a tendency in local authority housing, stock-transfer housing and housing association property to put too much emphasis on getting things right inside the house, and not enough emphasis on the quality of the estate.

Mr. Davey: I wholly agree with the hon. Gentleman and, as I will say at length later, the report was excellent. However, how does he think the Government can solve the dilemma? They have not managed to do so in their response. One option would be to have a menu of standards from which tenants could choose. There would be no diminution of the Government's long-term target for 2010, but they could give tenants the power to choose the standards that they think are the most appropriate for the next few years.

Andrew Bennett: There is a problem with that suggestion. Under the present procedure, where there is a stock transfer company, in theory the tenants can participate and argue for their priorities. That is not the issue. The problem with housing is that, almost by definition, the person living in the house at the time is reasonably satisfied, so the next tenant to move in is

crucial. It is a good thing to have the target of a decent home by 2010, whoever is in the house now. That is why we must have the decent homes-plus standard, which will tell housing associations to ensure that the estate is managed in a way that tenants find attractive and will give them pride in it.

Many decent homes targets cost money, but energy efficiency is a double win because it gives people better comfort in their houses and makes a contribution to reducing greenhouse gases. I cannot understand why the decent homes or decent homes-plus standards cannot include the absolute requirement that soon after 2010, if not by then, measures for all rented stock guarantee the use of as little heat as is necessary to give people a decent standard of comfort. The same applies to noise, although I accept that there is no double win in that respect.

Mr. Drew: I was pleased that care and repair was mentioned. There is a third win. The oldest people usually live in the oldest property, and the third win is that if that property can be well looked after in terms of energy, perhaps people will not get sicker and have to go into hospital. We must pay attention to rehabilitation, and bring health into housing and not leave it merely as a contingency. Does my hon. Friend agree?

Andrew Bennett: I certainly agree. To be fair to the Government, most of the decent homes standards include such things as removing damp and so on. It is important to get the most efficient heating into buildings.

My final point, which is not covered in the present decent homes target, is about turning rented property into what can be described as lifetime homes, which are suitable for people throughout their life: they are easy to manage for those with small children, and for elderly people and people who suffer any sort of accident. It is amazing that there are so many houses where little things are missing—for example, wide doors and a second banister to help people get up the stairs—which, if they were included, would guarantee that if people had an accident, or needed assistance in old age, the house was already adapted to their needs.

I am slightly worried that one of the temptations in achieving the decent homes target will be clearance and demolition. Obviously, if a house is knocked down it does not count as an "indecent" home. I plead with the Government to ensure that when clearance takes place, there is replacement. There is a shortage of rented accommodation throughout the country and thus a temptation for local authorities that cannot let their unpopular, walk-up, deck-access flats to knock them down, creating a space on the council or housing association estate. That is a major problem because it makes shops and other facilities less viable. It often produces a piece of ground that is, theoretically, landscaped but in practice is just a scruffy field on which mischief takes place. As the Government are driving towards the decent homes target, when there is clearance and properties are pulled down, they must ensure that those properties are replaced with the sort of homes that meet the standards and which people want.

I was lucky enough to go the sustainable communities summit and to see some of the ideas that the Deputy Prime Minister has for bringing in new housing. If the £60,000 houses can be built and put into the right place that will be another considerable achievement for the Government, but we must take care that those cheap houses do not become the slums of the future.

I want to mention briefly the stock transfer companies, some of which have done very well. On the edge of my constituency Pioneer Homes has done a remarkable job in turning properties around in Ashton, but most of the housing in Tameside is managed by New Charter of which the best one can say is that it has a rather patchy reputation. To return to the quality of the environment on an estate, I despair of persuading the company to do a little maintenance and repair on the Rose Hill estate, which would be greatly welcomed by the tenants.

In conclusion, we need to make it clear that we will not give up on tenants who vote to stay with local authorities. We will ensure that they get the decent homes target. I do not mind too much how the Government do that, but no one should be penalised for voting for local democracy by being told that they cannot have a decent home. The Government have done well to set the decent homes target, although perhaps there is too much emphasis on kitchens and bathrooms and not enough on making people proud of their estates. Fundamentally, we must recognise that we should create a situation in which a significant number of people can be proud of the fact that they live in rented accommodation and that it reaches the same sort of standards sought by owner occupiers.

2.53 pm

Mr. Clive Betts (Sheffield, Attercliffe) (Lab): As a member of the Select Committee that produced the report, may I begin by echoing the Chairman's thanks to the Clerks and specialist advisers who have served us very well on this and other inquiries? It is also an opportune moment, as it is probably my last chance to do so, to place on record my thanks and those of the other members of Committee to my hon. Friend the Member for Denton and Reddish (Andrew Bennett) not merely for the way that he has chaired this inquiry, but for the way that he chairs the Committee in general.

All members of the Committee appreciate how my hon. Friend's chairmanship is genuinely inclusive. We feel part of a Committee, not simply people who come along to sit in meetings and go through an agenda that has already been agreed. He shares with us the formulation of the agenda, the inquiries we should carry out and how we should go about them in a very open way. He involves all of us in the wash-down meetings that we have afterwards to discuss how inquiries are going. He makes us feel a genuine part of what is happening. My heartfelt appreciation and thanks go to him for the way he has chaired the Committee in this Session of Parliament. I know that those thanks would be echoed by other members of the Committee if they were in the Chamber; we all feel very strongly that he has done an excellent job.

I should also like to echo what my hon. Friend said about how much the Committee welcomed the fact that we had a decent homes standard at all. When I first read it in the Labour party manifesto, I wondered whether we were really going to do it and whether it was perhaps a bit ambitious. The Government have set out, for the first

[Mr. Clive Betts]

time, the right of tenants to a decent home and the fact that resources will be made available to deliver those targets.

It is a long way from the dark days of the 1980s when some of us had the unfortunate pleasure—I am not sure that "pleasure" is the right word—to go to meetings with Ministers such as Nicholas Ridley to argue about whether the backlog of disrepair in local authority housing was £16 billion, £17 billion, £18 billion, or whatever the latest surveys found it to be. That was disheartening, because we knew that not only were the backlog of disrepair and the level of poor standards enormous—that meant that tenants really suffered from bad housing—but that the problems were getting worse every year because the Government had no intention of doing anything about them. Some of us remember that as the time that the then Government's only housing policy was the right to buy and they focused on that to the exclusion of everything else.

The fact that we now have a target—I shall come on to discuss some concerns about elements of it—embodies a genuine general commitment by the Government to improve the standard of housing as a whole. We should not just be thinking about the issues that are specifically mentioned in the decent homes target, but the wider commitment to carry out repairs to deal with improvements and bring housing up to a better standard.

It has to be recognised that the Government have not merely set a target, but provided resources through the spending of capital receipts. We all know about the promises that the then Minister, Michael Heseltine, made when he said that capital receipts would be ploughed back into local authority housing; we suddenly found that they had been taken off the table and were used to pay off debt, and the houses—apart from 10 per cent. of them—never received any benefit in terms of improvements made to properties in the local authority sector.

We have seen capital receipts, money coming into ALMOs and stock transfer money as well. The hon. Member for South Holland and The Deepings (Mr. Hayes) has temporarily—I hope—left his seat. It would be interesting to hear whether the Conservatives are prepared to commit themselves in the future, if by some mischance they were to win a general election, to keep on trying to deliver decent homes standards. What would their expenditure commitments be in order to do that? Although they have made commitments to carry on with the planned level of expenditure on education, health and the police, some of us suspect that in order to find their £35 billion of cuts, housing would be one of the great losers in that exercise. The decent homes standards and other important investment in housing would go by the board.

Mr. Edward Davey: Perhaps I can help the hon. Gentleman in the absence of our Conservative colleague. I have looked at the Conservatives' expenditure plans in some detail. Is he aware that they want to cut social housing expenditure by £1 billion and that their policy on the right to buy would cost £1 billion a year, as costed by the National Housing Federation? That would leave the Conservatives with a £2 billion gap in their housing budget. Given that fact, does he think that they would be able even to begin to address the decent homes issue?

Mr. Betts: I thank the hon. Gentleman for his intervention. Although I do not always agree with the financial calculations of the Liberal Democrat party, I am happy to agree with them fully on this occasion. There would be a major problem not only for a Conservative Government, who would not be very interested in the consequences, but for tenants who found that the money they thought was going to be spent on their homes in the next few years to bring them up to a decent standard would be taken away by a back-door route that had not been spoken about openly and up front.

I shall go on to say a few words about the fourth way in a moment—the Minister would probably expect me to do so—but I have to say that it is now very pleasant indeed, and a genuine pleasure, to go to meetings with tenants and tenants groups. In one meeting in my constituency a few weeks ago, the local area manager, Graham Bows, who previously worked for the council and now works for Sheffield Homes, was able to stand up and say, "I've worked in housing in this city for 30 years"—I have known him well for all that period—"and I can actually get up at meetings now and say it is not a question of whether you're going to get the work done, but when you're going to get it done. Because we have the commitment and the resources from central Government, we can actually talk about timetables for delivery projects, instead of saying 'perhaps if we get something in a few years' time, something might happen', knowing that it probably won't." That is a fundamental change, which also creates a much better relationship between landlords and tenants as they can sit down and plan ahead with the certainty that the Government will actually back what they are trying to do together to deliver improvements to housing.

I was pleased to help shape the policy in Sheffield, which was a novel one of its kind to begin with but has now probably been replicated elsewhere. There is a city-wide ALMO and the local authority still has its homeless responsibilities as well as taking responsibility for allocations, so we do not get competing allocations policies from different parts of the city, which is important. In each area, there has been genuine consultation and tenants have a right to opt in to the ALMO and bring about an area management arrangement for their particular part of the city. In most parts of the city, the tenants have voted by large majorities for that way forward, although, in some parts, stock transfer is favoured by a few estates.

I have to say—I do not know whether the hon. Member for Kingston and Surbiton (Mr. Davey) will want to intervene on this occasion—that the development of the ALMO model and the fact that the houses remain in the ownership of the local authority was crucial in terms of getting tenants to accept that as a way forward. It was also crucial in helping Labour to win back control of Sheffield city council, because tenants absolutely rejected the idea of the Liberal Democrats that the whole city's housing stock would be put through the stock transfer route. So, there were political implications as well. My colleagues in the Labour group on Sheffield city council are to be commended for the way in which they have gone about

the consultation, openly discussed things with tenants and created a model that the vast majority of tenants feel comfortable with. They might have preferred to remain with the council, but, if the model is a second-best option, it is a very good second-best option as far as most people are concerned.

Mr. Chris Mole (Ipswich) (Lab): Does my hon. Friend agree that the Government have made it clear throughout that it was never their intention that one aspect or another of the different models—ALMO, the private finance initiative or whatever—should apply necessarily across the piece in one town, city or area? It would be wrong for any authority leading a discussion on stock transfer to say that one model or another should apply everywhere. The authority should consider the whole of its estate and work out which solution is best for which bit.

Mr. Betts: Yes, that has been the Government's approach. There has always been a strong element of choice, with one unfortunate exception, which I will come to in a minute. It is quite right that tenants should have that fundamental choice about who owns their home. They should not be forced into a change of ownership of the housing if that is not what they wish.

The model is working well in Sheffield, and the area dimension means that there are the benefits of a city-wide board, but also of strong area association. Local people can really get involved in the management of their houses on a scale by which they can have a real influence over what is happening. It is desperately sad, however, that the fourth way has not been worked at a little longer and harder, and a solution reached—for reasons that my hon. Friend the Member for Denton and Reddish has already mentioned. When we had the inquiry, there was no evidence at all—if the Minister can produce the evidence, that is fine and I will examine it—that councils are worse landlords than any other bodies, and certainly than housing associations. The Audit Commission believed that to be the case as well, when it gave evidence.

There is no evidence that splitting strategy and management delivers a better housing service. There is a belief, but there is no evidence, as far as I know. I know that Ministers go round saying, "Look at the benefits from the money now coming in." I think that Sheffield's ALMO has just got a three-star rating. The Minister has written to Members to say that he is really pleased with the progress that it has made, and, of course, it has made such progress. However, the ALMO has a lot of money to spend—quite rightly. Therefore, it is almost certainly going to deliver better management with the money that it has compared with what the council had to offer. It is basically the same organisation that runs the houses now. Things have just transferred over.

Given that money for ALMOs does not come outside the public sector borrowing restrictions, giving councils the same money would not have affected the public sector accounts at all. One thing slightly worries me given that, almost uniquely in Europe for a wholly owned arm's length company, ALMO expenditure counts against public sector borrowing. I think that there is only one other country in the European Union—or certainly in the European Union before the accession of the most recent members—where that definition applies. It does not apply in Germany, where arm's length companies of both local authorities and the state do not count when borrowing against the public sector controls. That is one of the ways in which the German Government find their way around the Maastricht criteria. Given that, according to our definitions, ALMO borrowing counts against Government borrowing, if tenants keep on voting for ALMOs in more and more local authorities, is there a danger that, at some point, the money will run out and stock transfer will become the only option? Perhaps the Minister could give some reassurance on that point.

I am grateful for the reassurances that the Minister has given that any review of ALMOs will not entail the possibility of the homes that they manage being transferred out of local authority ownership, because that is a concern as well. I thank him for addressing that. I should certainly like to see the prudential guidelines, which allow borrowing against future income streams in local government services other than housing, to be extended to housing as well. In many cases, that approach would enable local authorities to continue to run their housing stocks. Those issues were never satisfactorily addressed. However, the fact that we have a difference over the fourth way should not cloud the general support for the concept of decent homes and for the Government's provision of extra resources.

I move on to decent homes-plus. I was a little disappointed, because the Government could have had a little more enthusiasm for the concept. We take the point; as we discussed carefully in Committee, we do not want to muddy the waters and say that the current decent homes standard should be increased for 2010. We did not think that that would be helpful; moving targets does not help to achieve them. However, I think that the Government were a little dismissive in saying, "All right—we understand that that is an aspiration, but we are not going to do anything about it at this stage."

The Government could have said that there ought to be a new target in future and that, in the next couple of years, they would start, at least, to consult about what that target should be. If we are to think of a target for 2015, perhaps, rather than for 2020, we ought to set it in, say, 2007. That would be an aspiration. A firmer commitment from the Government would have been appreciated.

When criticisms were made that the standards for thermal comfort were not high enough, the Government said that the current standards were thresholds, rather than the standards to be achieved. Yes, that is acceptable, but if we agreed a decent homes-plus standard, that would be a further target to aim at, even for 2010. It could be looked at every time an improvement to a house was made. I hope that the Government will reflect on that and see the decent homes-plus standard as very useful for the longer term and, perhaps, for raising the standards to which work is done in the meantime.

I shall say a few words about the environment, which is absolutely crucial. One can spend lots of money improving the fabric of a property and its internal amenities. However, the problem is also that of run-down areas where the grass is not cut regularly, cars run

[Mr. Betts]

over the verges, and there are no trees, a poor standard of lighting and little back alleys where people gather. The Government are now doing something about that.

Ms Karen Buck (Regent's Park and Kensington, North) (Lab): Does my hon. Friend accept that one of the concerns of a number of us who represent London constituencies—a concern that applies to some other parts of the country as well—is that properties made up of flats, and estates with a very high concentration of flats, have a relative disadvantage because of the amount of money that needs to be spent on communal areas and security upgrades? Very welcome as the decent homes programme is—it is celebrated by tenants in my constituency—that relative disadvantage leaves some of us with such city estates in our constituencies to face a struggle.

Mr. Betts: I absolutely accept that, and there are such flats in my constituency. If there are security issues for those flats as well as issues of the general environment, the green environment and the roads, dealing with them will involve additional expenditure. If that is not spent, much of the other money spent on the internals of a property will almost be wasted. People would just give up. If an area is run-down and people do not feel secure, tenants will not feel great commitment to the properties. That is also true in the private sector. Estate agents use the phrase "Location, location, location" to describe whether they can sell a house easily and whether it will be an attractive proposition to buy. The phrase is also true for rented property, and we ought to take the environment issue very seriously.

The Minister will correct me if I am wrong, but my understanding is that when an ALMO is created, about 5 per cent. of the funds allocated can be spent on the environment. That is not sufficient in many cases. Stock transfer can raise an awful lot more money, but there is a real problem. I know that neighbourhood renewal and other sources of funding can be brought to bear to create sustainable communities, but the Government should look at the issue. Expenditure on the homes would be even better and more worth while if another 5 per cent.—or more in estates with flats—were allocated for the environment around the homes. That is a real issue, which has been raised with me by Sir Bob Kerslake, chief executive of Sheffield city council. He says that that is one of the downsides of the ALMO compared with stock transfer. That issue needs to be addressed.

I shall just say a few words about the private sector. We are still in an inadequate position, particularly as regards the private rented sector. I understand the differences with owner-occupied properties, but tenants in the private rented sector have as much right to a decent home as people in the local authority and socially rented sectors.

On the 70 per cent. target, if the Government had said, "Well, it's 70 per cent. because we know it's much harder to get there in the private sector, but our aspiration is still to get to 100 per cent. and we'll get there by, say, 2015," we could understand that 70 per cent. was a stepping stone along the way. However, to have 70 per cent. as an absolute target, and then to have it for only 70 per cent. of the private homes occupied by the most vulnerable people on benefits is not as worth while as the target of 100 per cent. for the socially rented sector by 2010. I do not know whether we should have a target that a house may meet one day but not the next, because the circumstances of the person in the house change, or because the people themselves change, and so are no longer in a vulnerable group. I am not sure how meaningful it is to combine the circumstances of the individual tenant, in terms of their income, with a target related to the fabric of property. The mixing of the two creates a moveable target that is difficult to monitor.

If we are to be a bit braver about what we are doing with the private rented sector, we will need a few more enforcement mechanisms. It is quite right that there should be enforcement mechanisms in the private sector, but they do not cover all the issues covered by the decent homes standard; that is another issue that we raised in our report, and I was not absolutely convinced by the Government's response on it.

I hope that we have produced a good report for debate. We are very supportive of the Government's overall intentions, the extra money that has come into housing and the higher priority given to it. We have one or two concerns, and although we probably will not make progress on the fourth way after the arguments that we have had on it, at least matters such as decent homes-plus, how we address the environment and problems in the private rented sector are issues that the Government might care to reflect on further. I hope that we can make a little more progress on them.

3.12 pm

Ms Oona King (Bethnal Green and Bow) (Lab): Every week in Tower Hamlets I visit homes where people become ill because their housing falls below a decent standard. What does that mean? It means damp, cold, overcrowded conditions. Those people cannot decorate their homes because the paint will not stay on the walls. They cannot stay warm in their homes because they do not have central heating, or in some instances because the windows appear to be open holes. They cannot socialise in their homes because there is simply no room for that. Thousands of constituents have implored me to come to see their homes to see the beds in the living room or the cot in the bath, and to see that they do not, in their view or mine, have a decent home or even a decent family life.

It is not surprising that so many people in Tower Hamlets have such a harrowing experience with housing. In England, 33 per cent. of households live in non-decent homes, 22 per cent. of which belong to social landlords. In Tower Hamlets, 70 per cent. of housing stock falls below the decent homes standard. Last year, the figure was 75 per cent., so in one year there has been a 5 per cent. improvement in the number of homes meeting the decent homes standard. The Government must be commended on that. It has happened for specific reasons: because they have put more money into social housing, and because of a combination of repairs to older homes and new build programmes that would not be taking place without that extra Government investment.

My concern is not just about the homes falling outside the definition, however; it is also about a number of important aspects that have been left out of the

definition. In my view, it is critical that the decent homes standard includes the communal areas, which we have heard about, and the quality of the estate. A home will not be viewed as decent if someone has to step over broken syringes and excrement to get to their front door. These issues of security are among the most important that tenants flag up as allowing them to believe that they have a decent home. Their homes are not decent if they do not have the level of protection given by a decent infrastructure around them.

Ms Buck: Does my hon. Friend agree that last year's 3.4 per cent. increase in London's regional share of the management and maintenance allowance was indisputably welcome, but is a cause for concern when compared with the 13.9 per cent. increase for the whole country? Will she join me in asking our right hon. Friend the Minister to reconsider the regional allocation of the funds?

Ms King: I thank my hon. Friend for that intervention. She has raised one of the most important issues, which I will discuss in a moment.

I was talking about the state of estates, which is reflected in the money available to spend on them. I am concerned that lift maintenance also falls outside the decent homes standard. The lives of people in Tower Hamlets are ruined, and pensioners and parents with young children are literally made prisoners in their homes when the lifts do not work, but that has not yet been taken into account. The cost for Tower Hamlets to service lifts on its estates between now and 2010, which is only five years away, is £26 million. That reflects the fact that more than 12,000 properties—more than a quarter of all our housing stock—are in lifted blocks of at least six storeys. None of that money counts towards decent homes, yet it is pivotal to the creation of decent homes-plus, as we have heard. The Minister has been extremely helpful to many of us in arguing the case against deprivation, overcrowding and the social exclusion aspects of housing, and I ask him to consider what has been left out of the decent homes standard, particularly in relation to communal areas, security and lifted blocks.

As I said, the Minister has been very helpful about overcrowding, but so far as I am aware—he will correct me if I am wrong—solving the problem of overcrowding is not part of the Government's decent homes agenda. In other words, a one-bedroom flat is perfectly decent if one person is put in it, but not if a family of eight is put in it. Tackling the problem of overcrowding is therefore fundamental to attaining the Government's decent homes standards.

Ms Buck: This will be my last intervention. Does my right hon. Friend the Minister accept that some registered social landlords are under pressure to meet the targets of the decent homes initiative and to develop stock to address housing problems such as homelessness and overcrowding? The Peabody Trust, for example, has its own financial problems and is disposing of up to 1,000 street properties at a time of overcrowding and unmet housing needs, so meeting the decent homes obligations will, in some ways, undermine its capacity to meet housing needs. Perhaps he will be kind enough to consider ways of resolving these problems, so that RSLs do not dispose of street properties in particular, which are usually of a size that can meet the requirements of the families about whom my hon. Friend is talking.

Ms King: Many of my constituents would also be grateful to hear from the Minister what further steps the Government are taking to tackle the problem of overcrowding, which blights the lives of so many families in Tower Hamlets. My hon. Friend makes a very important point about housing association stock. I will return to that point in a moment.

I said earlier that I would come back to the maintenance issue. The single biggest cause of poor quality housing is lack of maintenance. The communities plan includes £2.8 billion to bring council homes up to a decent standard, and that is greatly to be welcomed. None the less, that must be set against the £19 billion backlog that was inherited in 1997—a backlog of disrepair and underinvestment. The Government have said:

> "Our new rates of funding improvements in the management and maintenance of the council stock will mean support will be £500m higher in 2005–06 than would have been the case."

However, as my hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) pointed out, the overall changes to the management and maintenance allowance that have occurred mean that, although the average increase is about 13 per cent., some areas with the worst housing have received a lower percentage. In London, for example, which has the highest number of children living in poor quality housing, we have had a fraction of that amount. It is strange that the Government should not recognise the need in areas that have some of the lowest income families and some of the worst social housing—some are in London and some in the north. In my view, simply to ignore the situation in London seems absolutely desperate.

In Tower Hamlets, much of the new money that the Government have invested is making differences that people can see. People will not necessarily believe what politicians say, but they do believe their own eyes, and they are seeing new homes being built today in Tower Hamlets. In that context, I want to mention the quality of new build. Constituents have complained to me about the lack of noise insulation, and such issues seem to be storing up problems for the future. There are also issues related to energy efficiency. I cannot think of a worse way to save money than by not investing in energy efficiency.

The last thing that I want to say brings me back to my first point—the quality of estates. In Tower Hamlets, a lot of money is being invested in improving the overall built environment, not only with bricks and mortar, but by putting in place local area partnerships involving all the organisations. That means working with local authorities; with the police on safer neighbourhood schemes; with the schools to get extended school areas; and with health authorities to set up new health facilities on estates near to the people who need them. Such measures are improving the quality of life in Tower Hamlets.

The Government must look at the omissions from the decent homes standard, however, which could reduce the effectiveness of their programmes in other areas.

[Ms King]

Can the Minister tell me what further measures the Government will take to improve the quantity of housing stock available in areas such as Tower Hamlets, particularly in relation to what we heard earlier about affordability and low-cost home ownership? We have heard the Government's proposal for a possible £60,000 house for first-time buyers. In Tower Hamlets, the average house price is about £250,000 and the average income is about £12,000. That £12,000 figure takes into account people in Canary Wharf, for example, many of whom earn a lot more. One can therefore imagine how low the incomes of many of those families are. Will he also consider increasing the number of people from lower income groups that have access to decent homes through some of the shared home ownership schemes?

Mr. Hayes: I am sorry to interrupt the hon. Lady's flow, but she will be aware that investment in low-cost home ownership has plummeted since 1997. Housing Corporation support for the scheme, which she will know was established under the previous Conservative Government, has been steadily reduced. There are now 60,000 applications a year for the scheme, 50,000 of which are disappointed, because the Government have failed to support it. That even allows for the key workers scheme.

Ms King: Obviously, while I will consider the point made by the hon. Gentleman, it makes me almost have an apoplectic coronary heart attack to hear Conservative spokesmen talking about access to homes in a place such as Tower Hamlets, where few new homes of any description were built during 18 years of Conservative government. The issue of home ownership has been examined in Tower Hamlets and the key worker schemes there seek to address it. My point is that the threshold to access such schemes should be brought within the reach of people on average and below average income. Currently, they are not brought to that level; they are nowhere near it.

My specific request to the Minister is about making home ownership genuinely affordable. For example, £60,000 would be affordable these days for someone earning £16,000, given the increased ratio between salary and mortgage, as opposed to the 1:3 ratio that prevailed when I and other people bought their homes. Will he consider making more decent homes available to people on lower incomes through shared ownership schemes?

3.27 pm

Mr. Edward Davey (Kingston and Surbiton) (LD): I congratulate members of the Select Committee on producing one of its best reports during this Parliament. It might be that reports get better as a Parliament progresses. The Chairman, the hon. Member for Denton and Reddish (Andrew Bennett), and his colleagues have done an excellent job in analysing this important part of housing policy.

The decent homes standard is on the face of it a reasonable objective. One cannot have any criticism of the objective of wanting to ensure that the housing stock, particularly the social housing stock, is brought up to scratch. In their constituency surgeries, most MPs will come across housing problems week in, week out; they will come in many shapes and forms, but the quality of homes is a big one.

There is no disagreement with the Government about the need to improve housing standards. The question is whether the decent homes standard is the right way in which to do that. It has had some advantages. It has helped to focus the minds of the housing associations and people in local authorities, and ensured that they were at least thinking about how they could marshal resources to make improvements. It has had that effect, but has it gone much further?

It is interesting that the hon. Member for Denton and Reddish earlier in his arguments focused on the fourth option, and that was picked up by the hon. Member for Sheffield, Attercliffe (Mr. Betts). We are ultimately talking about the cash that is available for improving the housing stock. We all know that successive Governments have examined different ways of trying to ensure that the housing capital investment was kept off the balance sheet; we understood about the huge backlog.

The huge backlog goes back to the plans of the then Conservative Opposition, which were put together by the noble Lord Lawson, for the 1979 Conservative Administration. It was clear—and this can be read in his memoirs—that they intended to cut back on housing investment. It was their No. 1 strategy for saving money in the early Thatcher years. That continued for a long time and built up the huge backlog.

We all know that whatever the option is—an arm's length management organisation, a stock transfer, a public finance initiative, or whatever—it is all about getting that huge backlog put right. We understand that the Government want to do that by making it not appear on the balance sheets. However, as the hon. Member for Sheffield, Attercliffe made clear, that is in many ways an accounting exercise, not a real one. I share the concerns that he and other Labour colleagues raised. The Government must look at a fourth option; indeed, they must look at a fifth option, as many more options exist than those currently on the table.

For example, we could consider the idea of creating mutual housing associations, in which the tenants had not just a vote but control and membership of the housing association. That would be a very different model from a simple stock transfer, and would be attractive to many communities. The Government must unlock themselves from their limited options to see whether there are other ways of creating the cash that is needed to improve homes.

As the hon. Member for Denton and Reddish said, there are some real problems with the decent homes standard. I am concerned that the Government are approaching the matter in a narrow-minded way. They are not saying, "Hold on a minute, we set those standards a few years ago. We were wrong: there is clear evidence that we were wrong. Let's change them." I can say, for myself and on behalf of my colleagues, that we would not criticise the Government if they changed the decent homes standard in a sensible way—if they looked at what was happening and decided to adjust it. That would be a sensible thing to do, and I hope that the Conservative spokesman can give that pledge as well.

One point that the report set out well was the need to take account of everything—not over-investing in replacing kitchens and bathrooms that are not out of date; modern standards, such as ensuring that thermal criteria, noise insulation and materials are right; neighbourhood standards and—something that has not been mentioned today—access for elderly and disabled tenants, tackling the life homes standard within the decent homes standard. There is space to do that.

The question is, if the standard is to be changed in the sensible ways that are set out, how will that be done? That is why I intervened on the hon. Member for Denton and Reddish. In the report, the Committee deals with that question by saying that the standard is not perfect, so we must change it. It comes up with a new standard, decent homes-plus, which makes sense and certainly meets some of the criticisms. However, the Government's response is fairly weak on that point, and I hope that the Minister can say a little more about it. When dealing with the set of recommendations relating to decent homes-plus in their response to the report, the Government could only say:

"ODPM's implementation guidance encourages social housing providers to engage with tenants at a local level and, where appropriate, provide enhanced local solutions—a 'Decent Homes Plus', which may address many of the Committee's concerns."

I have to say that that is one of the weakest replies I have seen in a Government response to some pretty well-argued and stringent criticism.

The Government must go further. I was trying to press the Chairman of the Select Committee on how the Committee wanted to approach decent homes-plus. Clearly, it would mean more money. Let us not beat about the bush; if standards are to be improved over a similar timetable, the cash has to come from somewhere. He said two interesting things. He suggested that energy efficiency would save money in the long term. That is a fair point, although I am not sure whether the Chancellor will be quite as impressed when he plans the spending review and annual expenditure limits. He also said that, in his view, there should not be any choice about the matter, and that the standard existed because we were worrying about future tenants, not existing tenants. I want to take him up on that point, because if we are to push the decent homes standards further and improve the number of criteria that will be counted in it, we must be realistic about the public expenditure implications, and what can or cannot be afforded.

Even if there were a fourth or fifth option, would there be the cash to meet a decent homes-plus or decent homes-plus-plus standard, whatever it is called? The best way—the only way—to deal with the dilemma of budget restraints and the desire that I am sure is shared across the House is by empowering the tenants and asking them what is most important for them and their estate.

Mr. Hayes: I am interested in the hon. Gentleman's observations. Of course, the Select Committee itself said that—the Chairman of the Committee is probably mentioning it to the Minister as I speak. The report makes it clear that tenant involvement, not just at the consultation level but at the management level, in real decisions about the future of the estate, is a central task in improving standards such that people are comfortable with them.

Mr. Davey: That is right, but the Committee and certainly the Government are not taking the logical next step. If money is available under whatever option, surely the housing provider should say to the tenants, "There is money to improve your homes and a range of things that we could do. Tell us which you prefer. We cannot do everything at once, but you are the tenants, these are your homes, you live there. What do you think is best for the community?" The process will not be easy, as some tenants will want one thing and others will want another thing. It may be difficult to manage, but it will empower the tenants.

As the hon. Member for Sheffield, Attercliffe said, the great thing is that money is available. He spoke about meeting tenants who were satisfied that things were happening, but he described that in an interesting way. He said that the housing managers were able to go to meetings and tell tenants that something was going to happen. I want housing managers up and down the country to go to meetings and say, "Tenants, these are the options, this is the budget, how should it be spent?"

Mr. Hayes: I am grateful to the hon. Gentleman for giving way a second time. I am not unsympathetic to the case that he is making, but I have two questions. First, does he envisage that the outcome of that consultation process and involvement would be an aggregate result? If the general view of the tenants was that they wanted the neighbourhood cleaned up, more trees planted or more graffiti removed, would housing managers go with that, even if it were not everyone's view? Or, if the hon. Gentleman envisages every individual request being met, how would that be done?

With your indulgence, Mr. Deputy Speaker, the second question is about choices made by this generation of tenants that would not be the choices of the next generation. How would the hon. Gentleman handle the problem of someone saying that they would like something changed in their home that the incoming tenant would not feel is a priority or appropriate?

Mr. Davey: On the second issue, I do not have a crystal ball, and it would be difficult to imagine such a situation. That is why I was not totally convinced by the answer to my intervention on the hon. Member for Denton and Reddish. We should ensure that the existing tenants, who probably know their homes and communities better than anyone else, are driving the investment.

The hon. Member for South Holland and The Deepings said that there may be some tension between the individuals who want investment in their own property for whatever reason and those who want investment in the community. Of course, there will be tension, and, ultimately, someone will have to take the decision. However, I do not understand why the menu cannot be put to the tenants so that they can discuss among themselves what the priority is. As we have heard, kitchens and bathrooms are often of adequate standard, and they would probably be the same for most of the estate. If that were the case, tenants would not go

[Mr. Davey]

for that but would go for something else such as energy conservation measures or a new playground for the children.

Andrew Bennett: I think that the hon. Gentleman is missing the point. The purpose of the inquiry on decent homes was to set a minimum standard. As far as the Committee is concerned, the decent homes-plus standard is also intended to set a minimum standard, not to say to tenants that there is a menu of things from which they can choose. It is important to raise the standard of housing in general.

I just put a caveat to the hon. Gentleman about consulting tenants. One of the early inquiries of the Select Committee had to do with empty homes, particularly abandonment in the north of England. During that inquiry, we visited some houses in Harpurhey. More than £80,000 was spent on each house to make it exactly what the tenants wanted. The problem was that, although that was what the people who lived in the houses when the investigation was done wanted, a lot of those people moved away during the modernisation and many did not come back. We must ensure both that housing, particularly in this sector, reaches those standards, and that what is done will suit other people as well as the existing tenants.

Mr. Davey: I do not think there is much difference between us. All that I am saying is that if the hon. Gentleman and his Committee want to ratchet up the minimum, that will have to be paid for. That money will not come all at once; however generous the Government prove to be, there will not be a slug of money so that all the necessary work can be done over the next two or three years. The works will have to be timetabled. All that I am asking is why not involve the tenants in deciding on the timetable for reaching the minimum standards, so that they can choose what is most important to them?

The hon. Gentleman makes a point about future tenants. I am not saying that they should not be taken into account, or that whatever the original tenant wants should be done. That could result in perverse decisions being made, as he implies—perhaps that was the case in the community that he mentioned. The Committee came across examples of where the decent homes standard had produced a lot of investment but the tenants on whose homes the money had been spent were not happy. That is nonsense. All that I am arguing is that we should try to invest the money in the tenants' top priorities. That would produce a better long-term outcome for the tenants, the future tenants and the taxpayer.

Andrew Bennett: In practice, I think that that is happening. If I gave the impression that the area manager I referred to was standing up to tenants and saying, "This is what we will do for you," that is not right. He was saying that they now have the money to do things, but Sheffield has had a long history of tenant involvement in area committees and area budgets, and, uniquely, of a tenant levy that helps fund local tenant associations. The decent homes standards are a benchmark or framework, within which lots of important improvements—such as replacing windows, which is a top priority in my constituency—go ahead at the tenants' request.

Mr. Davey: I am sure that that is the case. We cannot generalise about housing. We all know that local authorities or housing associations undertake different projects using very different approaches. It happens even within our constituencies. Housing is very varied, and I am sure that there are councils and registered social landlords who are producing best practice.

In my constituency, two attempts have been made in the past 15 years to persuade tenants to vote for stock transfer in order to get a huge amount of money invested in social housing in Kingston. Both attempts have failed—most recently last year, and by quite a large majority. That leaves us in a dilemma, because the Government are not providing a big slug of money to local authorities to help council tenants such as those whom I represent. My tenants want to stay with their local authority because it is a good authority, but now it does not have sufficient cash. It is looking at a range of schemes—such as arm's length management organisations and private finance initiatives, or other smaller-scale stock transfer—to see if it can meet the decent homes standard, but it is in a real bind. Council tenants who come to my surgeries frequently say, "We need this extension or adaptation, but the council says it does not have enough money." It is difficult to reply, "Well, you voted no." Just because they exercised their democratic right and voted no does not mean that they should be excluded from having a decent home.

The Minister must address that fundamental question. A few months ago, some disturbing rumours were going around that the Government intended to address it by deciding that tenants who voted against stock transfer would be outside the decent homes standard. I hope that he can put it on the record today that that is not the case, and that the fact that tenants vote no does not mean that they are not entitled to have a decent home, or that the Government will not help them have one by 2010. It would be extremely helpful if he were to put that on the record, because then I could say to my constituents who are council tenants, "The Minister has today promised me that you will have a decent home by 2010." I look forward to his doing that and ensuring that the Chancellor and the Deputy Prime Minister provide that cash.

The Committee made an important point about the private sector in its report, and although it mentioned the Housing Act 2004 it did not say much about it. I was slightly surprised about that. However, the Act is a crucial lever. The report refers to the need for environmental health officers and to giving local authority departments the money to enforce the new standards. Will the Committee Chairman say how he thinks that the 2004 Act can help deal with that?

Andrew Bennett: First, we produced a fairly comprehensive report on the draft Bill in 2003. I should remind the hon. Gentleman that we took the evidence for the report in spring last year and published it in April, at which point the 2004 Act was still being fought through in Committee. We were hoping that some significant improvements would come through in the end.

Mr. Davey: I accept those points, and I hope that the hon. Gentleman will accept that my colleagues and I worked hard to get those improvements to the 2004 Act—the empty property management orders and tenancy deposit schemes. I hope that those new powers will be a major improvement in the private sector, and that the Government will go further.

During our debates on the 2004 Act, it emerged that the one thing that the Government had not addressed was how to improve the professionalism of landlords. That is difficult to deal with. There are some professional landlords with large portfolios of rented accommodation of varying standards, many of whom are very good. Some companies manage large portfolios. A multitude of landlords—tens of thousands of people—manage one or two properties. The trick in trying to improve the quality of the private rented sector is not simply to impose more regulations, as welcome as those in the 2004 Act are, but to improve the professional qualifications, training and advice that is open to private landlords.

Mr. Hayes: The hon. Gentleman has now moved on to a different, important area. Does he agree that that is much more likely to be achieved by self-regulation, and that some of the regulations are necessary, but the burden of regulation faced by landlords has been unhelpful? We should be moving towards more self-regulation, to raise the standards in the way that the hon. Gentleman talked about.

Mr. Davey: I am slightly surprised to hear the hon. Gentleman say that, because I remember having many debates with him in the Standing Committee on the Housing Bill and there was, through most of our discussion, a genuine agreement that the Government were taking sensible regulatory steps forward.

We Liberals said, "No further. Go as far as is proposed, see how the measures work and whether they can be enforced properly and then review the situation." We decided that, rather than impose further regulation, we should work with the landlords while we waited to see how the regulation worked and what, in the light of professionalism on the landlords' side, was the next step and the best way forward.

Mr. Hayes: Perhaps the hon. Gentleman has misunderstood me, or perhaps I did not make myself sufficiently clear. He is right about the latest tranche of regulations, but there is a cumulative effect, because landlords are regulated and controlled in all kinds of ways. I am concerned about the cost and disincentives of that cumulative burden. He is right about our attitude towards the recent tranche of regulation, but does he agree that eventually regulation will become intolerable for many landlords and may have a damaging effect on the sector?

Mr. Davey: If the Government continue to return with more regulations, the hon. Gentleman may be right. They should not do that. We should see how this completely revamped system beds down and how we can help landlords improve standards more generally.

I do not want to say much more. The decent homes standard has been a welcome programme, and the report shows how it can be improved. I only hope that the Government think again about their reaction to the report. Whether we are talking about the fourth option or the definition of the decent homes standards, their response was inadequate. In many ways, the Chairman of the Committee, while making some fierce criticisms, was understating his concern and the Committee's. Certainly I thought on reading the report that there was a real chance for the Government to make amends and to go forward. I hope that the Minister will tell us today that the Government's response to this very good report can be considered again.

3.50 pm

Mr. John Hayes (South Holland and The Deepings) (Con): As ever, I draw attention to my entry in the Register of Members' Interests. Also, as this may be the last time that the Minister and I clash across the Chamber, let me say how much I have enjoyed our exchanges, discussions and debates. They have never really been arguments. As Oscar Wilde said, arguments are always vulgar and often persuasive. The arguments between the right hon. Gentleman and I are never vulgar, and mine are usually more persuasive than his, but it has been a pleasure. I hope that this is not the last occasion on which we cross swords, but it may be.

The hon. Member for Bethnal Green and Bow (Ms King)—we must not forget Bow, certainly not with an election in the offing—made an important point about housing availability and affordability, and about house building. It would be wrong to debate decent homes outside that context, because one of the greatest indictments of the Government has been the collapse of social house building. That is a damning indictment of this Government and this Minister.

Hon. Members will be as acutely aware as I am of the facts. I have the table here that shows that in the mid-1990s we were building just under 40,000 new social houses a year, but in recent years we have built just under 20,000 each year, so there has been a collapse in social house building under Labour's stewardship. That has created a significant problem in the form of the number of people housed in temporary accommodation. I know that it is a cause of great distress to you, Mr. Deputy Speaker, as it is to me that the number of such people has reached a record 100,000, according to ODPM figures from December. That is the highest the number has ever been.

It is true that Governments have often inherited a rising trend when such figures have been announced. It is sometimes true that people make cheap political points because a figure has been reached when in fact the trend was established under a previous regime. However, the trend for people housed in temporary accommodation was falling until 1997. The Government have reversed a falling trend, and we now have that appalling figure, so there is a real problem with social house building to which the hon. Lady was right to draw attention. I shall deal with that issue and affordability before coming to the comments of the Chairman of the Committee and of the Committee itself.

Mr. Betts: I just want to get things straight. Is the hon. Gentleman saying on behalf of the Conservative party—I am sure that he would like to confirm this—that under its spending plans, a Conservative Government would remain committed to the decent

[Mr. Betts]

homes standard and all the funding associated with it, and would also provide extra resources to build even more social homes, which he says are needed?

Mr. Hayes: I am grateful for the hon. Gentleman's remarks. I shall come to our position on the decent homes standards in the middle part of my extremely long and interesting speech. To deal with his other point, our position is crystal clear. I know that he takes to bed every night—as you do, Mr. Deputy Speaker—the Conservative action on housing pamphlet, "The Right to Own", which I published at the end of last year. That pamphlet makes it clear that if the Housing Corporation's approved development programme were divided 50:50 between houses to rent and low-cost homes, as the hon. Lady suggested, there would be about 12,500 more homes built each year—a combination of Housing Corporation homes to rent and new houses built under the low-cost home ownership scheme.

We know that 60,000 people apply for that scheme every year and that the vast majority of them are disappointed. Among the generality of the population, we know that, according to independent surveys, about 85 to 90 per cent. of people want to be home owners. Our target should be ambitious. We have changed the proportion of people who own their own home over the past 25 years from about 60 per cent. to 70 per cent., so why should we not aim, on a non-partisan basis, to change that proportion over the next 20 years from 70 per cent. to 80 per cent. by reconsidering shared equity?

The way to make home ownership accessible is not by building "affordable houses", but by making the houses that best suit people's needs affordable to them as individuals and families. That requires a fresh look at equity. I echo the plea of the hon. Lady for real effort to be put into invigorating the mortgage market and for Government support for shared equity homes, so that people can take that first step on to the ladder; it is a question of bringing the ladder closer to them.

Mr. Deputy Speaker: Order. May I disappoint the hon. Gentleman and say to him that my bedtime reading is much more likely to be J. P. O'Brian or Bernard Cornwell than the particular volume that he referred to?

Mr. Hayes: I am cut to the quick; I never thought for a moment that you, Mr. Deputy Speaker, would place anyone above me in terms of your reading preferences, but I stand corrected.

Andrew Bennett: I understand why the Conservative party is hung up on the idea of home ownership, but perhaps the reason why more people appear to have wanted to buy their own homes is the poor quality of rented accommodation. When we have good quality rented accommodation and estates, a lot of people may see the advantages of rented accommodation. Home ownership has not been the greatest of things in one or two northern cities where house prices have steadily fallen rather than risen as in the rest of the country.

Mr. Hayes: I hope that I am not being impertinent in asking the hon. Gentleman whether he lives in his own home or rents.

Andrew Bennett: I have bought my house and it has been a fantastic investment, but the success of such an investment involves choosing the right area to live in and the property prices rising. Home ownership is not necessarily good for society. I will probably have a huge amount of money tied up in my house when I die, and my kids will no doubt be pleased with that. I suspect, however, that as far as I am concerned, it might have been better if I had been renting during the later years of my life and had had the money to spend.

Mr. Deputy Speaker: Order. Will the hon. Gentleman explain which bit his kids will be pleased about?

Andrew Bennett: Both, I think.

Mr. Hayes: You are on impeccable form today, Mr. Deputy Speaker, if you do not mind me saying so. We are ranging widely from your preferred reading matter to the hon. Gentleman's life story.

The fact that the hon. Gentleman chose to buy his own home, as I suspect most Members here today have done, is perhaps indicative of a natural human desire to acquire a property and pass it on to the next generation. That is not unhealthy. Associated with the acquisition of property are many other good things such as security, responsibility and a stake in society, but he is right that that is not to say that we should either reject those who need to rent or neglect the quality of the properties that they rent.

My analysis has revealed that, unsurprisingly, most people's housing needs change in their lifetime. We start off single, we often—perhaps usually—get married or find a partner, to use the modern idiom. If we are fortunate, we have children, and we then get old and end up—I hope not too soon—rather dependent. I started off living in a council house on a high-quality council estate. It was an idyllic childhood—a golden age, one might say. I was a tenant in the private rented sector when I was a student, then I had a small private house, then a big private house, and now I have a very big private house. One day I will move into a bungalow, and perhaps I will end up dribbling while being fed in a supported home. That is not an unusual pattern. People's housing needs change, and the houses available to them must reflect those changing needs.

The hon. Gentleman is right: there is a proper role for the rented sector, both private and public, and it is necessary that property is available in sufficient quantity and quality. That is really the subject of our debate: there clearly is not sufficient quantity at the moment. The number of social houses being built is not adequate to meet demand. My point is that, over a very long period, by adopting policies such as looking again at equity, we may change demand by altering the proportion of the population who own and therefore the proportion who want and need to rent. That is a perfectly reasonable ambition, given that most people say that that is what they want to achieve. Why should we not help people achieve their aspirations?

The Government are on weak ground in this debate in terms of their record on social house building. That could be altered if we adjusted the way in which the

Housing Corporation funds the construction of new homes and if, as I have said, that funding was weighted more heavily towards the development of shared equity homes under low-cost home ownership schemes. I am more than happy to make those figures available to the Minister—I am sure that he has them—and other hon. Members, so that they can share my disappointment with him and his record.

The Government have said that the reason why they have not built many social homes is that they have chosen to prioritise investment in existing stock. They have a fair argument: that we have the oldest housing stock in Europe and that some of our public sector housing is not of sufficient quality. That is the case for all kinds of reasons.

Mr. Andrew Love (Edmonton) (Lab/Co-op): I thank the hon. Gentleman for giving way and apologise to you, Mr. Deputy Speaker, for arriving late.

Would the hon. Gentleman consider the £19 billion backlog of disrepair caused by the previous Government to be part of that argument?

Mr. Hayes: I was about to say—with typical generosity—that one reason why we face a challenge is the policies of a range of previous Governments on maintaining housing stock. If one considers housing stock, one must consider a long period, because houses do not deteriorate in 10 or 15 years; their condition changes gradually over a long time. To be fair, the problem partly results from the age of our housing stock, particularly in the public sector. Large amounts of public sector housing were built between the wars—under Conservative Governments, incidentally—and again in the 1950s. Harold MacMillan was the Conservative Housing Minister at that time, and he was proud of his house-building record, and particularly of the role he played providing houses for vulnerable people.

House building and housing investment are long-term issues. The hon. Gentleman is right and the Government make a fair point when they say that there is a need to invest in the existing stock. They have chosen to prioritise that above social house building. They probably could have done more of both if they had adopted measures such as those that I have described in respect of the way in which the Housing Corporation uses development money. It is not too late to change that, and an incoming Government with an enlightened Housing Minister could take action quickly to correct those failures.

There are profound concerns about the decent homes standard that formed the background to the Select Committee report. Some of those concerns have been expressed in our debate today, and some are to be found in the Committee's findings. The criticisms are pretty damning. Although they were delivered with the grace and style for which the Chairman of the Select Committee has become so well known, when one strips bare some of the niceties, one finds that the Committee makes it clear that it finds the Government's current policy unsatisfactory in four or five ways. It stated:

"We believe that the Decent Homes standard is set at too basic a level, and that by 2010 it will be seriously out of step with reasonable tenant expectations."

The Government say in their response that that is a baseline. That argument is fair enough, but the real problem with the standard is that it will probably not address the things that most people regard as fundamental. Some of those things have been mentioned. There has been talk of insulation standards, for example. It would not be particularly costly to introduce some of the basic energy conservation standards that would make a real difference in terms of both the cost to the household and the welfare of the people who live there. But that is not part of the standard.

We have heard—I shall return to this issue—that things that happen outside people's front doors are not addressed by the decent homes standard. People are often pretty comfortable about doing things for themselves if they feel they have some control over them. People should have adequate bathrooms and kitchens and all those basic things, and some people feel that they can deal with those things for themselves as long as they get some help and support, but it is different when they walk outside their front door and face graffiti and a vandalised neighbourhood. They may fear going out because of crime or feel that there is no sense of community. Such conditions are perceived by them and by the Committee as largely outside their control. That is why the Committee highlighted both the paucity in the decent homes standard and the need to go beyond it by looking more widely at the other issues that affect people's quality of life.

I shall deal later with how my party might address that issue, but I should like to put on the record the Committee's criticism of the Government and their failure to be as ambitious as they might have been in providing improved standards for people in social housing. The hon. Member for Bethnal Green and Bow and the hon. Member for Kingston and Surbiton (Mr. Davey) also drew attention to that point.

The Committee's second criticism—its Chairman made it clear that this was a central criticism—was:

"We believe that the target of achieving Decent Homes in the social housing sector is being used as a Trojan Horse by the Government in a dogmatic quest to minimise the proportion of housing stock managed by Local Authorities."

That was echoed by the hon. Member for Sheffield, Attercliffe (Mr. Betts), who said that there is no evidence that councils are worse landlords than housing associations.

Ms King: I am sure that it is right that there is no evidence that local authorities are worse landlords. The fact is that if the Government have £100,000 to spend on housing and give that money to a local authority, they can build, say, two units at £50,000 each. If they give that money to an RSL, they can build three units. The time that it takes to reduce the numbers of non-decent homes will therefore be increased by one third if the money goes via local authorities instead of RSLs.

Mr. Hayes: The hon. Lady is attempting to take us on to the issue of house building; I was really talking about the management of stock, which the hon. Member for Sheffield, Attercliffe highlighted. We have already spoken a bit about house building, and the hon. Lady is rightly concerned about it. It is important that we are much more open-minded about how social house

[Mr. Hayes]

building happens. For example, in rural areas, through extending the rural exception site policy, I want to allow private sector developers to cross-subside the provision of social housing through the provision of market housing. That is one example of how we might get more investment in the provision of social housing in areas such as the one that I represent and live in. So there are all kinds of ways in which we can be more open-minded about how we attract additional funds for the provision of housing.

With respect, I am grateful for the hon. Lady's comment, but I do not want to be too distracted from the central point made by the hon. Member for Sheffield, Attercliffe, which is at the heart of the Committee's criticism: is it appropriate for local councils to be landlords? Are they as good at managing housing as other registered social landlords? I have to say that my local authority, Conservative-controlled South Holland district council, is a very good provider of rented housing for the people who need it in my area. As I have gone around and seen other councils, I have found that many of them are good providers and managers of rented housing, too.

I was in High Wycombe recently, and I have also visited that splendid borough of Wandsworth, where I spoke to two very good local campaigners from Battersea and Putney—Dominic Schofield and Justine Greening, both champions of the interests of local people—who tell me that Wandsworth does a good job of managing housing. There is a prejudice that somehow local councils are automatically bad landlords, and it seems to underpin Government policy. The report itself mentions

"a dogmatic quest to minimise the proportion of housing stock managed by Local Authorities. "

I do not understand the logic of that approach. However, that is not to say that we do not have to be open-minded about the subject.

Ms King *rose—*

Mr. Hayes: The hon. Lady is going to tell me that she does not think that councils are good at managing houses.

Ms King: The point that I was trying to make, but failed to make clearly, is that the Government prefer to put money through RSLs rather than local authorities because, under the current rules—there have been arguments that the rules should be changed—more units are obtained. The criticism that the Committee made was that the Government are pushing things in a certain direction. I urge the Government to push things more quickly in that direction, because otherwise yet another generation of children in Tower Hamlets will grow up in slums.

Mr. Hayes: That brings us neatly to how these things are financed. The interesting view has been expressed that we should look again at how local authorities can borrow money to support the management and improvement of housing stock. The Chairman of the Committee made that point himself. The hon. Member for Sheffield, Attercliffe, the Committee and hon. Members have said that there should be a level playing field in that regard and that local authorities should be able to invest in housing stock on the basis that they can borrow money against the value of their assets. That is what the hon. Member for Sheffield, Attercliffe argued. The Committee argues that that point has some force, and I would be interested to hear in the Minister's response why he feels that it does not.

Mr. Love: Will the hon. Gentleman give way?

Mr. Hayes: The hon. Gentleman came in late, but I am ever generous, and am quite happy to let him have another shot.

Mr. Love: I thank the hon. Gentleman for giving way. I have been listening carefully to his argument. He seems to be expressing some sympathy with the need to spend more money on social housing, whether to own or rent. Earlier, he seemed to have sympathy for the need for a higher decency standard in housing, which would, of course, cost money. He now seems to be expressing support for a fourth option of councils doing development, which would again cost more money. In adding all that up and taking into account the fact that it is official Opposition policy to reduce the budget in housing, how does he make his sums work?

Mr. Hayes: The hon. Gentleman either was not listening or did not understand what I said about social house building, but he did come in late, and I know that this debate was not one of his priorities this afternoon. Notwithstanding that, I shall repeat what I said: if the Housing Corporation approved development programme money were divided 50:50 between low-cost home ownership schemes and houses to rent, 12,500 more homes could be built by the Housing Corporation each year at no extra cost to the Exchequer. Is that clear? There is no extra cost.

In respect of the decent homes standard, I said that I would come on to talk about what the Conservative party was going to do. What I said about the Committee Chairman's suggestion—I hasten to add that it is not my suggestion—that local authorities should operate on a level playing field in terms of their permission to borrow is that it had some merit and that I was interested in the Government's response to it. That is pretty clear, too.

I shall talk in a moment about our view of what we call the decent communities standard and how it might be funded. The hon. Gentleman will perhaps be even clearer when I have finished.

Mr. Kerry Pollard (St. Albans) (Lab): Does the hon. Gentleman accept that in respect of the 50:50 split, the issue depends on where the houses are being built and how much that costs. For example, there is a great difference in land prices and building costs between St. Helens and St. Albans. The Government did not build as many houses as they needed and as many of us would want, but they are building houses where they are most needed now—in the south-east and the London area—but that means that there are fewer houses per pound than if they were built more generally.

Mr. Hayes: Yes, that is true, which is why I used average or typical prices. The hon. Gentleman is right

that there are regional variations. On the land issue, he talked about savings in the housing budget. The vast bulk of the savings in the James review, to which the Minister will no doubt refer in his reply, come from the release of public sector land, which should be released and made available; to judge from the Red Book, that is what the Chancellor thinks, too. The end of the regional development agency land banking could also create a very large extra sum. The savings are detailed in the James report, which I should be happy to make available to the hon. Gentleman and to the hon. Member for Edmonton (Mr. Love).

The hon. Member for St. Albans (Mr. Pollard) is right: of course there are local and regional differences in the cost of building houses. That is one of many reasons why the £60,000 house is such nonsense. It is also nonsense because of the notion that every nurse or teacher wants to live with another nurse or teacher, and that only people in the professions chosen by the Deputy Prime Minister will live in the houses that he defines and designs, and in the places where he wants them to live. What a monstrous suggestion.

Mr. Davey: Incidentally, it is interesting that the James review is predicated on all the land being sold, but the Conservatives are against building more houses and criticise the ODPM for concreting over the countryside. It would be interesting to know how they make those two policies add up.

The hon. Gentleman said that the fourth option had some merit. We are only a few weeks away from the election, and he has obviously been studying housing policy. Will he tell us whether the Conservative party is in favour of the fourth option?

Mr. Hayes: The hon. Gentleman raised two specific points. On the first, about extra building, the Government's brownfield development target is 60 per cent., which they have exceeded: the current figure is about 67 per cent. Barratt Homes tells me that 80 per cent. of the houses that it builds are on brownfield land, and in the south and south-east the figure is 90 per cent. The redesignation of brownfield land for residential building from that allocated for employment purposes would free up many residential development opportunities. If he considers the amount of land that is designated for employment purposes against the amount that is identified for residential building, he will see that in all but two regions more is designated for employment, and in every region of the country the take-up is less for employment development.

To make it straightforward, what that means is that many sites remain undeveloped because they are designated for employment development, not residential development. Many local authorities acknowledge that and most developers know it too. The ODPM considered the issue very recently. Many brownfield opportunities in most parts of the country are going to waste. They could be developed for housing. So the idea that the only housing one can build is on green fields is something of a distortion at the very least.

Mr. Pollard: May I give the hon. Gentleman an example from my own constituency? Borras Construction built an office block five years ago and has tried to flog it, rent it and do other things, but it cannot. A planning application was submitted to the local authority, which said that the site was an employment-designated site. It could be guaranteed that there would be 100 per cent. affordable units on the site and still the local authority would stand in the way.

Mr. Hayes: I will not make any comment about the hon. Gentleman's local affairs because that would be discourteous, but I am interested that he has some sympathy with the case that I am making about the need to rethink both the target for brownfield development and how we achieve that target through the more practical designation of appropriate land.

I am being encouraged to go off on a tangent by these pithy and interesting interventions, but I must return to the matter in hand because you will criticise me if I do not, Mr. Deputy Speaker.

The Committee went on to say:

> "The Government must put its money where its mouth is and leave it up to tenants to decide who should . . . manage their homes. The Government should provide a level playing field in terms of funding so that tenants and Local Authorities have real choices."

It also said:

> "In the private sector, the limitation of the Decent Homes target to just 70 per cent . . . makes little sense."

The Committee's detailed recommendations, which I have studied, make it clear that it has a more open-minded view about who should manage housing than the Government. It feels that there should be much higher levels of tenant involvement—that was echoed by the hon. Member for Kingston and Surbiton, who made an interesting point about the form that that might take—and it suggests that the decent homes standard should be more ambitious in breadth.

How might that be achieved? It could be achieved by establishing a decent communities standard that would consider all the factors that comprise a high quality neighbourhood. Such a standard would necessarily involve a series of Departments and it would certainly involve the private sector, the voluntary sector and a range of local authority departments. It would not all be funded by the Government—far from it. It may be that some of the things that the Government do actually stand in the way of achieving decent communities. We are talking about what the Government do and should not do. The private and the voluntary sector may well be able to take on some of the things that the Government do and relieve some of the cost burden from them accordingly.

The important thing is that the standard would identify the things that the community believes are fundamental to delivering an acceptable quality of life. We have heard repeatedly this afternoon that that is not just about what happens behind people's front doors. Improving housing stock is important, but it is not the only thing that is important. When I look back to the halcyon days on the estate where I was brought up, I can see that it was because of the quality of life, in all kinds of respects, that I had a happy childhood. It was about the availability of appropriate opportunities for people to socialise and to play, and about the little platoons that make up a civilised society—all those small organisations that require support from the

[Mr. Hayes]

Government and should not be over-regulated by them. It is also about the maintenance of good standards of law and order, and about the physical condition of the neighbourhood: how it is maintained in terms of graffiti and vandalism, planting and all the other small but important things.

That is partly about local government, and the Government should act as the catalyst for much of it. However, as I said, it is also about the communities themselves and supporting the voluntary sector strongly in bringing such things about. We should not always assume that this is about spending more money, because that does not always yield the best results.

Mr. Mole: I do not want to diverge too far from the Select Committee report, but I point out that the Government's liveability fund is very welcome in helping to address many of the environmental issues that exist in neighbourhoods. The hon. Gentleman mentioned the James review; will he reassure us that the funds that make communities safer, greener and cleaner would stay in place?

Mr. Hayes: When the James review was being drawn up—and, as I imagine, when the Gershon review was drawn up—those involved in the process were in discussion with those in spending Departments to find a balance. Many of the savings outlined in the James review in respect of the ODPM will be reinvested in our area; that was made absolutely clear in those discussions. Where we choose to reinvest them and how we target them will be a choice that I shall be forced to make in few weeks' time when I move into the Minister's office, but I am not going to reveal in detail how we will go about that. Some of it will depend on the circumstances that apply when we come to power. The hon. Gentleman is right that it would be wrong to assume that all the James money will leave the ODPM; a lot of it will be reinvested to support a range of important and worthwhile projects.

Several hon. Members *rose—*

Mr. Hayes: It is not appropriate for me to debate Conservative party policy here. This is a debate about a Select Committee report, and I will not be encouraged by mischievous interventions by Labour or Liberal Democrat Members, thus receiving criticism from you, Mr. Deputy Speaker, for going off the point.

Mr. Deputy Speaker: Order. The question before the House is that the sitting do now adjourn and nothing more.

Mr. Hayes: Ah well. But it would not do any favours to those who spent so long drawing up the report for me to give a long and detailed description of the nature of Conservative policy. I know that the Minister will want at least an hour to respond, so I want to draw my remarks to a conclusion fairly shortly.

Mr. Betts: Will the hon. Gentleman give way?

Mr. Hayes: Just briefly, because the hon. Gentleman is so charming.

Mr. Betts: It was a nice ploy of the hon. Gentleman to try to avoid my intervention, because I want to raise precisely the point that I asked him about at the beginning of his speech. He talks of a decent communities standard, but I am unsure about whether that is an extra spending commitment to spend more on the environment around houses or whether he is saying that the Conservatives will spend more on the environment around the houses, but less on the houses themselves. Is he proposing a total spending reduction? He referred to money from the private sector coming from somewhere for something. Would he be a little more precise? Is such money going to replace lots of public funding, and if so, how? I do not really see it myself.

Mr. Hayes: That is a perfectly reasonable question and I shall answer it, I hope, with equal reasonableness. When we published the document that I mentioned earlier, which deals largely with demand-side issues and housing market mechanisms, we said that we would publish a second series of policies. They will be published this month, and they will address some of the issues we have talked about today, such as the availability of brownfield land, how we would enable additional house building where it is needed and the way in which we would enable the decent communities standard to replace the decent homes standard. All those things will be set out in detail; they will be announced and made available for the hon. Gentleman to scrutinise. They will be exciting and attractive, and on their basis I imagine we shall attract many votes in his constituency and elsewhere. He must wait and see; he will get the second tranche of Conservative policies in housing and planning before he has to decide how he votes in the general election.

The Select Committee went on in detail—I will not go through all the details because hon. Members have had a chance to read the report—to identify why it thought that the Government were wrong in the respects that I have highlighted. My view is clear: the Government chose to aim for a decent community standard that would improve the stock to a baseline figure. They now need to think again about whether that baseline figure is sufficient to improve the overall quality of life in a community, and to think again about the management of housing and about whether local authorities should be supported in continuing to manage stock. They also need to think again about enabling tenants to be properly involved in those decisions, and about how tenants can play a greater role in shaping the future of their neighbourhoods, their housing and their communities.

The Government need to think again about how to fill the gap between how many social homes are needed and how many they have managed to build; it is a pitiful number. Unless they think again very quickly, I am afraid that their failure will cost them dear. They now have weeks, not months. I suspect that they do not have time to get this right and that it will require a new Government with a new vision and new and bigger ambitions to fulfil what the Select Committee wants to be fulfilled. More importantly, that is what the British people deserve.

4.31 pm

The Minister for Housing and Planning (Keith Hill): I thank the members of the Select Committee on the Office of the Deputy Prime Minister and other colleagues for their contributions to the debate.

I pay particular tribute to my hon. Friend the Member for Denton and Reddish (Andrew Bennett), whose contribution will have been his swansong, at least in this Chamber. I congratulate him on his work as Chairman of the Select Committee, and his long and distinguished parliamentary career. He has played a distinguished part in addressing housing issues, but I hope that he will forgive me when I say that the contribution I shall most remember him for is his wonderful achievement—the right to roam in our countryside. I heartily congratulate him on that.

We have had a wide-ranging debate from, if I may say so, a thrilling cast of characters. Even my hon. Friend the Member for Stroud (Mr. Drew) made a fleeting appearance, and my hon. Friends the Members for Edmonton (Mr. Love) and for St. Albans (Mr. Pollard) also put in a late but welcome appearance. Old chums, one and all. Anyway, enough of this love-in.

The policy pickings from the dishes of the Opposition parties were a trifle meagre. I am genuinely very fond of the hon. Member for South Holland and The Deepings (Mr. Hayes), but why do I always feel that he is making it up as he goes along? As I listened to the hon. Members for Kingston and Surbiton (Mr. Davey) and for South Holland and The Deepings, I was reminded of the survey of housing professionals carried out by that august journal, *Inside Housing*, in the new year. I am pleased to say that housing professionals subscribing to it exhibited extremely high levels of support for the Government's sustainable communities policies. When asked about how they intended to vote, 69 per cent. said Labour, 3 per cent. said Conservative, and 2 per cent. said Liberal Democrat. That is a ringing endorsement of our policies from the people who really know about housing.

Many important issues have been discussed in this debate, but I would hate us to lose sight of the big picture and of the Government's commitment to meeting the decent homes target. We have 4.1 million social homes in this country. That is a tremendous asset, which is worth about £400 billion and is an immeasurable asset to the community.

The impact of decades of neglect and underinvestment under the Tories left us in 1997 with a £19 billion backlog of repairs and 2.2 million homes that did not meet the decent homes standard. This Government responded to that challenge by radically changing our approach to housing policy, building in far greater flexibility and capacity for investment than ever before. Let me remind the Chamber of the results of that radical change. Since 1997, we have reduced the number of non-decent social homes by 1 million and we have increased the proportion of vulnerable households in the private sector living in decent homes to 63 per cent. We have increased investment massively. Local authorities have invested more than £13 billion in bringing their homes up to a decent standard, and a further £5.3 billion has been levered in from the private sector through transfer.

On top of that, local authorities' plans indicate that by 2008 they will invest a further £11 billion in their stock. Indeed, between 1997 and 2005–06, the average investment per council home will have increased by 55 per cent. in real terms. We are on track to meet our target of providing a decent home to everyone living in social housing and to 70 per cent. of vulnerable households in private accommodation by 2010. By the time we meet our target, we expect that local authorities and housing associations will have spent about £42 billion on ensuring that their tenants live in decent homes.

Mr. Hayes: I hear what the Minister says, and I am fond of him too. Does he regret the halving of the number of social houses being built? That is what his Government have done.

Keith Hill: If the hon. Gentleman wants to go down that road, why should I not give him a few facts to reflect on? As usual, he drew attention to the levels of social home building in the early 1990s. However, he omitted to point out that in the year that he always selects—1992–93—there were higher levels of affordable housing than now because of mass unemployment and negative equity. At that time, there were historically low levels of new build in market housing. The wonderful year of 1997–98, when we came to power, is the most sensible point of comparison between what his Government and our Government have achieved.

Remember, the Tories halved investment in social housing between 1992 and 1997—that was the base line that we inherited. In 2003–04, we built more new market homes than in 1997, and we shall continue to do that from next year onwards. Yes, we shall not begin to exceed the levels of social homes that we inherited in 1997 until 2007–08, but, as my hon. Friend the Member for St. Albans rightly said, we have been building more homes in the south-east, where they are most urgently needed, and where, since 2003–04, we have been exceeding the level that we inherited of new social homes built.

Of course, building in the south is an expensive business. Land costs, labour costs and construction costs are at their highest there. That is why, although we will double our investment in social housing over the period to 2008, we will build 50 per cent. more social homes for renting than at present. That record is highly defensible, and I find it difficult to see how that fanciful notion—a Conservative Government—would build more affordable homes than this Government.

The hon. Member for South Holland and The Deepings has tempted me to do this, and I shall go for it. The James review pledges to cut £1 billion from the sustainable communities fund. That is in black and white on a document that I have drawn down from what I believe is known as the Conservative party website. It says, "Less talk, more action", and it asks people to make a donation. It states in black and white that the "sustainable communities plan" would be scrapped, "saving another £1 billion." The document is absolutely irresistible, and I shall not resist it. It goes on to state:

"Conservatives will reverse the culture of Whitehall targets and central government control. Local decisions should be taken by local councillors and held to account by local people."

[Keith Hill]

That from the party that passed more than 50 Acts of Parliament to destroy the power of local government. However, enough of that; I shall come back to my main theme.

I was saying that our target for decent homes is not merely about bricks and mortar but about individuals and their right to live in a secure and stable environment. Therefore, it is a vital part of the Government's commitment to creating safe, sustainable communities. Last month, as all present will be aware, the Deputy Prime Minister launched "Homes for All", our five-year plan that sets out the way forward for housing. The decent homes target is an integral part of it, and I am confident that we are all agreed that the decent homes strategy is of tremendous importance to our communities and neighbourhoods.

I would like to address some specific, and often contentious, issues. The fourth option was highlighted by my hon. Friends the Members for Denton and Reddish, and for Sheffield, Attercliffe (Mr. Betts) and by the hon. Member for Kingston and Surbiton. I want to take this opportunity to assert again the Government's position on the so-called fourth option. The Select Committee was deeply concerned at what was referred to as a "Catch-22" situation. It recommended that there should be a "level playing field", with local authorities that manage their own stock having access to direct investment.

It is the Government's contention that our decent homes programme is the best way forward. It provides three innovative and flexible ways to support local authorities that need additional funding to ensure that their stock meets the decent homes standard. Of course, some local authorities will be able to meet their target on decent homes using mainstream housing funds, their own resources and, perhaps, some prudential borrowing. However, our sustainable communities plan, which was published in February 2003, made it clear that where additional funding was needed, local authorities could not expect increased investment unless they engaged in the options appraisal process.

The fact is that it is not Government policy simply to throw money at a problem. That would be irresponsible and in the long term it would not work. We are under an obligation to ensure that where we provide extra resources, we also drive up performance, allow tenants to have their say about how those extra resources are spent and secure value for money. The truth is that authorities up and down the country are now telling us that the separation of management and strategic function is delivering better services to tenants and that they are now able to take a more strategic view of their wider housing responsibilities.

Mr. Davey: I am afraid that if the Minister tries to caricature the Select Committee's report and people who support the fourth option as throwing money at the problem, he is not engaging in a mature debate. A housing association is able to borrow on the capital markets against future rental income. All the people who support the fourth option are saying, "Give that freedom to local authorities". It is not throwing money, but allowing authorities to borrow prudently, according to guidelines set down by the Chartered Institute of Public Finance and Accountancy and others, to ensure that they have extra cash available to meet local housing needs. I do not think that that can be caricatured in the way that he has just done.

Keith Hill: I will say two things to the hon. Gentleman. I think that I am right in saying that he is a former spokesman on Treasury matters. As such, he will know that these matters are strictly controlled by Treasury rules. We might want to debate those in a separate context, but the blunt truth is that they are the rules under which we operate. The prudential borrowing regime has given local authorities greater flexibility, out of which a number of them have now decided that they can go forward in meeting the decent homes target, while retaining the stock.

I also need to say to the hon. Gentleman—I put this to him very seriously—that it would be quite wrong for the Government simply to accede to a request for additional funding for decent homes from a local authority, without considering the quality of that authority and its capacity to deliver on decent homes. He knows very well that there are many local authorities whose performance in housing delivery, maintenance and services to tenants is not very impressive. Is he really saying that in such circumstances, which might involve a no-star or a one-star authority, the money should simply be made available, without the Government imposing any quality requirements?

Andrew Bennett: Will my right hon. Friend reflect on the remark made by my hon. Friend the Member for Sheffield, Attercliffe that there is lots of evidence that some local authority housing departments are extremely well managed, and that in many cases staff have moved over to stock transfer companies or arm's length management organisations? They are exactly the same people. They did not suddenly become good managers because they moved over; what happened was that they got some resources, which enabled them to manage. Where a local authority is prepared to put in place first-class management, please can it borrow some money so it can show that democratically controlled local authorities can do as well as, if not better than, quangos?

Keith Hill: I do not think that we will be able to agree on this subject. Let me say two things. First, as my hon. Friend well knows, we have made a requirement, particularly with regard to ALMOs, that local authorities should achieve at least two stars before funding is allocated to them. That has undoubtedly had the effect of driving up the quality of local housing delivery. Secondly, when I last looked at the statistics for the nine local housing authorities with three stars, seven had already moved over to ALMO or stock transfer. The truth is that the best local authorities are actually getting on with the job of delivering decent homes under the options that we have presented to them. Our policies are succeeding.

Mr. Betts *rose—*

Mr. Pollard *rose—*

Keith Hill: May I just move on a little?

Since 1997, tenants from more than 100 authorities have chosen, and benefited from, stock transfer, with further positive ballots awaiting transfer. Fifty-eight ALMOs are up and running or are being set up, with 33 already delivering decent homes. Eight local authorities are pioneering the housing revenue account PFI schemes as pathfinders. We are continuing to see a good response. Earlier this year, we received 66 applications from 38 local authorities for places on the transfer, PFI and ALMO programmes. That does not demonstrate that our options are not working.

Mr. Betts: I would like the Minister to address a point I made. He is clearly ruling out the fourth way—my hon. Friend the Member for Denton and Reddish made a good point about that—so let us focus on the choice now facing tenants. If the majority of tenants choose ALMOs and we get more and more requests for them, given that ALMO expenditure is covered by the Government's borrowing requirement, does the Minister guarantee that all those choices to go down the ALMO route will be honoured and the Government will fund them, so that all those tenants' homes will be brought up to a decent standard?

Keith Hill: We are confident that we have sufficient allocated funding in the current spending round to deliver on the expected levels of ALMO applications in that period.

Mr. Pollard: What would the Minister say to council tenants who live in an area of my constituency where a survey was undertaken? Their authority is small but well managed, and its housing stock is in good condition. They voted overwhelmingly in favour of staying with the council, even though the council suggested to them that moving to an ALMO might be a good decision. Therefore, we are not sweating that asset very well. How do we get over that problem? There are many small local authorities with relatively few homes. My authority does not have 120,000 homes, as some of the larger ones do; it used to have 13,000, but it now has only 5,500, following the introduction of the right to buy.

Keith Hill: I have to say to my hon. Friend that we respect the decision of those tenants. They have made the choice to remain with the local authority, presumably in full knowledge of the implications of that for their housing. That is simply a reality. This is not a new announcement; the Government have consistently adopted this position, as have I. What we always say is that it is open to local authorities to revisit those issues. An obvious example of that is the case of Birmingham, where tenants voted against a transfer proposal a couple of years ago. I have been to Birmingham, and have seen the good work that is now taking place; the focus is on 11 housing districts corresponding to constituencies across Birmingham and tenants are being seriously engaged—I suspect that that did not happen in the past. It is always open to local authorities to revisit those issues.

Let us be clear that notwithstanding the preoccupation that hon. Members have with the issue of the fourth way—that is a diminishing issue, as we get closer to the completion of the stock options appraisal process, with the deadline of July 2005—we need to remember that our policies are bringing in hugely increased investment. We are vastly reducing the numbers of households who live in non-decent homes and our policy options are supported by local authorities and by tenants.

Mr. Love: I suspect that I may be the only one on the Minister's side who is sympathetic and supportive to the Government regarding—

Ms King: Hello.

Mr. Love: There are others. I am sympathetic to the Government's position on the various options under option appraisal. I want to put one concern to him—he addressed it earlier, but I want to press him further. We may assume that the transfer programme has encountered some difficulty. The Minister has already indicated that the PFI programme is still at the pathfinder stage and said that the ALMO programme was able to address that in terms of funding. Can he give us an assurance that he will be able to reach the decent homes standard by 2010?

Keith Hill: Yes, I can give that assurance. We are confident that we are on target to meet the decent homes standard across the piece by 2010. I believe that in the course of my remarks I have demonstrated that there is no fourth option, that we do not need a fourth option and that we will not provide one. I fear that, as colleagues, we will have to agree to disagree on that subject for the future.

I shall now take up some of the other issues raised by hon. Members. My hon. Friends the Members for Denton and Reddish and for Sheffield, Attercliffe mentioned decent homes-plus. The Select Committee recommended that we should consider formalising a decent homes-plus standard. I can understand why people would want to do that, but I believe that it would be confusing to consider introducing a new standard at this stage, when we are only part way towards delivering on the current one.

As I have said already, the problem that we faced in 1997 was massive and our target—to undo the damage caused by those years of neglect and under-investment—is challenging enough. To move the goalposts at this stage, when we are on track to meet our target in 2010, would be unfair and unreasonable.

As the Committee recognised, and those in the House will know, the decent homes standard is not, and was never intended to be, an aspirational standard. It is the baseline below which action must be taken, not a standard to which work should be carried out. Naturally, many tenants aspire to higher standards, and we know that, where work is carried out on homes, a higher standard is often attained.

I cite a couple of cities close to my heart—Bradford and Leicester—where I have visited projects in progress. Folk in those cities will proudly say that they are providing decent homes to the Bradford standard and—in the case of my birthplace—to the Leicester standard.

However, tackling all the homes that remain in a state of non-decency, despite the tremendous progress we have made since 1997, is a major challenge within the limits of what is affordable. It would therefore be unjust

[Keith Hill]

to take on the refurbishment of more properties, which would be a consequence of raising the baseline, while more than 1 million social tenants still have homes that do not meet the minimum standards of decency. Nevertheless, it is perfectly clear that we shall have to think beyond 2010. After all, stock currently identified as decent is likely to deteriorate, and aspirations are likely to rise. However, we have on our hands a hefty undertaking to meet the existing decent home standard; that task is sufficient for us to focus on now.

Colleagues have raised the issue of the environment, particularly in relation to ALMOs, and my hon. Friend the Member for Bethnal Green and Bow (Ms King) referred to the issue of communal services. Certainly, the issue was brought home to me last week when I was in Sheffield, looking at the progress made in delivering decent homes. Colleagues who spoke on the subject conceded that allowance is now being made for the environment. The argument is that 5 per cent. of the budget is insufficient, but let me give the House an assurance that the Government will continue to think hard about those issues, although my hon. Friends have been correct to suggest that greater investment in the environmental circumstances of social housing is available under transfer and PFI.

Let me also say a word about decent homes in the private sector—another issue raised by my hon. Friend the Member for Sheffield, Attercliffe. We take non-decency in the private sector very seriously. It is only right to focus on vulnerable households. The target of providing a decent home to 70 per cent. of them by 2010 reflects the complexities of the target and the level of resources available to deal with it. We are trying to maximise the resources available by encouraging local authorities to develop new means of providing financial assistance, such as loans and equity release.

The target that we have set for private sector decent homes is challenging but achievable, given the more complex picture of responsibilities in the private sector and the scale of the problem. We shall, of course, keep the target under review in the light of progress made towards meeting it. However, I must tell the House that we are well on course to achieving our target to make decent 70 per cent. of the homes of vulnerable households in the private sector by 2010, and to reach 75 per cent. by 2020. The 2001 baseline was 57 per cent. and the 2006 milestone was 65 per cent. The 2003 English house condition survey shows that the target percentage has increased to 63 per cent.

Progress is being made through local partnerships to develop new ways of tackling the housing problems that they face. We have allocated £60 million to kick-start funding to support the development of new loans schemes, such as those run by HouseProud in London, Art Homes in the west midlands, and the Wessex Reinvestment Trust in the south-west.

Let me now turn to the issue of overcrowding, which was raised by my hon. Friend the Member for Bethnal Green and Bow. I pay tribute to her diligence in these matters, not least because she went to the trouble of submitting evidence to the Select Committee on the decent homes inquiry. That is characteristic of her long-term, extraordinarily high and passionate commitment to housing issues. On overcrowding, we expect to consult on our thinking on the proposals shortly and on the amendments that I was pleased that we were able to make to the Housing Bill, very much at her instigation.

I draw my hon. Friend's attention and that of the Chamber to new draft PPG3 on housing, which requires local authorities to shift the focus of the new provision of housing from simple numbers of dwellings to the required mix of households. That new emphasis will allow local authorities to work with house builders and developers to deliver larger houses. My hon. Friend has spoken eloquently on many occasions about the need for them.

Ms King: Yesterday I visited a family of eight people living in two bedrooms. They take much heart from hearing that the Government really are putting into action the promises that measures will be taken to reduce overcrowding, which has crippled so many lives.

Keith Hill: I am grateful to my hon. Friend for those words as well. As a London Member, I recognise the deep-seated problems that she faces in her constituency and I fully acknowledge that the pressures are much greater in Tower Hamlets than in any other part of London.

Mr. Hayes: As the hon. Member for Bethnal Green and Bow said, overcrowding is exacerbated by the lack of available housing. We discussed the failure to build social housing. In fact, contrary to what the Minister said, this Government's record is the worst since 1947. There is no year since 1997 in which they built more, or even as many, social houses than were built in any of the previous years.

The hon. Lady also made a point about low-cost home ownership. Will the Minister reverse the Government's policy of running down schemes that facilitate low-cost home ownership? A graph for the take-up of low-cost home ownership shows that it has fallen every year under this Government's stewardship.

Keith Hill: Let me make several points in response to the hon. Gentleman's intervention and on the issue of low-cost home ownership, which was also raised by my hon. Friend the Member for Bethnal Green and Bow. I remind the House that by 2008 we will have delivered 75,000 new homes for social renting. That is an increase of 50 per cent. on current figures, and it reflects a doubling of investment in housing in comparison with 1997. The truth is that, since 2001–02, we have been building homes for low-cost home ownership and intermediate renting at a higher level than we inherited. That is the simple reality of the situation.

In response to my hon. Friend, I can say that via the key worker living scheme, social homebuy, the first-time buyer scheme and other low-cost home ownership initiatives, we expect to have brought 80,000 people into low-cost home ownership by 2010. However, it is always a matter of resources. We do our best.

There is no doubt that housing has risen to the top of the political agenda. We dispose of a massive £38 billion budget for sustainable communities, which I believe will be maintained in the future. I hope that it will be possible in the long term to meet the aspirations for home ownership of those who are on lower incomes, and to

meet the aspirations for social renting of as many as possible of our fellow citizens at various income levels. However, we must recognise that all those aspects of housing delivery demand resources. The House will be familiar with the Government's commitment in "Homes for All" to halve current levels of temporary accommodation by 2010.

The hon. Member for Kingston and Surbiton spoke about a menu of choices, which seems to be the main new element of the Liberal Democrats' policy on decent homes. It is an interesting proposition. Indeed, I would argue that it is largely implemented already.

We must be clear that any decisions made by local communities should be applied across the board. This is perhaps the point that my hon. Friend the Member for Denton and Reddish was getting at when he said that we had to think about future occupants. As a constituency MP, I am sick and tired of constituents coming to me and saying, "Every other flat in the block has central heating. Why doesn't mine?" Under some crazy decision-making process years ago people were allowed to choose whether to have central heating. We all know that it is now phenomenally expensive to introduce central heating into single blocks. Whichever direction we take, the solutions will have to apply across the board.

I make no apology for the emphasis that the Government have placed on the provision of modernised kitchens, bathrooms and central heating where necessary in terms of the decent homes programme. People can be sniffy about the standard that decent homes offers, but if one visits the homes of tenants that have been modernised under the programme one finds a phenomenal gratitude for and delight at the improvements to their homes. I have observed and expressed more joy about more modernised bathrooms and kitchens than I have had hot dinners over the last two years since I became the Minister responsible for housing.

To revert to the point made by the hon. Member for Kingston and Surbiton, I would argue that such choice is intrinsic to the stock option appraisal process. It is out of the process of discussion about the aspiration of tenants that decisions about retention, ALMOs, stock transfer and PFI are reached. If it is suggested that the options appraisal process, as it operates at present, does not allow tenants sufficient say in how their homes should be maintained and managed, I would point out that tenants are absolutely at the heart of the options appraisal process. The need to engage with them and to seek their views on the future management of their homes is vital to our policies.

All local authorities are obliged to draw up communications strategies that set out in practical terms exactly how they intend to involve tenants and other stakeholders. However, we go further than that: we also ensure that tenants are properly equipped to make informed decisions about the options open to them. We recognise that it is fundamental to tenants' rights that they can access impartial information, without bias towards one option or another. This is why we encourage local authorities to use an independent tenant adviser to ensure that tenants have a clear picture of the process.

Tenant engagement does not stop once a decision has been made. Tenants make up around one third of the governing bodies of transfer housing associations and ALMOs, broadening tenant participation to estate and neighbourhood level. The involvement of tenants at board level inevitably leads to a closer engagement in the management of their homes, but we expect ALMOs to continue increasing opportunities for tenants to get involved as part of the overall service they provide.

I can tell my hon. Friend the Member for Sheffield, Attercliffe that tenant satisfaction is increasing. For example, a tenant satisfaction survey in 2000 found that 85 per cent. of transfer tenants were either very or fairly satisfied with their landlord. Fewer than one in 10 tenants surveyed felt that the service previously provided by their local authority was superior. As I draw my remarks to a conclusion, let me say that the Select Committee report provided a degree of challenge to our policies for delivering decent homes.

Mr. Pollard: The Minister has not talked about the infrastructure implications of the new build. The East of England regional assembly has suddenly announced that it does not support the extra house building because the infrastructure cost implications of the new build would not be met. Every secondary and primary school in my constituency is full. Our population is increasing. We want to build more houses but the infrastructure is not there. We need to balance the two.

Keith Hill: My hon. Friend is right. I have not mentioned infrastructure because it is not the subject of our debate, but he makes a fair point about the need for infrastructure in the growth areas. We recognise that new housing growth must go hand in hand with the provision of new hard and soft infrastructure. The hard infrastructure will be by way of transport provision, and I draw my hon. Friend's attention to the fact that, as a result of the multi-modal studies, my right hon. Friend the Secretary of State for Transport last year announced a colossal £3.1 billion of new investment in transport infrastructure in the growth areas in the south of England.

In addition, my hon. Friend will be aware that my Department, jointly with the Department for Transport, administers a committee infrastructure fund worth £200 million. That is also devoted to providing key transport infrastructure in the growth areas. As we experience housing growth, health and education provision must not follow, but must be introduced simultaneously. The fact is that last year the Department of Health doubled investment in primary care trusts in the housing growth areas to £40 million, precisely to meet the growth anticipated. The Department for Education and Skills is working closely with my Department to develop a programme of education and skills provision that will respond to housing growth in London and the wider south-east. That was a bit of a digression, but I hope that it was helpful to my hon. Friend.

I was saying that the Select Committee's report provided a degree of challenge to our policy for delivering decent homes. We remain confident that the measures that we set in place provide local authorities with the innovative and flexible support that they need to bring all their homes up to a decent standard. It is

[Keith Hill]

important to consider the real human impact of this strategy. What ought to take priority in our minds are the enormous benefits that our policies are having on individuals, families and communities. As I said, I have had the opportunity to see the results of these policies on the ground, and the results for the tenants, in the homes that they want, need and deserve.

Question put and agreed to.

Adjourned accordingly at twelve minutes past Five o'clock.

Westminster Hall

Tuesday 8 March 2005

[MR. JOHN MCWILLIAM *in the Chair*]

M11 Growth Area

Motion made, and Question proposed, That the sitting be now adjourned.—*[Yvette Cooper.]*

9.30 am

Mr. Mark Prisk (Hertford and Stortford) (Con): I am delighted to have secured this debate on the impact of the Government's policies on the M11 growth area and on my constituency in particular. For those who do not have the pleasure of knowing where my constituency is, Hertford and Stortford is in East Hertfordshire, which is the only rural district left in the county. As I shall explain, the Government's planning and development policies represent the greatest challenge in a generation to my constituents' environment and quality of life.

Indeed, the east of England plan, which puts those policies into practice, is currently out to consultation. For my constituency, it would mean 20,800 new houses or a 36 per cent. rise in population. We would have 47,000 extra people, using up to 28,000 more cars. The plan would mean 2,500 more peak-time commuters on a railway service that is already overstretched, as most hon. Members who use the line will know. It would also create the need for 3,700 extra school places, which would mean 300 more pupils for every secondary school in my constituency. Just as importantly, perhaps, the plan would mean the destruction of thousands of acres of green fields and the wildlife that lives in them. For those and other reasons, the plan is opposed by the overwhelming majority of my constituents. We believe that it is unnecessary and unsustainable, and that the process driving it is, frankly, undemocratic.

No one is suggesting that there should be no development; of course, there is a need to provide more housing for those on lower incomes. Yet the scale of the developments proposed is far in excess of the need in our area. Indeed, my constituents are not the only people withholding their support from the plan. Somewhat bizarrely, the sponsoring body itself, the East of England regional assembly, has withdrawn its support for the plan. Thus, we have the nonsense of a plan being promoted by a body that does not support it to a community that does not want it.

Underlying the regional plan are the Government's policies on the green belt and on what they like to call sustainable communities, and I want to examine those policies further. About two years ago, in, I think, February 2003, the Deputy Prime Minister proudly announced the launch of his sustainable communities plan. It was an ambitious statement, but it had some rather fundamental flaws. First—this may seem somewhat strange to hon. Members—there was no definition of what a sustainable community actually is. Secondly, the policy failed to incorporate the understood and accepted principles of sustainable development. Indeed, as the Environmental Audit Committee put it in its recent report,

"environmental considerations remain a bolt-on rather than a primary concern."

Two years on, in January 2005, after much labouring on the issue and, no doubt, thousands of consultants' studies and investigations, the Deputy Prime Minister finally came up with a definition:

"Sustainable communities are places where people want to live and work, now and in the future."

Wow! What a lot of money was well spent. I can see that we got good value for money and incisive thinking, but what does it mean in practice? What are the key determinants that make up a community that is deemed to be sustainable? How do we balance growth against protecting our environment? What does all this mean for my constituents and the constituents of my right hon. and hon. Friends in the plan's growth areas? For a sustainable communities plan to be worthy of its name, surely it should be founded on the environmental principles of sustainable development. Yet these policies lack that foundation. As the Government's own Environment Agency put it, the housing plans for the south-east and my area are "an environmental time bomb". Those are its words, not mine.

I shall talk briefly about green-belt planning. Ever since it was introduced by Duncan Sandys back in the 1950s, green-belt policy has been accepted across the House as a great success. It has contained communities and helped them to renew, and it has allowed us to prevent urban sprawl. In 2003, however, the Government changed the rules as part of their new plan. That went largely unnoticed by the experts, let alone the public. The Deputy Prime Minister announced that the Government would

"maintain or increase green-belt land"

—and this is key—

"in every region in England."—[*Official Report*, 5 February 2003; Vol. 399, c. 275.]

In other words, the policy has changed from protecting specific sites and is now based on the total acreage, but as hon. Members will know, the essence of a green belt is that it is the permanent prohibition of development in a specific location. For example, the metropolitan green belt in my constituency should be permanent to prevent London and towns and other areas in my constituency from becoming one large urban mass. Yet the Government's policy is that they could release such land if they were to re-badge land somewhere else in the region as green belt. I assume—perhaps the Minister will clarify this point—that if the Government were to de-designate a couple of hundred acres in east Hertfordshire from the metropolitan green belt, they could redesignate land around Peterborough and claim that they had fulfilled the policy. However, people would regard that as nonsense.

Mr. Oliver Heald (North-East Hertfordshire) (Con): Surely there is another danger in that agricultural land that will be protected as such and would not be developed can be called green belt? Green belt can thereby be eaten up by re-branding agricultural land.

Mr. Prisk: My hon. Friend highlights another problem with this policy change, whose implications are enormous. In principle, any land in any of the constituencies represented in the Chamber today that is currently designated green belt could be developed. That is why I argue that there is no longer a green belt, but an elastic band that is designed to stretch as far as possible to accommodate any change or proposal. That is a huge mistake.

Loosening the constraints on urban development undermines the redevelopment of existing towns. After all, why would property developers waste their time and money on a complex, time-consuming and less profitable urban renewal project when more profitable green-belt sites only a mile or so away might come on to the market? My hon. Friend the Member for North-East Hertfordshire (Mr. Heald) and I have already seen speculators from abroad pegging out greenfield sites to encourage people in this process. I hope that the Minister will explain why the Government have made the change and how she can justify it to my constituents.

Mr. John Hayes (South Holland and The Deepings) (Con): My hon. Friend is advancing a powerful argument about the elastic belt of the Deputy Prime Minister. He is not the only one who holds the view that he has expressed. The Library has made it absolutely clear—I refer directly to what it has said—that the land that has been added to the green belt since 1997 is in areas where development pressure is not the greatest. That is exactly as my hon. Friend says, and it comes from an empirical source rather than a partisan one.

Mr. Prisk: I am grateful to my hon. Friend for making that point, which highlights the fact that such a view is held not only by a small group, but by the professionals involved and the experts who study these issues.

Mr. Edward Davey (Kingston and Surbiton) (LD): Is the hon. Gentleman concerned that there is a 17.5 per cent. tax incentive to build on greenfield sites rather than to repair, convert and use existing buildings?

Mr. Prisk: I am aware that the Liberal Democrats are hoping to increase the tax on new homes by equalising the VAT levels.

Mr. Simon Burns (West Chelmsford) (Con): Oh.

Mr. Prisk: I did not know that my hon. Friend was not aware of that, but that is the Liberal Democrats' proposal. There is a danger in such an approach, because many young first-time buyers who are hoping to buy new homes will face those costs, but I understand the underlying issue that the hon. Member for Kingston and Surbiton (Mr. Davey) raises.

Given those flaws in the Government's policies, some of us had thought that they at least understood that none of their ambitions could be fulfilled without the necessary infrastructure. Indeed, Lord Rooker is on record as saying this in evidence to the Environmental Audit Committee:

> "We are not going to have growth without the infrastructure."

On the back of that assertion, he encouraged many members of the East of England regional assembly to back the regional plan by saying that the Government would of course fund essential infrastructure, and so the assembly backed the plan. Yet when the initial bid for funds, particularly for transport, was submitted, 75 per cent. of the value of the bid was refused. That is why EERA members have withdrawn their support. Will the Minister tell us why Lord Rooker made a promise that he could not keep? Why should we believe that bids for future years will fare any better?

There is one speculative development scheme that highlights all the worst aspects of these policies and how damaging they could be to our environment if they are not amended. The scheme in question is promoted by an oil company's pension fund, and it is a plan for a new settlement of at least 10,000 houses to be built on 3,000 acres of green belt. While the owner, BP, calls the development "Harlow North", hon. Members may be surprised to learn that it is not actually in Harlow. It is not even in Essex. Rather peculiarly, it will be built in Hertfordshire. First, the scheme relies on the release of at least 1,500 acres of green-belt land, and 3,000 acres of land in total. "BP New Town", as I have christened it—sadly, I suspect that that is what it will be known as—would swamp the villages of Eastwick and Gilston, High Wych and Hunsdon, and link Harlow with Sawbridgeworth, Ware and Hertford, making one long urban sprawl. That would result in the loss of some of the most beautiful landscape in Hertfordshire, and according to the expert report of the 1974 plan that last looked at Harlow's future, the damage to the character of Harlow would be "irreparable".

Harlow, as a 42-year-old new town, certainly needs renewing. I accept that, as do many local people. However, by creating a new settlement next door to Harlow, this scheme, which draws on some of the worst aspects of the Government's policies, would divert much-needed resources from the town's regeneration. It would be bad not just for the countryside, but for the town. As if that were not enough, BP's new town would be sited on a hill directly below Stansted's flight path. The roofs of some 10,000 homes—and, I assume, of 20,000 to 25,000 people—would be just 600 m beneath the wheels of incoming aircraft. Who on earth would want to live there?

The reality of the Government's policies on development along the M11 is that our communities would not be sustained; they would be swamped. In lacking the principles of sustainable development and in allowing urban sprawl across green-belt land, the Government's policies will be bad both for the environment and for the much-needed renewal of our existing communities. We need new homes, but we also need to ensure that our ambitions for growth do not ignore our environment and our quality of life. As they stand today, these Government policies are wrong in principle, and I believe that they will prove to be unworkable in practice.

9.44 am

Mr. Simon Burns (West Chelmsford) (Con): I congratulate my hon. Friend the Member for Hertford and Stortford (Mr. Prisk) on securing this important debate on an issue that has so many ramifications and

that could have such a harsh impact on so many communities in Essex, Suffolk, Hertfordshire and Cambridgeshire.

Mr. Deputy Speaker (Mr. John McWilliam): Order. Before the hon. Gentleman develops his argument—this point does not relate to what he is saying—I wish to say that this is a local debate, and that in the circumstances, having seen the hon. Members who wish to speak, I am content not to use Mr. Speaker's ruling in respect of limiting the winding-up speeches.

Mr. Burns: Thank you Mr. Deputy Speaker.

I rise both in sorrow and in anger about what the Government are seeking to do by imposing a top-down solution to house building that, frankly, is environmental vandalism on a scale that has not been seen since the introduction of the original planning laws in this country. The devastation that it will cause to environments throughout the region is incalculable, and it will never be possible to turn back the clock. Once greenfield and green-belt land has been built on and concreted over, there is no way for it to be successfully restored to its original condition.

The Chelmsford local authority area adjoins the M11 corridor and is part of the growth area for those horrendous plans. The impact will be particularly difficult in that area. We have been told that we have to produce 14,000 homes as part of the Government's schemes. That is unsustainable, unwarranted and grossly unfair. To add insult to injury, the Chelmsford local authority area has been used in some ways as a dumping ground for housing to fulfil the Government's diktat. As everyone accepts, 2,500 of the 14,000 houses being imposed have nothing to do with the local housing needs of the Chelmsford local authority area, or even of the mid-Essex area. They are being imposed on Chelmsford simply and solely to relieve the pressure on housing in the south of Essex. To my mind, that must be as wrong as the decision to put such a large scale of housing into one local authority area.

The sad fact is that nobody has given any thought to the implications that that will have with regard to the existing infrastructure. Seeking to relieve pressure in such a way in the south of a county logically suggests that the vast majority of the people who will live in the homes in question will probably work in the south of the county—particularly, in this case, in the Thames gateway, which is being developed at the moment. Such people will have to travel to work mostly by car, not by train, and that will cause even more congestion and problems for our transportation system in Essex.

On top of that, we do not have the sustainable infrastructure to carry the 14,000 houses. The policy of the last Conservative Government and this Government has been that there must be maximum use of brownfield sites. I suspect that no one disagrees with that common-sense policy. It is important that brownfield sites should be redeveloped rather than greenfield sites, or before they are moved on to.

Chelmsford local authority has spent a considerable amount of time successfully identifying brownfield sites in the borough and developing them to help meet the targets that have been thrust upon it. It has been imaginative and, as I have said, successful. However, I have to tell the Minister that there is a limit to the local authority's brownfield land, and that limit is well short of being able to accommodate the target of 14,000 houses that the authority has to fulfil. That means that greenfield sites in the borough will have to absorb the extra housing, and that will be a loss to the borough as more and more of them are concreted over.

We have an interesting situation in Chelmsford; where would the houses go? To date, no definitive decisions have been made, because two years ago, the incoming local authority threw out the structure plan proposed by the previous Liberal Democrat administration. That was an interesting episode in terms of how Liberal Democrats operate. There is a village called Boreham in the north-east of my constituency; it is a small, compact village community that identifies itself with its local population. It used to be a Liberal Democrat council seat, and when the Liberal Democrat councillor retired three years ago, forcing a by-election, the Liberal Democrats descended on the village, giving categorical assurances that none of the extra housing would be imposed on it. The electorate were wiser than the Liberal Democrats gave them credit for: they replaced the retiring councillor not with another Liberal Democrat, but with a Conservative, on a 30 per cent. swing.

Within six months, the Liberal Democrat council had drawn up its plans to place 2,200 houses in the village, despite the promises not to do so that it had given only five months before. Fortunately, the Liberal Democrat administration was thrown out by the general electorate of Chelmsford in the last local elections. The proposal, which was a breach of the voters' trust, was abandoned. Chelmsford went back to the drawing board and it is successfully going through the procedures. That does not detract, however, from the difficult decisions that will have to be taken as a result of the Government's diktat on how many houses we should have.

As to the knock-on effect, swathes of greenfield sites would be concreted over. As my hon. Friend the Member for Hertford and Stortford rightly said, infrastructure would be needed to sustain those communities and help them develop. That includes the health service, education, the transportation system and water. There is a water shortage, and winters such as the one that we have just had are placing increased pressures on the eastern region and the south-east of the country, because of lack of rainfall. There are not enough natural resources to sustain such house building.

There will also be pressures on our budgets. Given the amount of house building going on already, it is extraordinary that the Chelmsford local authority area does not get extra help from the Department of Health in the way that other communities closer to the M11 do. When lobbied, the Department of Health has steadfastly refused to accept that the growth areas attached to the M11 corridor should get more funding to take into account the ever-increasing population. Because of house building on brownfield sites, there is already an ever-increasing population. In the past five years, the electorate in my constituency has grown from 75,000 to 81,000 people. That is 6,000 extra bodies, excluding children under 18, who are living in the area, and using and requiring the local services. But the Government are turning a blind eye to those increased

[Mr. Burns]

pressures and demands, and they are refusing to help in the transition as the population increases. That must be wrong.

In the final analysis, it is totally wrong that a Government in Whitehall who, not unnaturally, are not familiar with every area of a town should impose their will on local people and local elected representatives, and say that an area has to take its proportion of the extra housing demanded in the area by central Government.

Mr. Prisk: My hon. Friend is representing his constituents powerfully and effectively, as always. Will his constituents be as concerned as mine that, unbeknown to them, the planning policies have changed? Instead of planning guidance being just that—non-statutory guidance—constituents will find that their local authority may have to put such housing proposals in place in future, even if they have elected a council whose clear policy is the reverse?

Mr. Burns: My hon. Friend makes an extremely powerful and worrying point, and he is absolutely right. There is grave concern that the Government, through their constant interference, are placing more power at the centre in Whitehall, which can overrule representatives who were elected because they wanted to take one type of planning decision, but find that their hands are tied and that they are unable to take such action because of the decisions of central Government.

The other matter that causes grave concern and upset in my constituency is the role of the East of England regional assembly. It is unelected and it has made decisions that disregarded the interests of Essex, Hertfordshire and parts of Suffolk and south Cambridgeshire.

Mr. Prisk: I am almost hesitant to interrupt my hon. Friend's flow, but several constituents have expressed to me the worry that the crossover with the Government's policies on the standards board may mean that when councillors are campaigning on whether the assembly is wrong, they may preclude themselves from engaging in a debate in council in due course. There may be a bizarre scenario in which elected members of local authorities are precluded from participating in such activity.

Mr. Burns: Absolutely. As my hon. Friend will undoubtedly agree, such a development would be complete nonsense and a travesty of local democracy. We must face up to such matters, however, because we have a Government who are determined to interfere and lay down the law. My hon. Friends and I believe in local democracy and think that decisions should be taken locally; there should be bottom-up decisions, not superimposed top-down decisions. Local elected councillors and local communities have the best understanding of their area and its present and future requirements. They are far better qualified to make the decisions that best meet the needs and the future requirements of local communities than central Government, who probably have little knowledge of the local area and certainly have little interest in it.

I believe passionately that what the Government are doing is wrong. It is dangerous because it will destroy so much of our environment. It will have the knock-on effect of impacting adversely on local communities as more urban sprawl leads to soulless communities that will have no true identity with their area. It is wrong that the Government should superimpose those decisions, which are irreversible, on communities that do not want them. In no way are they prepared to listen to a just argument or to think again, however passionate, reasonable and right the pleas are for them to do so.

9.58 am

Mr. Oliver Heald (North-East Hertfordshire) (Con): This disastrous development is a catastrophe for the Hertfordshire countryside. I congratulate my hon. Friend the Member for Hertford and Stortford (Mr. Prisk) on securing such an important debate. All our local newspapers are running campaigns against the proposals. I suppose that the most common way in which to describe matters is that local residents are saying no to Prescottshire.

My constituency is the second largest in the home counties. The neighbouring constituency is that of my right hon. Friend the Member for Saffron Walden (Sir Alan Haselhurst). He is also extremely worried about the proposals and has attended meetings with my hon. Friend the Member for Hertford and Stortford, the East of England regional assembly and others. We want to conserve the precious countryside in our constituencies.

Hertfordshire is already the most populated county. The villages and the small market towns that are threatened by the proposals are genuinely rural. They are the lungs of the county. Once we start fiddling about with the green belt to enable large developments to take place, we damage a precious and much-loved resource for local people throughout Hertfordshire. Let us consider the area of Cole Green and its five greens in the south of my constituency. Those areas have already had to put up with a great deal of gravel extraction over the years. To add on top of that the threat of extra housing development seems extremely unfair.

In Thundridge, we have recently secured the bypass, which makes that area much quieter for residents. The village is no longer divided by the busy A10. However, does it really have to tolerate extensive extra housing development? Standon and Puckeridge are other historic centres on the junction of the A10 and the A120. Are they expected to take hundreds of extra houses?

The Pelhams are also affected. The House should have great respect for Furneux Pulham because when Lord Monteagle lived there, he gave the alarm about the gunpowder plot. We could all have been blown up—well, not us but our predecessors—if it had not been for Lord Monteagle of Furneux Pelham.

Little Hadham is another small, but beautiful village. Then come Buntingford and Royston, both ancient market towns. Royston has a history of the Templars and the Royston cave is the only historic monument of its type in Hertfordshire. Down the A505 towards Letchworth, one goes through the historic market town of Baldock and on to Letchworth Garden City, the world's first garden city. Planners come to Letchworth

from across the world to see how a garden city can be developed and matured properly. Along the way are the villages of Therfield, Sandon, Ashwell and Weston, which are all beautiful places with lovely countryside around them.

The Environmental Audit Committee considered the Government's so-called sustainable communities plan and found that it had not been thought through at all. No evidence had been taken about the environmental impact. The Committee wrote an incredibly critical, savage report attacking the Government's ignorant approach. I want to ask the Minister whether any serious thought has been given to the plans as they relate to one to another. The growth area that we are talking about—the M11 corridor—is next to, or quite close to, the growth area for Milton Keynes.

It is worth recording that the north of the M11 corridor has some large cities and towns, such as Peterborough and Cambridge, which are surrounded by sparsely populated areas. However, the south of the corridor, in Hertfordshire, is quite the opposite. It is made up of small market towns and villages, quite close to one another, and they are not large places. They have populations of 20,000 or 30,000.

The Government seem to think that we have got it wrong in Hertfordshire and that we ought to have large towns with sparsely populated areas around them that could be developed. That is exactly what they propose for Harlow and Stevenage—that Stevenage should have 14,400 extra houses tacked on the side. Interestingly referring to what my hon. Friend the Member for Hertford and Stortford said, they will not be under the flight path for Stansted this time, but the flight path for Luton. Why should we change Hertfordshire from what it has always been—a tracery of lanes with small market towns and villages—into something like Cambridgeshire?

Mr. Prisk: As always, my hon. Friend highlights both the beauty of his constituency and why that should be preserved. There is another difference between us and Cambridgeshire; we are abutting London. The metropolitan green belt is the essence of why the pattern of communities that we have now is right. Does my hon. Friend share my view that if we were to follow the diktat of the reports presented by the Government, the danger is that we will get not a Cambridge with a sparse population around the edge, but one large urban mass from the Thames all the way up to Stansted airport?

Mr. Heald: That is exactly the point, and my hon. Friend puts it very well. If we develop the most densely populated county as though it were not, we will end up with something unbearable. As with the Harlow scheme, the scheme for Stevenage is to build the houses in the North Herts district rather than the Stevenage district. We will therefore end up with half of Stevenage in north Hertfordshire.

At the same time as the plan to develop Stevenage is the plan in the Milton Keynes growth area to develop Luton, which is the second largest conurbation in the eastern region. It needs development—no one could argue with that—but what will happen if we develop both Stevenage and Luton, given that they are only about five or six miles apart? We will end up either with the two merging or with competition that is damaging to one or the other.

Did anybody think about what will happen on the border between the growth areas? It is silly to try to develop Stevenage and Luton in that way, side by side. As my hon. Friend said, there is a danger that we will end up with a conurbation that I would call "Hevenage"—Hitchin and Stevenage—but it could also be "Bevenage" if Baldock is included, or "Levenage" if Luton is included. There could be a massive conurbation in north Hertfordshire, which would impinge on the areas that are the lungs of the county. The villages that I have mentioned, which are also supposed to take extra housing, would be threatened. We would end up with a massive conurbation and every village and small community would have large numbers of houses tacked on to it. The area, which people value, would be spoiled not only for the people who live in the villages, but for those who go to the rural areas to walk and enjoy the countryside.

Mr. Prisk: Does my hon. Friend agree that there is illogicality at the heart of the Government's proposal? People want to go to districts such as East Hertfordshire and North Hertfordshire because of the quality of the environment, so is it not ironic that the plan that seeks to respond to that demand will destroy the very reason that people go there?

Mr. Heald: Yes, of course. I have always thought it unfair on other parts of the United Kingdom to put all the effort, resource and money into the south-east and east of England. Surely, we ought not to knock down 400,000 houses in the north and put 400,000 houses in the south. That is nonsense. The Government need to get a grip of their regional policy and to allow the market to work; there is obviously a market in housing.

My hon. Friend raised the issue of resources. In the south of my constituency between Hertford and Stevenage, and in my hon. Friend's constituency, is the River Beane, which is very dry. It does not have the water it once did, and local residents are extremely worried about that, as is the River Beane Preservation Society. That problem reflects the fact that our area is the driest part of England. I cannot see where the water for the developments will come from. The Minister may say that it can be found and, of course, the water authorities have a statutory duty to achieve that result, but how will they get water down from the north of England to the south for these developments? There certainly is not enough water that can be brought up through boreholes; as I said, the River Beane is already short of water.

There is also a problem with roads. We are talking about the M11, but nearby is the A1(M). If the Minister were to go on the A1(M) one morning, she would see that it is already snarled up. It is extremely congested between our area around Baldock down to Stevenage and beyond, and coming into London. What is the plan to widen that road? I am not aware of any such plan, but there should be one. If the proposals are going to go ahead, money should be spent on the A1(M). Will the Minister tell us when the A1(M) will be widened, because we would love to know?

What about the trains? If there is to be this extremely large population increase, a lot of the extra people will want to travel to London to work. The Welwyn viaduct

[Mr. Heald]

is narrow; it has two lanes for trains. If the number of trains going into London is to be increased, either that viaduct must be widened or longer station platforms must be provided so that the trains can be longer—and, in any event, extra power on the line will be needed. Will the Minister tell us when we will get those things, because we would like to know? If the Government are seriously considering building a second Welwyn viaduct, that would be very big news for the *Hertfordshire Mercury*.

Mr. Edward Davey: Is the hon. Gentleman aware that the Strategic Rail Authority recently published a report—I believe that the regional planning panel received it—that said that there was little or no prospect of any major rail investment in the M11 corridor? Therefore, he makes a powerful point.

Mr. Heald: I am very grateful to the hon. Gentleman; it is marvellous that he is such an expert on this subject, and what he says is right. I had a meeting last Friday with representatives of the rail company to talk about those problems, and about improving Letchworth station. They said that we might have a better idea about whether we will get longer platforms by 2012. That is almost eight years away, which is quite a long time. I mentioned the Welwyn viaduct, and the representative from Network Rail almost fell off his chair at the thought of the hundreds of millions of pounds that would need to be spent to build a second one.

Mr. Prisk: It is the wrong kind of money.

Mr. Heald: It is certainly a lot of money. Will the Minister tell us what is to happen with regard to our trains?

We are 300 doctors short for the next three years, so we need to recruit 300 doctors in Hertfordshire and Bedfordshire over that time. How many doctors does the Minister think we will need to cope with the M11 corridor growth, and where will they come from? The current plans of the work force study are based on the hope that some asylum seekers will be doctors and that they might fill the gap. Is the Minister relying on people who might accidentally come to this country as a way of us getting the more than 300 extra doctors that we will need?

At present, if people in Royston want to join a dentist's list they have to travel 25 miles to Bishop's Stortford, so it is clear that there are not enough dentists either. In every area of Hertfordshire, every kind of service or facility that someone might need is already stretched. We pay a lot more tax than other parts of the country, but we get a lot less for our it. Can the Minister tell us what will happen about services?

In Tewin in my constituency, speculators have erected fences all over a lovely hill in the Mimram valley. That looks terrible; the hill has been divided up into little plots even though it is in the green belt and, in theory, cannot be developed. Such things are being done on the back of the Deputy Prime Minister having said that the green belt is elastic; people buy up any bit of agricultural land, put up fences all over it, and then pretend that it may have development potential in the future. That is what is happening in Tewin and Braughing. What will the Minister do about that?

This whole scheme is ill-thought through, as the Environmental Audit Committee said. None of the questions about infrastructure have been answered. The green belt seems to count for nothing. I join the local papers in saying no to Prescottshire.

10.14 am

Mr. Edward Davey (Kingston and Surbiton) (LD): I congratulate the hon. Member for Hertford and Stortford (Mr. Prisk) on securing this important debate, which gives us a chance to air our views on this Government development proposal. I would like to start off by taking an overview, because the Government have four growth areas around London and the south-east. The Thames gateway is the largest such area, but there is also Ashford, Milton Keynes and the M11 corridor, and of those four growth areas, the M11 corridor is the least proven and the most controversial.

I am certainly in favour in general of the things that are proposed in the Thames gateway and around Ashford and Milton Keynes. There are problems with transport infrastructure in all three of those growth areas. There are one or two problems with flooding in the Thames gateway, with the Association of British Insurers saying that perhaps 10,000 homes would be in danger of flooding if the plans were to go ahead. There are individual problems in those three growth areas, but, on the whole, they seem to make some sort of sense, and the local councils have, in general, been prepared to accept some of the thrust of the Government's policy.

However, the M11 corridor has generated a degree of controversy that we have not seen for a long time. The three Conservative Members' speeches explained why that concern is so deeply felt. While I am giving the overview of the sustainable communities plan, I want to take up the point that the hon. Member for North-East Hertfordshire (Mr. Heald) made about other parts of the country.

There is no doubt that there are other parts of the country that would welcome more homes, less demolition and more economic regeneration. My colleagues on Liverpool city council have been doing a tremendous job in the past six years of turning that city around and attracting more than £2 billion of private sector investment in the city centre alone. With the award of the status of European capital of culture, Liverpool is experiencing a big regeneration. Yet Mr. Prescott is asking parts of Liverpool to have more homes demolished.

Mr. Deputy Speaker: Order. Hon. Members should refer to other Members by their constituencies or the title of their office, not by name.

Mr. Davey: I was tempted by the new name of the county, which I had not heard before, so you were right to pull me up on that, Mr. Deputy Speaker.

There is no doubt that, although some demolition in the city of Liverpool was accepted by the community, the Deputy Prime Minister has pushed ahead with a much higher number of demolitions, which goes against

the wishes of the community. It seems absurd, as the hon. Member for North-East Hertfordshire has said, that we should force homes on areas that clearly do not want such a high number, and demolish them in areas that have the potential to attract more people; they are quality homes, and it sometimes costs £60,000 to demolish a home in pathfinder scheme areas. The Government have the overall balance of the sustainable communities plan wrong, particularly with respect to the M11 corridor and cities such as Liverpool.

To focus on the M11 corridor, some of the greatest concerns that have been expressed to me by council leaders such as Lorna Spenceley of Harlow or Alan Dean of Uttlesford are about lack of local democratic involvement. Hon. Members have this morning talked about the need for elected representatives and local communities to have a real say, so that the decisions are local ones, not imposed ones.

It is bizarre that we spent 18 months passing the Planning and Compulsory Purchase Act 2004, which the Government told us would set up new local development frameworks, with community involvement statements and so on, but at the same time a plan is being pushed forward to override all that. It is nonsense. A different approach would be to persuade and incentivise people and to involve them in planning.

For example, it is clear that there are small villages and market towns in parts of the M11 corridor that are prepared to accept some housing. There is no doubt about that. The people there see a need for local housing and regeneration and a need to make vulnerable rural settlements sustainable. However, that is a matter of an affordable housing programme—one that is diffused, not focused in one or two areas.

Mr. Heald: I recently discussed this matter with Councillor Mike Carver, who is the leader of East Hertfordshire council, and Councillor F. John Smith, who is the leader of North Hertfordshire council. They made the point that only about 60 per cent. of the housing in question is being provided to meet local need. About 40 per cent. of it is being provided on the basis that the Government want to attract people into our area. Can the hon. Gentleman understand why they would want to do that?

Mr. Davey: There is a concern—although I am not sure that it has been expressed in these terms this morning—that Stansted, for example, will attract huge amounts of development. The Government are trying to plan houses for an extension of an airport that is not wanted by local people, which is probably the most unsustainable form of transport infrastructure imaginable and which is not the top priority for the area. The whole idea is perverse.

Mr. Heald: Perhaps the hon. Gentleman can help me solve the mystery of why the East of England Development Agency thinks that we need about 500,000 new homes, on the basis of a second runway at Stansted, but the east of England regional assembly also thinks that we want 500,000 new homes, yet does not take account of the second runway. How does the hon. Gentleman think that that happened?

Mr. Davey: The hon. Gentleman was kind enough to describe me as an expert earlier, but he was in danger of going beyond my detailed knowledge of parts of the proposal. I am afraid that I cannot address the quandary that he raises. I do not know whether he was asking a rhetorical question, but I take the point about the kinds of homes that are needed in such areas.

One of the problems with the sustainable communities plan is that we have adopted a top-down, predict-and-provide approach towards the homes that are needed. There has not been a bottom-up linking with the question of who will live there, what types of homes people actually want and what is the housing need there now.

The evidence that I have seen suggests that there are problems in rural communities and market town communities with people who are hidden homeless—adults still living at home and older people wishing to downsize yet facing a lack of available properties. A sustainable approach that worked with the community would be based on a different way of thinking about the types of houses that are needed and where they should be sited. That is why local government should be involved. If the decisions are taken based on a report by Professor Barker or some analysis by the ODPM, we are likely to get things wrong, because we will not be focusing on local needs and the local situation.

I have talked to local councillors in the region and it is interesting that some say that there are small villages crying out for a little bit of affordable housing—on exception sites, for example. There is huge local support in some places for perhaps half a dozen or a dozen homes, to support the local services—the post office, pub or school. Some services in such areas are not overstretched and need more people to support them.

If the Government had taken that approach—building up from little pockets—they could probably have provided a solution that did not extend to the 500,000 homes proposed in some of the plans that hon. Members have mentioned. The Government could have dealt with the need in those areas and provided real sustainable community planning.

Mr. Prisk: The hon. Gentleman is rightly highlighting a number of issues, not least the democratic deficit and the ability of local people to get involved. Does he share my view that it is time to scrap the regional assemblies?

Mr. Davey: That was a good try. There is a case for having some sort of body that takes a wider view, and I can give an example from the area. There is concern that some local authorities are saying that homes for the workers who will be needed for the Cambridge science arc development should be built in other local authority areas. There is a need for local people to come together, across local authorities. There is therefore a role for a body such as the regional assembly.

The assemblies should be far more accountable, although we cannot now look to directly elected regional assemblies—the buck has passed on that model. However, I am concerned that the current regional assemblies have people on them who have vested interests that are not covered by Nolan requirements for declaration and people who are not accountable in any way—indirectly or otherwise. There

[Mr. Davey]

is a case for a big reform of regional assemblies to ensure that they are better linked to local people. The need for a strategic view on some of the issues is important for local people. If things do not come from them, they will come from the Office of the Deputy Prime Minister. That is the real concern. So, people who are talking about getting rid of regional assemblies are talking about giving more power to the Deputy Prime Minister.

Mr. Prisk: People in the M11 area, and in my constituency in particular, are looking for someone who will give back powers over what is built and where to the people of Hertfordshire. Is that not what we should do?

Mr. Davey: I believe that some of the planning powers that were given up to the regional planning boards under the Planning and Compulsory Purchase Act 2004 should be handed back down to county councils, and we pressed that position in the other place.

Mr. Prisk: Some of them.

Mr. Davey: Some of them came down from the ODPM to the regional planning boards under that Act and some came up from county councils. Therefore, it depends which powers we are talking about.

When that legislation went through this place, we wanted the powers not to go up from county councils. We did not get support from Conservatives in the other place on that point, and the hon. Gentleman should be wary of that. We tried to stand firm, but, unfortunately, we did not get the support and the measure was included in the Act. We very much regret that, and we wish that we had had support from the hon. Gentleman's colleagues in the other place.

Mr. Heald: Surely the hon. Gentleman recognises that the only reason why the counties are even consulted now is that Conservative amendments were passed in the other place which provided for that to happen?

Mr. Davey: The hon. Gentleman needs to be careful, because the powers that he talked about were a shoddy compromise. We wanted to ensure that county councils did not lose the powers at all, but they were taken up. We were prepared to stand and fight on that one. Unfortunately, his colleagues were not.

We can welcome some aspects of the M11 corridor development, particularly those around Harlow. I think that there is some cross-party support. Harlow, as a new town, has seen deterioration in its housing stock, and in some of its leisure services and social infrastructure. There is a real case for investment there. Harlow could benefit from extra homes and extra infrastructure investment.

The hon. Member for Hertford and Stortford was right to warn that while regeneration and extra investment is needed, how that is done is crucial. North Harlow/ BP new town would not be sustainable. One must ensure that we are not being told where to put houses by oil companies; the local people must make the decisions.

I also want to focus a little more on infrastructure. As I said, the likelihood of railway investment is minimal. The investment funds that the Government have been putting forward for transport infrastructure are also minimal. There seems to be no real strategic long-term thinking about the infrastructure needs of the area—besides making it worse with the investment in Stansted. The Government must go back to the drawing board.

What Mr. Justice Sullivan said about the case on Stansted was interesting. He said that the Government had overstepped the mark by trying to specify all the detail about the second runway. They were not prepared to leave some of it to local government and they ignored the principle of subsidiarity. They should learn a lesson from that, and, in future, ensure that such infrastructure and transport decisions take account of local opinion.

However, when one is criticising the Government, one must put forward an alternative. That there has not been a clear alternative is my only criticism of what we have heard so far today. We must recognise that young people need homes, and that there is an affordable housing problem and some thought needs to be given to it. The Liberal Democrats have looked at a range of policies on using existing homes, buildings and land in our urban conurbations. We have looked at getting the tax incentives right and ensuring that the public sector uses its massive land holdings more effectively. There is a strong case for cutting VAT on repairs and conversions to give the private sector a real incentive to reuse buildings that are lying idle. I have such buildings in my constituency; they are a real eyesore and a waste of land. We need that alternative.

We also need to come up with innovative housing plans to ensure that the affordable housing that is built remains affordable and available to local people. My party has published its housing policies, and we have talked about mutual homes, about giving a boost to shared equity and about the golden share schemes that Liberal Democrat administrations have piloted in places such as south Shropshire. Our proposals provide a way of dealing with some of these problems that is far more sustainable and involves local elected representatives. There is time to think again on these key issues, and I hope that the Government will do so.

10.31 am

Mr. John Hayes (South Holland and The Deepings) (Con): I congratulate my hon. Friend the Member for Hertford and Stortford (Mr. Prisk) on bringing this important issue to the attention of the House. This is a debate about the environment and protecting the green belt; about local democracy and what my hon. Friend the Member for West Chelmsford (Mr. Burns) described as the need for a bottom-up, rather than a top-down approach to deciding such important matters; and about developing genuinely sustainable communities and the missed opportunity for urban and suburban regeneration.

My hon. Friends have made a convincing case. Could there be any better representatives of their respective constituencies than the three who spoke from the Conservative Benches? I doubt it very much. They have described the Government's plans as a savage attack on the character not only of the countryside, but of existing settlements. The figures that they quoted were stark. My

hon. Friend the Member for Hertford and Stortford spoke of a 36 per cent. growth in population in his constituency, with 3,700 extra school places needed. My hon. Friend the Member for West Chelmsford spoke of 14,000 new homes in his constituency and described the plans as unsustainable, unwanted and unfair.

My hon. Friend the Member for North-East Hertfordshire (Mr. Heald) painted a dreadful picture, and the Minister will have been as shocked by it as you will have been, Mr. Deputy Speaker. He spoke of a sprawling, ugly, soulless conglomeration of hastily built properties, which will damage for ever the character of the beautiful part of our country that he represents. He told us that his constituency would require 300 more doctors over the next three years. I was appalled at the prospect of people in that part of Britain being in desperate circumstances but not being able to access the medial care that they needed.

Conservative Front Benchers share the views expressed by my hon. Friends. We also share those expressed by my right hon. Friend the Member for Saffron Walden (Sir Alan Haselhurst), who has been mentioned in the debate, and my hon. Friend the Member for South-West Bedfordshire (Andrew Selous), who, in the interests of his constituents, is fighting a vigorous campaign against the Government's proposals to concrete over much of his constituency. Indeed, the Deputy Prime Minister wants to bulldoze the north of England and concrete over the south.

Resistance is not limited to the Opposition Benches, however. The Office of the Deputy Prime Minister Committee has considered the matter, and its damning indictments of the Government are worthy of amplification here. The Committee said that

"the impact of such a housing programme on the environment could be unsustainable."

It also said:

"The impact of developing so many homes in the South East, one of the most densely populated regions in Europe, has not been fully assessed . . . The additional homes could place excessive demands on the environment, leading to the loss of green-field sites and excessive pressure on the water supply and other natural resources . . . The Government . . . has yet to estimate the costs of providing the transport links, health care, education and all the other facilities which new neighbourhoods require."

The Environmental Audit Committee was equally critical of the Government, saying that

"the principal loser will be the environment."

It added that

"we deplore the absence of any reference to environmental protection".

It said that the Government had yet to produce a definition of sustainable communities. Imagine a sustainable communities plan with no real definition of sustainability or what such communities comprise.

Mr. Prisk: My hon. Friend is describing the problem eloquently, but perhaps I can cause him even more concern: such a definition is absent two years after the policy was announced.

Mr. Hayes: In my judgment, the Government announced this policy without assessing fully its likely impact. That is precisely what Labour-dominated Select Committees have concluded about their own Government's appalling policy. The Environmental Audit Committee said:

"There is disturbing evidence that the sum so far allocated for infrastructure funding will not be anything like sufficient to meet the requirement generated by the Growth Areas."

That criticism comes not only from Opposition Members; throughout the country, communities are beginning to realise what these proposals—the communities plan and the growth areas—mean for them, their communities and their quality of life. In the Medway area, local campaigners such as Mark Reckless, Tim Butcher and Anne Jobson are campaigning with local people against those prospects. My hon. Friends are campaigning in Essex and Hertfordshire, and in Harlow people such as Robert Halfon are taking up the campaign on behalf of local people. In Northampton, Brian Binley and others are doing so. People are leading this campaign across the country.

Mr. Heald: My hon. Friend should not forget Brooks Newmark, a good campaigner on this issue in Braintree.

Mr. Hayes: Indeed. I am hoping to visit Braintree and many of those other communities in the next couple of weeks to look at the work being done there.

There are alternatives, and they have been teased out of me by my hon. Friends. Of course, Conservatives believe that the provision of new housing could play an important part in building, regenerating and sustaining genuine communities, but for that to happen we must ensure that we have the right homes in the right places. An agreed settlement between central and local government on housing growth should balance the need for extra houses with a consideration of landscape and the character of existing settlements. That balance would lie at the heart of a genuinely sustainable housing and planning policy.

I shall pose a series of questions to the Minister. The Conservatives will scrap the communities plan and focus on incremental development of existing settlements. We will protect the green belt more than the Government have done—we could hardly protect it less; my hon. Friends have rightly identified abuse of the principle of the green belt—by putting in place more and tighter green belts. Why do the Government not reappraise the designation of brownfield sites? If 50 per cent. of all brownfield sites in the south-east that are intended for employment purposes were instead used for housing, it would yield 27,000 extra homes at current density levels.

As I said last week, Barratt Homes tells me that 80 per cent. of its new houses are already built on brownfield land. In the south and south-east, that figure is 90 per cent. The truth is that many more houses could be built on brownfield sites. We could help developers by: reforming the planning system sensibly; making more land available through re-designation; freeing-up public sector land; and lifting some of the burdens and regulations that hamper good practice and enterprise as only Labour Governments can.

Why do the Government not streamline the planning process for regenerative brownfield development by standardising the processes for gaining planning

[Mr. Hayes]

permission under section 106 agreements? Why will they not put in place fiscal incentives to bring empty homes back into use—there are 700,000 empty homes across the country, according to the Empty Homes Agency? Why will the Government not scrap the prescriptive bureaucratic standards that stifle innovation, hamper brownfield development and promote monotonous, uniform housing estates? We should emphasise quality of design, rather than compliance with Government diktats. Local authorities should be encouraged to acquire the skills to devise in communion with local communities and developers plans that satisfy the need for housing development without compromising the local environment and quality of life.

Why will the Government not establish more and tighter green belts, and redefine suburban back gardens so that they are protected from undesirable development—town cramming, as it has become known under this Government? Why will they not extend the rural exceptions policy to allow small-scale expansion of villages with a mix of new homes, so that we have market housing cross-subsidising the social homes that can play such a useful part in servicing local needs? We must focus development where infrastructure can support it, so why will the Government not ensure that local authorities make infrastructure capacity a key factor in the development control process?

Today's debate has highlighted a Government policy that is undeliverable, unsustainable, unneeded and unwanted. Britain needs the right homes in the right places. It needs development on a human scale—incremental, organic, inspiring and shaped by local people. Britain needs to support house builders to regenerate urban and suburban Britain, and it needs to value the land and safeguard our countryside. There is a shining light at the end of this dark Labour tunnel, and the people of Hertfordshire, Essex and other communities across Britain will be able to bask in that light when this Government are driven from office and an enlightened housing and planning policy is put in place.

10.41 am

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper): I congratulate the hon. Member for Hertford and Stortford (Mr. Prisk) on securing this debate, which provides a useful opportunity to clarify some of the issues relating to the London-Stansted-Cambridge-Peterborough growth area, to our approach to achieving sustainable communities in the wider south-east and to the Government's position on key issues such as infrastructure and the environment, which are particular concerns in the east of England.

Hon. Members will be aware that I am constrained in what I can say at this stage, particularly about specific locations that they may have raised and about individual problems about which they may be concerned. That is the case because the draft east of England plan was published in December for public consultation. That consultation closes next Wednesday, and it is not appropriate for me to comment on the detailed issues or on specific locations at this stage.

Mr. Prisk: I should like to ask the Minister about that, although I do not want to delay the debate. It has come to light that that consultation is flawed. I hope that when it is concluded, she will accept from me an itemised list of ways in which my constituents have not been able to participate.

Yvette Cooper: If the hon. Gentleman wants to send us information, we shall certainly look at and try to address it, as we always do whenever hon. Members across the House raise concerns. I shall say a little more about the consultation and planning process shortly.

We need to be clear about our starting point: we need to provide more homes for families across the south-east. People are living longer and more people are living alone. Without more homes, people will not be able to live in the communities where they grew up and key workers will not be able to find homes in the communities where they need to work.

Mr. Heald: The need that the Minister has just outlined is a requirement for 60 per cent. of the houses in the east of England plan. Why must we have the other 40 per cent.?

Yvette Cooper: The problem faced by Conservative Members here is that they simply do not recognise the close links between the housing market, housing supply and the regional and national economy in this country. They need to recognise the importance of the links with economic growth and the need to support economic growth and prosperity in the region.

Mr. Burns: Will the Minister give way?

Yvette Cooper: I know that hon. Members want to ask me questions, but they have all had the chance to speak and I have a series of things to say in response. I shall take this last intervention, and then I shall have to make some progress.

Mr. Burns: I am very grateful to the Minister. To pick up on the point made by my hon. Friend the Member for North-East Hertfordshire (Mr. Heald), why has it been accepted that 2,500 of the houses that Chelmsford is expected to build are not to meet the current or future needs of local people, but to relieve pressure on house building in another part of the county?

Yvette Cooper: At this stage in the process, it would be inappropriate for me to comment on individual proposals or on specific locations. However, let me again remind the hon. Gentleman of the broad issues. More housing is needed in the eastern region, the south-east and London. We cannot ignore that fact. If we do, it will be to the detriment not only of those who want to get into the housing market but cannot afford to do so, but of our public services, because we will not be able to recruit the people whom we need if they cannot afford anywhere to live. Such an approach would also

impact on the number of people who are homeless or in temporary accommodation and harm the economy, affecting the prosperity of the region and the nation.

We are already falling short of what is needed. In the past five years, 550,000 new households have formed in the wider south-east—London and the eastern and south-east regions—but fewer than 400,000 new homes have been built. In the past 10 years, 12.5 per cent. fewer houses have been built than in previous decades. The hon. Member for North-East Hertfordshire (Mr. Heald) spoke of allowing the housing market to work. Unfortunately, the evidence of the Barker review is that the housing market is not working in the way that is needed. The rising house prices across the country are not triggering the necessary increase in housing supply; they have not done so for 10 years. The issue needs to be confronted, and hon. Members must recognise that.

Mr. Hayes: The Minister has been generous in giving way, and I hope that she will agree that I was, too. She will understand that demand-side factors—things such as the relative unattractiveness of alternative investment vehicles, the level of borrowing secured against housing equity, the net migration into the country, as recognised by the Joseph Rowntree Foundation, and interest rates—drive up house prices and keep them up. To address affordability by supply-side means would be to build countless houses. That would be neither sustainable nor deliverable, and it would take a very long time. Why does the Minister not address some of the demand-side factors?

Yvette Cooper: I know that Opposition Members have tried to maintain that the only problem in the housing market is on the demand side, and that the issue can somehow be resolved by demand-side measures. Of course, house prices are determined by the relationship between demand and supply, and there are issues in relation to housing as an investment good in various ways. Nevertheless, housing is also a critical consumption good. We cannot deny that; the Barker review was very clear about it.

Given a choice between the economic analysis of the Barker review, produced by a member of the Monetary Policy Committee, and the economic analysis of Conservative Front Benchers, with their previous record on economic policy making, I would go with Kate Barker. The Opposition have to recognise the relationship between the housing market and the economy, and the fact that the housing market is not delivering enough houses to meet need. That problem will get worse unless serious action is taken. The Conservative party's position of simply abandoning the sustainable communities plan, making huge cuts in the sustainable communities budget and thinking that the matter can be resolved in an incremental way is a position for people living on another planet. It is not realistic, given the scale of the problem and its impact on homelessness, house prices, public services and the regional economy.

The east and the south-east already face serious housing pressures. Hon. Members have referred to the need to recruit more doctors and public service professionals. That is a serious issue, but we will have far greater problems recruiting nurses, teachers and health professionals across the board if we do not address the housing problems across the region. Several speakers, including the hon. Member for Kingston and Surbiton (Mr. Davey), have said that we need to offer alternatives, but the Opposition parties are not offering alternatives. Of course we need to do more to increase development on brownfield sites. We have already substantially increased the amount of development on such sites, and we need to do everything that we can to increase that development.

The hon. Member for South Holland and The Deepings (Mr. Hayes) mentioned building more on employment land. I agree that we need to reappraise employment land in many areas, but he will agree that we should also recognise the need to maintain it and not simply develop dormitories without employment land closely linked to the development of new housing. Nevertheless, we agree that employment land in many locations may be more appropriate for housing. That is exactly why we made changes to planning policy guidance note 3, which was published earlier this year, to require local authorities to do that. So we agree that other measures also need to be taken, but we simply cannot avoid the important need to expand housing in the southern and south-eastern regions.

Several hon. Members have voiced concerns on behalf of their constituents. The hon. Member for Hertford and Stortford referred to the concerns of his constituents in East Hertfordshire, which is the least deprived district in the east of England and the eighth least deprived in England as a whole. Like every other part of the east and south-east, it has seen a significant rise in house prices, which are a problem for people who live there and have an impact on the ability to recruit public sector workers. That is why all districts throughout the region need to work together to address the matter. Opposition Members have also voiced concerns about the regional planning process.

Mr. Prisk: I fully accept, as does East Herts district council, the need to provide homes for people who are described as being on lower incomes and as needing affordable homes, but the independent housing survey 2004 showed that we would need to build 594 homes per annum over the next 20 years or so to accommodate all the households that will be needed. Yet the Government's plan suggests that we should build at twice that rate. Why?

Yvette Cooper: The hon. Gentleman will be aware that the Government's proposals were based on analysis of the overall need to increase housing throughout the region. That is what we need to do. We cannot simply sit by and allow the problems with the housing market, homelessness and economic constraints to continue. I cannot reiterate enough to Opposition Members the importance of the relationship between housing and the overall regional economy. We cannot allow the situation to continue; we need to recognise the importance of responding to housing market pressures throughout the area, not simply in individual districts operating in isolation.

Hon. Members talked about the regional planning process. The east of England plan was developed by local partners, and it will be tested by an independent public examination. The plans are not being imposed by

[Yvette Cooper]

the Government through the back door; they are being developed through an extensive and rigorous process that is open to public scrutiny. The whole process started back in September 2002 with community workshops, stakeholder events and consultation on options.

The East of England regional assembly—70 per cent. of its members are local authority members, the majority of whom are Conservative—has worked on a draft, and it has done more work on the London, Stansted, Cambridge and Peterborough area. The public consultation began in December and will end in the middle of next week. The next stage is that an independent panel will review all the issues and hold an examination in public.

Hon. Members asked detailed questions on issues ranging from the water supply to the impact on particular locations and on particular roads. Those matters, and others such as airport noise or the regeneration of particular towns, are exactly the sorts of things that the examination in public needs to address. All such issues need to be properly addressed and openly scrutinised and discussed by the examination in public. It is right that that should happen and that we should go through that process. It is proposed that, in early 2006, the panel would publish a report recommending amendments to the draft regional spatial strategy. There would then be a further opportunity for consultation on the revisions. There are considerable opportunities for discussion and debate across the region and at local level.

I should also make it clear that we shall not support housing growth at any cost. New housing must respect the environment and be more sustainable than in the past. That is why, as I said, 67 per cent. of new homes are now built on brownfield land, compared with just 56 per cent. in 1997. We need to continue with brownfield development.

In 2003, the average density of new homes was 33 per hectare, compared with 25 between 1996 and 2001. In the east of England, about 20,000 homes were built every year between 1996 and 2001, at an average density of 22 homes per hectare. If those homes had been built at a density of 30 homes per hectare, another 7,200 homes could have been built every year on the same land. We are committed to building homes more sustainably and are consulting, for example, on changes to the building regulations to deliver a 25 per cent. improvement in energy efficiency.

Of course, this is not just a matter of individual homes. Homes should be in communities that are more sustainable, and close to jobs and the services that people need, so that people can be less dependent on cars and so that we do not repeat the low-density, car-dependent suburban sprawl of previous generations.

Mr. Heald: Is the Minister saying that we should go back to the flats and tower blocks of the 1960s, which were such a disaster? I thought that that was the lesson of the past.

Yvette Cooper: Of course we need to avoid the mistakes of the 1960s and the 1970s, and of many previous decades and generations. We also need to ensure that developments use improved design. There are obvious design changes that can substantially improve community spirit in an area, as well as the residents' quality of life.

We have made a clear commitment that every English region will maintain or increase the area currently designated as green belt in local plans. The fundamental aim remains to keep land around urban areas permanently open and to prevent urban sprawl. In some exceptional circumstances it may be appropriate to consider whether the most sustainable option may be to revise green belt boundaries; that would depend on transport links and the location of jobs and services. However, those instances should be the exceptions. The east of England has been considering that.

Mr. Prisk: Is the metropolitan green belt in my constituency safe under the Labour Government—yes or no?

Yvette Cooper: The hon. Gentleman will know that I cannot comment on specific constituency issues and areas in this debate, because of the regional planning process that we are going through. I have made it very clear that our commitment to the green belt across the region remains important. We should be aware that the green belt has increased as a result of Government policies, in contrast to substantial green-belt reductions in many places under the last Conservative Government. We should not forget that.

Hon. Members asked specific questions about funding for services. Funding allocation for public services such as health and education must respond to housing growth. We are already announcing substantial new funding packages for growth areas. For example, there is funding to enable the NHS to increase local service capacity and to ensure that the Department for Education and Skills responds to planned housing growth in forecasting pupil numbers. That is in addition to substantial extra investment in those services—investment that Opposition Members would cut across the board, not only for the growth areas, but throughout the country.

The Opposition need to recognise the need for additional housing and for economic prosperity. It is a shame that they still refuse to understand the importance of economic prosperity and of the links between the housing market and the regional economy. That shows that their approach would be not simply to cut houses, but to cut economic growth.

British Cellophane

11 am

Mr. Ian Liddell-Grainger (Bridgwater) (Con): I am delighted to have secured this debate on British Cellophane in Bridgwater. Its name is, in fact, Innovia Films, but it is known to all and sundry as British Cellophane. I wish, unusually, to thank a few people before I start my speech, the first being the Labour candidate for the constituency of Bridgwater at the next general election, Mr. Matthew Burchell, which may seem slightly strange. He works for the Leader of the House of Commons, and without his help it would have been a lot harder to reach the point at which we are today.

I wish to thank the Transport and General Workers Union for its help, especially Mel Dando. I wish also to thank John Bloomfield, the managing director of Innovia Films, Bridgwater. He has supplied an enormous amount of information. When the news was announced, the Secretary of State for Trade and Industry was incredibly helpful and made it clear that she would do all that she could to help.

British Cellophane has a long and honourable history. It has an enormous background of industrial muscle and might in Bridgwater. It came there more than 50 years ago. I suspect that members of the community did not mind about the smell and were not worried about it environmentally, but just wanted manufacturing capacity. Bridgwater is the only industrial town in the west country. Over the long term, the work force at British Cellophane has been reduced, but it has always had outstanding productivity and an outstanding relationship with its employees and given outstanding help to the town at all levels. I believe that there has only been one industrial dispute and not once throughout its time in Bridgwater has Cellophane been anything other than a massive asset.

Thirty or forty years ago, Cellophane produced about 500,000 tonnes of cellophane. Cellophane is on everything. In fact, you are probably drinking out of a cellophane container at the moment, Mr. Deputy Speaker. It is a massively important commodity throughout the world. However, over the years, its production has reduced from about 500,000 tonnes to 60,000 tonnes. The commodity has to be produced in highly productive, motivated and profitable plants.

Believe it or not, 124 different types of cellophane are made in Bridgwater. There is an enormous number of different ways to use the film. That shows the level that cellophane has reached. It is a film that can be used for almost anything and it is now in use every day, almost without parallel. However, problems have occurred. Over many years, there have been changes of company and ownership and, in the past few years, the company has changed dramatically. It was bought by Candell Investments. I want to talk about three of its five plants. Two plants are in Britain and one is in America. The two in Britain are productive, motivated plants—one is in the north and one is in Bridgwater.

I wish to dwell on the plant in Kansas. Over the past few years, Cellophane has felt the strength of the pound. I do not expect the Minister to be able to solve that problem overnight. We know that it is a problem for all manufacturing companies in the United Kingdom. I know that the Minister agrees that manufacturing matters strongly in this country. The problem is something that successive Governments have wrestled with and not always been able to solve because of outside forces, such as the strength of the pound, dollar and euro, but manufacturing should be protected at all times. We cannot allow it to disappear.

Last year in Bridgwater, we lost Federal Modal; 400 jobs went to Poland because we could not compete. The Government were helpful and, although we have ongoing problems with the pension fund, I cannot fault them for what happened. However, I am greatly worried about the situation in Kansas. I hope that the Minister can help. Kansas state legislators have paised an enormous amount of money to the plant in Kansas—we are talking about millions of dollars, not a few hundred thousand. They voted publicly to give public money to a plant to enable it to undermine us in the United Kingdom. It does not stop there. The plant is unproductive and does not make a profit. Why would one give money to a plant that does not make a profit and is not productive, whether it is in China, Australia or America?

I hope that the Minister agrees that it is worrying that British jobs in a profitable, highly productive plant are being put under threat by a plant that is not profitable, not productive and makes about half the types of cellophane that we do. It cannot even keep up with our production levels, yet we are losing to that plant money that should come to us.

Today at 3.30 pm, a deputation from the Transport and General Workers Union and Glyn Ford, the MEP for the south-west, are meeting Peter Mandelson in Europe to discuss this matter. I know that the Minister is fully aware of that, and I am sure that she has been fully briefed by her staff. The subsidies are unfair trade, unfair dumping and the use of unfair competition against profitable plants, and we should not allow that to happen. I hope that the Minister will give some assurance that, in this world of free trade, the World Trade Organisation should be asked to consider this matter, either through the EU or the British Government—ideally both.

Innovia Films has started a 90-day consultation. Last night we had a meeting with Sedgemoor district council, which was attended by all the political parties—well, both of us, there were no Liberals present—the chief executive of Innovia Films, Mr. David Beeby, and Mr. John Bloomfield, the managing director at Bridgwater, at which they laid out their stall as to what they need. This is the crux of the matter, and why we are here today. The Minister is aware that we have a meeting in just over a week to try to move the matter on.

One of the biggest costs at the plant is the production of power. There is a power station on site, as there has always been. If one drives down the M5, one will see the chimney of the power station. However, the power station is old. I am sure that the Minister knows that a few years ago British Cellophane paid 12p a therm for gas whereas today it pays 116p a therm. That gives some idea of the difference in the cost of the energy that it needs to produce.

I have here some figures from John Hall Associates, which show the difference between Dutch and French production and levels of cost as of today. Ours are

[Mr. Ian Liddell-Grainger]

enormously higher—about a third. I am happy to give the Minister those figures after the debate. That shows that Innovia Films, or British Cellophane, is finding it hard to compete in the market. In yesterday's *Financial Times*, there was a quote—it has just dropped off the desk, so I will not hunt around for it—saying that energy costs are making it so hard for companies in this country to compete that they are considering moving abroad for that reason alone.

I will return to the issue of the power station, but there is also a problem with water. The plant uses a massive amount of water in its production process. Last year, the cost of water at the plant went up by £200,000 in one year. If one takes 2000 as a base year, the cost of water for British Cellophane has gone up by 25 per cent. in four or five years. It gives some idea of the cost to the company that it now hopes to buy in its energy services. Never mind the actual cellophane itself—we are talking just about production costs.

What can I ask the Minister to do to help? We need a new power station. Sedgemoor district council has a proposal on the table for a wood-burning power station. That would create not only 20 jobs but enough power to look after British Cellophane, put 15 per cent. back on to the grid, use 145,000 tonnes of wood that normally goes into landfill and help the Government to hit their targets on biodiversity, biofuels and renewables. I say that with four nuclear reactors down the road at Hinkley Point.

We have the opportunity to do something special in Somerset. The power plant is there, and there will be no change of use. If we could get the permission, it could be done. However, we need an indication from the Government, either through the regional development agency or directly, or from Europe on energy production, that that could happen. The company needs to know that we are listening and doing what we can—I mean all of us—to help.

It will be an enormous challenge. Every year, £20 million goes into the economy from British Cellophane—in wages and direct and indirect goods. It has been the lifeblood of Bridgwater in many ways. Going down the M5, it can be smelt at every turn. However, that is British Cellophane; that is what we are proud of. On Saturday, on the march organised by the Transport and General Workers Union, I marched with Matthew Burchell together with hundreds of people, from all walks of life, in Bridgwater, a manufacturing town whose lifeblood is making things. We need Government help.

It is rare that an MP pleads with the Government, but I am doing so on behalf of Bridgwater. I have laid out a stall of what we need. We have deputations going to Europe and people who are prepared to sign petitions in their hundreds, and I hope that the Minister will listen. I give another pledge to the Government: we will do what we have to. Sedgemoor district council has cut business rates to the plant straight away. Although it can give no direct money, the county council has passed a resolution to do what it can to help. Last night, at the meeting, the RDA said that it would do everything that it could to help via government, directly and indirectly. The challenge, Minister, is to look after manufacturing per se—

Mr. Deputy Speaker: Order. The hon. Gentleman is speaking directly to the Minister; when he should be addressing me.

Mr. Liddell-Grainger: I stand castigated. I think that you can tell, Mr. Deputy Speaker, that there is a certain passion in this situation, and I apologise.

As you are aware, Mr. Deputy Speaker, and as the Minister is aware, we are now in the 90-day consultation period, which will end in the middle of May. If we get this right and get the right feedback from the Government, we can consider the proposals. The plant and the company are prepared to do so. That is the challenge that we face.

11.13 am

The Minister for Industry and the Regions (Jacqui Smith): I start by congratulating the hon. Gentleman, not only on obtaining this debate but on the obvious passion that he has shown and the action that he has already taken in talking to my right hon. Friends and pressing the case very strongly.

I also thank him for the deserved and well-natured credit that he gave to Matthew Burchell, the Labour prospective parliamentary candidate in Bridgwater and to the T and G, which has also strongly lobbied the Government on the issue.

I would like to start by expressing my sympathy for the position in which the hon. Gentleman's constituents find themselves. It is certainly the case that the company's recent decision to begin consultations with a possible view to closure of the Bridgwater site is disappointing and distressing news to those people who, as the hon. Gentleman has pointed out, have in many cases put a lifetime of commitment into the plant. It is because we understand the seriousness of the issue and the impact on the local community that as soon as we learned that Innovia was considering the future configuration of its manufacturing operations, officials from my Department and from the South West of England Regional Development Agency immediately visited the company to understand the background and to explore what assistance might be available.

The hon. Gentleman emphasises the importance of manufacturing, as I frequently do. The company has received assistance from the Process Industries Centre for Manufacturing Excellence, an organisation that promotes the development of lean manufacturing, and was established with financial aid from the Department of Trade and Industry. However, we wished to see whether there was anything further we could do to assist the company. We also wanted to understand the background to any decisions that might be made. Part of the background is the current situation for cellophane production. Although the hon. Gentleman made a strong case for the continued importance of cellophane, cellophane production has been in decline for many years, as alternative products have been developed to meet the needs of the market. At the peak of demand, there were 23 production units in Europe and 15 in the United States, and they were operated by a number of different companies. Today, Innovia supplies

70 per cent. of the world market—outside Japan—of cellophane products from only three manufacturing sites. As the hon. Gentleman said, one of those sites is in the USA, another is at Wigton in north-west England, and the other is at Bridgwater. Despite that, we understand that Innovia's production capacity is currently 50 per cent. higher than demand for the product. Put simply; there is a continuing decline in worldwide demand for cellophane products, and no company can continue producing more than the market requires. It is that dramatic change in the market that is forcing the company to consider rationalisation of its production capacity.

Of course, the company will need to base its decision on any rationalisation on sound commercial grounds, including the relative strength of the remaining markets, product range, proximity and time to the markets served, plant condition, and operating costs. As the hon. Gentleman points out, account will also have to be taken not only of specific financial assistance but of the whole framework of support that may be available in different areas. Alongside the support that is already provided, the local community, the local authority—Sedgemoor district council—and local agencies are making major efforts to find a solution that retains the manufacturing jobs in the area. I understand that the district council is exploring whether the company could pay less in business rates.

As recently as last night, the regional development agency—the prime agency in the region for economic development and business support—met with the hon. Gentleman, and senior representatives of the company and the community. Today, the hon. Gentleman raised important points about power and the power plant. He also mentioned the pressure that manufacturers are currently feeling in respect of energy prices. I do not dispute that that is a considerable challenge for manufacturers, but I slightly dispute the angle that the hon. Gentleman took. He put us in a very bad position in respect of international competition, but the DTI estimates that UK gas prices remain below the EU median in 2004. However, it is an important issue. That is why my right hon. Friend the Secretary of State for Trade and Industry met representatives of energy-intensive users last December, and why my hon. Friend the Minister for Energy and E-Commerce has had meetings to discuss the issue with some of the most affected companies. It is also why I discussed it recently with the Engineering Employers Federation. We are determined to find ways both to make sure that the market operates effectively to maintain competitiveness in energy prices and to ensure support for manufacturers.

The hon. Gentleman made a specific point about the development of a new power plant at Bridgwater. I want to look carefully at the figures that he and the company have forwarded to us about that challenge. I also want to set that in the context of the considerable support that the Government have already provided for alternative sources of energy, including exemption from the climate change levy for fuel inputs and electricity outputs from good-quality combined heat and power, eligibility for enhanced capital allowances, and a reduction in VAT to 5 per cent. for certain grant-funded domestic micro-CHP.

More recent developments include securing the future of the community energy programme until at least March 2008 with a total funding of £60 million, creating incentives to develop innovative products and putting in place shortly revised guidance for power station developers, obliging them to consider fully the options for CHP and community heating.

I also understand that within that framework the particular situation in Bridgwater is important. While I cannot give the hon. Gentleman any undertakings this morning, I can ensure that across government we will carefully examine the issue and see whether or not further support is available.

Let us be clear about one important point. We are not discussing a company that is deserting the UK—far from it. The company has its group headquarters in Wigton in the north-west, where it employs 850 people in both manufacturing and research and development. In 2002, it invested €12 million in a new global research and development centre at Wigton. That was in addition to more than €100 million invested in production facilities at the Wigton site during the past decade. There is a commitment to UK manufacturing, although that is not, I accept, a comfort to the hon. Gentleman, who is rightly concerned about the Bridgwater site in his constituency.

The hon. Gentleman raised the particular issue of the funding that, it is argued, the US authorities and local authorities in Kansas are providing to the American plant. He rightly highlights the fact that the route for identifying whether or not that complies with World Trade Organisation rules is through the European Commission, which, of course, negotiates for the European Union on such issues.

I was pleased to hear about the meeting that is taking place with the Commissioner for Trade, Peter Mandelson, to whom the hon. Gentleman referred. I can also assure him that my officials have been talking to the Commission to confirm whether the US support complies with WTO rules. We want to maintain that contact so that we can interrogate the facts about the extent of the support in the US and whether it constitutes unfair trade under WTO rules.

So, while it is hard for those involved, this is, in some ways, a story of change and of companies in the UK responding to such change. In manufacturing—even manufacturing within this particular area of support—one of the difficulties with the market is that as we innovate and develop new products that compete with cellophane, there is a change in the way such manufacturing happens. There is not, incidentally, a shift of manufacturing out of the UK.

Other companies in the UK are producing the new alternatives that are replacing cellophane. For example, last September, my hon. Friend the Minister for Trade and Investment formally opened a new £65 million investment by the Japanese company Nippon Gohsei at Saltend, near Hull. That plant uses cutting-edge technology to produce a new environmentally-friendly polymer used in the food packaging industry, 90 per cent. of which is exported to Europe. That, once again, creates new jobs in the UK.

Mr. Liddell-Grainger: The Minister is right in everything that she says, except that we are talking about a profitable and highly-productive plant. It has done everything to change and it outperforms the Americans by far. It produces more and it produces better quality. I accept what she says, but I take issue on one point. The plant has done everything to stay profitable and we should not allow it to be sacrificed simply because an American plant can get away with something that we cannot. Does she agree?

Jacqui Smith: I understand the hon. Gentleman's point, which is why I said two things. We need to investigate the extent of the aid being offered in the US and ensure that we do everything possible to assist the UK plants, particularly the Bridgwater plant. However, we also need to do that with an understanding of the market. Where there is massive overcapacity, rationalisation is needed. The hon. Gentleman is quite right to argue the case for the plant in his constituency. I certainly hope that we can create and maintain jobs in the sector in the UK. As a Government, we will do what we can to support that, but in the end those decisions must be taken by the company, taking into account the market situation and a range of commercial factors.

We will continue to provide support for manufacturing, through the manufacturing advisory service and the investment that we are putting into science and innovation. For example, in the 2004 spending review we provided an extra £515 million in new money to boost science and innovation. Those incentives are being provided at a time when the UK is enjoying the longest period of sustained low and stable inflation since the 1960s, with interest rates close to historically low levels.

The effect of that is obvious. Gross domestic product has grown strongly over the past year, as has manufacturing output. As the hon. Gentleman said, we need to put in place the framework to enable UK manufacturers to compete. We need to add specific financial assistance to that, whether it is for innovation or is put into those areas that have been identified for selective investment.

We must ensure that local economies are doing as well as possible. I know that the hon. Gentleman will share my satisfaction that the economy of Somerset is now performing better than the national average. For example, unemployment is 1.3 per cent., which is relatively low compared to regional and national averages. More specifically, in Bridgwater more than 1 million sq ft of new factory space is being built at the recently opened 100-acre Express Park, less than a mile from the Innovia site.

At the end of last year, a planning application was submitted for an additional 50-acre employment site just two miles south of Bridgwater. Further from Bridgwater, there are two new development sites, at Glastonbury and Taunton. The Glastonbury development alone is expected to create 850 jobs, on a 35-acre site. To help with training, the South West of England Regional Development Agency has assisted in the establishment of an £11 million training programme through the Somerset skills alliance, as well as a single regeneration budget programme and a "Building Communities" pilot project in Bridgwater.

My argument is that, although the Government cannot always influence or determine commercial decisions about rationalisation and plant closure, we can provide support where possible and maintain the macro-economic framework to allow the hon. Gentleman's constituency to flourish and ensure that there are jobs for local people. That is not to diminish in any way the painful position in which Innovia's Bridgwater work force find themselves, through no fault of their own. However, in that specific case a number of both local and national agencies are already engaged in seeking ways of assisting those who will be affected if—I stress "if", because I do not think that the decision has been taken yet—a decision is taken to close the Innovia plant.

I know that the cellophane plant in Bridgwater has been a key feature of the area for several generations. The announcement that it is being considered for closure was bound to be sad news for the employees, their families and the local community. I can only give the hon. Gentleman and that community my assurance that officials at local, regional and national levels will continue to explore what assistance might be provided.

11.29 am

Sitting suspended until Two o'clock.

Non-Proliferation Review

2 pm

Jeremy Corbyn (Islington, North) (Lab): I welcome you to the Chair, Mr. Deputy Speaker. I also thank Mr. Speaker for selecting this issue for debate. The non-proliferation treaty review conference is due to be held in New York in May.

First, I should declare an interest. Before everyone gets too excited, I should say that I do not have shares in BAE Systems, Boeing or anything like that. I am, however, a lifetime member of the Campaign for Nuclear Disarmament. I am also the chairman of the parliamentary group on CND, although it has not yet been declared an all-party group, and we are awaiting Tory Members to make up the numbers. Finally, I am a vice-chairman of CND and a member of its national council.

The issue could not be more important for the future of the world. Nuclear weapons have been a cloud over us all throughout my lifetime and that of everybody in the Chamber, and that has been the case ever since the first bombs were exploded in Hiroshima and Nagasaki in 1945. Efforts were constantly made to obtain some degree of disarmament through controls, test bans and the various arguments that were put forward internationally. The non-proliferation treaty of 1970 was seen as an enormous step forward and a way to get us out of the dangers of a nuclear holocaust. The five declared nuclear weapons states—the United States, the then Soviet Union, Britain, France and China—all agreed to the treaty, which would do two things. First, it would prevent the proliferation of nuclear weapons and nuclear technology outside the five nuclear states. Secondly, those five states would, in the longer term, disarm. In other words, we would begin to see the end of nuclear weapons.

The conference this May is part of the five-yearly review process, and this debate is intended to allow hon. Members to express their views about it. Above all, however, the Minister will be able to tell us what stance the Government will take at the review conference and whether we shall see a development of the exciting statement that was made after the 2000 conference.

Before I go into that, however, we should reflect for a moment on the proliferation that has taken place since 1970. Several states now have nuclear weapons; some of them have a delivery capability, and many would have the ability to manufacture many more nuclear weapons if they were minded to do so. This year's conference is therefore not simply a five-yearly review: it is an important watershed. Are we to stop the proliferation of nuclear weapons by following the two pillars of the 1970 treaty—disarmament by the five states plus disarmament by non-declared nuclear weapons states?

We should remember that one pariah state developed nuclear weapons and gave them up. Under apartheid, South Africa developed nuclear weapons, but with the end of apartheid and the installation of the African National Congress Government under Nelson Mandela, it renounced them and helped to make the continent of Africa nuclear-free. We should applaud South Africa for that and recognise that the moral stature that it enjoys in the world is the product not only of the end of apartheid, but of the fact that it is not threatening anybody.

Tony Lloyd (Manchester, Central) (Lab): May I ask my hon. Friend to make a similar point about Argentina? At one time, it had at the least plans to move towards nuclear weapons, but it gave them up because it realised that, rather than making Latin America more peaceful, nuclear weapons would massively destabilise relations with Brazil and, indeed, around the globe. So, Argentina also deserves some credit.

Jeremy Corbyn: Absolutely; that is a good point, which I endorse. Argentina, too, was developing a capability, although I do not think that it had got as far as South Africa. However, it gave up that capability.

Other states have been less promising in that respect. We know that Israel has developed nuclear weapons and that it has a delivery capability and an advanced missile system. We know that because Mordecai Vanunu had the courage to tell the truth about Israel's nuclear weapons and subsequently spent the best part of two decades in prison as a result. He is still under control orders in Jerusalem, which we hope will be lifted on 21 April. He will then be free to come to the House and tell us the truth about the nuclear threat in that region.

Of the other countries that have nuclear weapons, India and Pakistan are in negotiation about no first use and, I hope, possible long-term disarmament, although when President Musharraf addressed a meeting in the House, which I and many colleagues attended, I was not encouraged by his remarks about nuclear weapons. Given the poverty in India and Pakistan, it is unconscionable that either country would spend the resources that are required for developing a nuclear delivery system when they should be developing education, housing and health and making all other necessary social developments in their countries.

Clearly, North Korea has developed nuclear weapons and, tragically, has withdrawn from the NPT system. I hope that the negotiations by all the countries involved will bring North Korea back. The Minister's colleague, the Under-Secretary of State for Foreign and Commonwealth Affairs, my hon. Friend the Member for Harlow (Mr. Rammell), is not here today, but he went to North Korea to engage in that discussion. I hope that his efforts will be redoubled, so that there is no prospect of another war breaking out on the Korean peninsula.

The issue of Iranian nuclear weapons is discussed loudly, principally by the Pentagon and others, although Mohamed el-Baradei, the United Nations weapons inspector, has made several visits to Iran and has confirmed that he thinks that it has ceased the development of enriched uranium that could lead to the development of weapons-grade material and that it is taking part in negotiations. I hope that, when the Minister replies, he can tell us that he supports that process, too, and that we will continue engagement with Iran to ensure that there is no development of nuclear weapons in the area, and that we will have no more of the bellicose statements from either President Bush or Secretary of State Rice in which they seem to be overtly threatening Iran. Surely enough life has already been lost in Iraq, without threatening Iran. Disarmament must be the order of the day.

[Jeremy Corbyn]

Mohamed el-Baradei, the UN weapons inspector, made some interesting comments in the run-up to the NPT. He said:

"It is clear that recent events have placed the NPT and the regime supporting it under unprecedented stress, exposing some of its inherent limitations and pointing to areas that need to be adjusted".

He then proposed seven steps that would strengthen the NPT regime and, with it, world security. He said:

"Some of the needed fixes can be made in May, but only if governments are ready to act."

Those steps, which would not require amending the treaty, include a five-year moratorium on building new facilities for uranium enrichment, plutonium separation and materials that can be used for nuclear weapons production. He went on:

"There is no compelling reason for building more of these proliferation-sensitive facilities. The nuclear industry already has more than enough capacity to fuel its power plants and research facilities".

We should listen carefully to Mohamed el-Baradei because he has important things to say, more so because he was not listened to properly about Iran and has put a huge effort into Iraq and North Korea. He is a force for good in the world and a force for peace. He should be treated with the respect that he deserves.

Item 6 of the final document that was referred to at the 2000 conference states:

"An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under article VI."

That was a very welcome statement. The declaration put forward a series of proposals that included:

"Further efforts by the nuclear-weapon States to reduce their nuclear arsenals unilaterally; increased transparency by the nuclear-weapon States with regard to the nuclear weapons capabilities . . . reduction of non-strategic nuclear weapons, based on unilateral initiatives . . . Concrete agreed measures to further reduce the operational status of nuclear weapons systems; a diminishing role for nuclear weapons in security policies to minimize the risk that these weapons will ever be used and to facilitate the process of their total elimination".

and

"The engagement as soon as appropriate of all nuclear-weapon States in the process leading to the total elimination of their nuclear weapons."

Those are important items, and important to remember as we go to that conference, which will take place just a few weeks before the 60th anniversary of the explosion of the world's first nuclear weapons at Hiroshima and Nagasaki in August 1945.

In some ways, the conference ought to be held in Hiroshima. Those who believe that nuclear weapons provide security, safety or a solution of any kind to the world's problems should think for a moment of all those who died in 1945, of all the resources that have been wasted since then on developing nuclear weapons and of those who continue to die from the cancerous fallout from those explosions or from nuclear tests that have taken place since 1945.

The British Government have to face up to some serious, very important questions; any British Government would have to. We are signatories to the 1970 treaty, therefore we should not be developing any new nuclear weapons. I understand that the Trident submarine system is coming to the end of its usable life. I should like to hear a declaration from the Government that when that happens, the system will not be replaced and that we see it as our obligation under the 1970 treaty, to which we adhered, to get rid of our nuclear weapons at that stage.

Work is going on at Aldermaston on what I believe to be the preparatory development of a new generation of nuclear weapons. I should like to hear from the Government about that work, about what weapons are being developed and about the United States' participation in that process. We are required by the treaty to pursue a nuclear-free world, so are we developing a new generation of nuclear weapons and prepared to start the development of a new delivery system or are we going to play our part in nuclear arms reduction? It is all very well for us to lecture the rest of the world on the danger of nuclear proliferation and on how bad nuclear weapons are—it is a danger, and they are appalling—yet we ourselves are developing them and continuing to develop and hold them.

I recognise that the number of nuclear warheads has been reduced. However, I also recognise that under the NATO umbrella we have our own weapons that are theoretically independent of the United States. Under the NATO treaty system, nuclear weapons are also held in non-declared countries such as Belgium, the Netherlands and Germany, because they are part of the NATO command structure. We need to be clear about how that fits with what we are trying to achieve.

I want others to take part in this debate, so I shall conclude by drawing attention to the preparatory work for this year's conference in New York, which gives us an enormous opportunity to move forward. There was a great deal of hope around after the 2000 conference. In his contribution to that conference, my right hon. Friend the Member for Neath (Mr. Hain), then a Foreign Office Minister, made it clear that he saw Britain as on the fast track towards disarmament and as playing our full part in that.

We have not heard such welcome statements from the Secretary of State for Defence or any Defence Ministers since 2001. Indeed, the Secretary of State for Defence indicated that there were circumstances in which he would be prepared to authorise the use of nuclear weapons by this country, ending the no first use policy. I hope that we will hear something clear to the effect that that is no longer the case and that we would not be prepared to use nuclear weapons under such circumstances. I also hope that, given all the insecurities that have existed in the world from September 2001 onwards—the wars in Afghanistan and in Iraq and all that has gone with them—we will ask ourselves the obvious question: what good are nuclear weapons in any of those circumstances? Do they not just threaten the destruction of this planet and eat up valuable resources that could be better used on something else, and should we not say that we intend to get rid of them? I hope that the British Government are prepared to take that step.

This subject has dominated the Labour party for a long time, and as we move towards the NPT conference and the possibility—I hope that it is only a possibility—of the development of a new generation of nuclear

weapons, I suspect that it will become much more of a centre-stage political issue. It is up to this House to declare its views on the matter before the conference. I get the feeling that the majority of the public in this country have had enough of the losses brought about by the wars in which we have recently been involved, and have no stomach or wish for getting involved in preparation for the destruction of this planet, which is what nuclear weapons could bring about.

Many people have campaigned on the issue with great principle and verve for many years. Many have given up lives and careers to do so. Mordecai Vanunu is only one; many others, including Joseph Rotblat, have done a great deal. We should listen carefully to what they have to say, and use this opportunity to move in the direction of a more peaceful globe, not a world at war.

2.16 pm

Dr. Julian Lewis (New Forest, East) (Con): It is a pleasure to follow the hon. Member for Islington, North (Jeremy Corbyn), who, as he says, has had a lifelong commitment to the cause of the abolition of nuclear weapons. I have had almost as long a commitment to the cause of nuclear deterrence and this country's retention of nuclear weapons. We have debated the subject many times. Although it was styled as a debate on the nuclear non-proliferation treaty review conference, when I saw that he was fortunate enough to have obtained this debate—on which I congratulate him—I knew that I could rely on him to go into the broader issues of whether Britain, in particular, should continue to possess nuclear weapons. I hope to follow his example of not out-speaking my allotted time, so I shall straight away address some of his points.

The hon. Gentleman asked us to think about Hiroshima and all the lives that were lost, but one point that is often overlooked is that Hiroshima was probably the first ever example in the atomic age of a nuclear-free zone. The western allies faced the question of what they were going to do to end the war; the bloody campaign was scheduled to continue, and a full-scale invasion of Japan would have cost many more lives than the bombing of Hiroshima did. When that was being considered, what would the allies have had to think about if the Japanese held atomic weapons of their own? I am not saying that I would have wanted the Japanese to hold atomic weapons, but the fact is that when one side has atomic or nuclear weapons, it completely alters the situation if its actual or potential adversary possesses them too.

The hon. Gentleman referred to wars such as that in Afghanistan, and others that are undoubtedly below the nuclear threshold. I can recall debating these matters with the CND 20 years ago, and in those days the argument was, "What on earth does Britain want nuclear weapons for? They didn't do us any good in the Falklands." My response now is what it was then: just because a given antidote to a particular deadly disease does not work against all sorts of other diseases, that is no good reason to throw it away. Nuclear weapons are not a deterrent to all forms of aggression, but the nuclear deterrent undoubtedly works against certain forms of aggression that exist when one country has weapons of mass destruction and another does not.

Let us consider the question of our treaty commitments under article 6 of the nuclear non-proliferation treaty. That is often said by unilateral nuclear disarmers to commit us to a nuclear-free world and to the abolition of our nuclear weapons. Well, yes it does, but only in a way that encompasses such ideal goals as the abolition of all weapons worldwide, and of war in particular. If there were a practical policy to which we could all sign up, and if we could all march up to the lectern and raise our hands and vote one thing out of existence, I am sure that we would all agree that war was top of the list. We would love to vote conflict out of existence, we would love to vote nuclear war out of existence and we would love to vote conventional war out of existence. However, if we cannot do it all at once, we have to ask ourselves whether we are making the world a safer or a more dangerous place by voting one of those elements out of existence before the others. The case of those of us who have argued for 20 years or more in favour of the nuclear deterrent, is that in a world in which wars continue to happen, the abolition of nuclear weapons in the hands of the democracies and in those of worldwide society, would make the world a safer place for conventional warfare.

Let us return to the example of Hiroshima. Did the fact that nuclear weapons did not exist until 1945 make the world a safer place? Possibly, the 50 million people who were killed on both sides, including victims of the holocaust and other innocent civilians, would, if they but had a voice, disagree with the proposition. In reality, nuclear weapons can sometimes make the world more dangerous, and sometimes they can make it safer. Who would really argue now that in the situation that we faced for half a century—confrontation between the totalitarian Soviet bloc and the western democracies—the prescription of the CND should have been followed; the west and NATO should have abandoned the nuclear deterrent and left the Soviet Union with a monopoly of nuclear weapons? I remember the great debates about the deployment of Cruise and Pershing missiles, when it was said that we were five minutes from Armageddon, four minutes from Armageddon, a minute and a half from it or whatever time the nuclear clock was supposed to be ticking off; I remember all those apocalyptic statements. However, in the end what got rid of the nuclear weapons was multilateral negotiations, compounded by a change in the political system in the Soviet Union.

They say that all simple speeches should have a single main point, and I have come to the single main point of this one: that it is not the weapon systems per se that matter, it is the nature of the political systems of the countries that possess them.

Look what happened when we came to the end of the cold war. Did the Russians suddenly abolish all the nuclear weapons that we had been so fearful about for so many years? Of course they did not. But we suddenly stopped being anything like as fearful of them as we had been for such a long time. That was because Russia took great strides towards democracy. The only reason that subsequently—so long as Russia remains, as we hope that it will, on the democratic road—we are fearful of the Russian nuclear arsenal is the danger that those weapons could somehow leach out from Russian control into that of other societies and groups with no commitment to democratic principles. Then we would be concerned once again.

[Dr. Julian Lewis]

Therefore, the real answer to the question is not to ask, in some false egalitarian way, how we can lecture the dictatorships of the world that they should not have nuclear weapons when we keep our own. The answer is simple; I certainly do not have a problem with it. It is that they are dictatorships and we are a democracy. Nuclear weapons are good in the hands of democracies faced with dictatorships in the world; they are bad in the hands of dictatorships, as are other potential means of waging war. I have no difficulty at all in saying that Britain giving up nuclear weapons would not make a scrap of difference to whether a dictatorship continued to possess them. In those debates for so many years, I challenged again and again those who said that we should give up our nuclear weapons with the simple question: "Who are you saying would follow our example? Name a specific country." Nobody ever did.

Tony Lloyd: I am listening to the hon. Gentleman very carefully. Would he accept that, according to his logic—ignoring the issue of dictatorship and non-dictatorship because we are clear that North Korea is a dictatorship—it is highly unlikely that North Korea will invade the United States but it is not improbable that there could be circumstances in which the United States used military power against the North Koreans? Does the hon. Gentleman agree that his logic, alas, is that North Korea secures its future by developing a nuclear weapon? Would he advise the North Korean regime to pursue the nuclear option?

Dr. Lewis: I am afraid that the hon. Gentleman is falling into precisely the trap that, as I was saying, people who subscribe to his point of view continually fail to avoid. I do not need to advise North Korea. North Korea will do what it considers to be in its best interests. If it genuinely believes that it is at risk from being invaded by the United States, and if it has nuclear weapons, which apparently it has, nothing on earth—certainly no advice from the likes of me or, dare I say it, from him—will persuade it to abandon them.

I return briefly to what the non-proliferation treaty actually says. Article VI states:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date".

Most people would say that we have done that. I do not believe that most people would say that we, at any rate, are involved in a nuclear arms race, given the reductions that have been made. The article goes on to say

"and to nuclear disarmament, and on a Treaty on general and complete disarmament under strict and effective international control."

The article therefore commits us to a disarmed world in the same breath as it commits us to a nuclear disarmed world. I long for the day when we have worldwide disarmament of every sort, because that will imply that there has been a revolution in the minds of man and that we no longer want to kill each other when we have the chance. Unfortunately, as we know from our own history and from present-day conflicts, the minds of man have not undergone that revolution. Until they do, people who do not want to be killed will have to defend themselves and deter attack.

Jeremy Corbyn: The hon. Gentleman is describing an appalling prospect for the human race. Does he believe, however, that some people learn to live in peace and harmony with each other, that not everyone around the world kills each other, and that most countries have survived perfectly well without nuclear weapons?

Dr. Lewis: Absolutely. I would even go so far as to say that most people subscribe to those views. Unfortunately, we have a perfect analogy in crime, particularly murder, in our own society. Most people in civilised societies do not approve of crime, and certainly do not approve of murder. However, the reality is that if enough people in domestic society are willing to commit murder, then domestic society must be able to prevent it, deter it, and if necessary, punish it. The same applies in international society.

In conclusion, Iran and Iraq were mentioned. It is too early to say what the final outcome will be of the war in Iraq, which I supported before, during and after it was carried out, but the signs are that for all the criticisms that were made of President Bush and for all the dire predictions of the impossibility of bringing any form of democracy to the middle east, the effect of those elections in Iraq is already beginning to resonate throughout the other countries of the middle east.

Progress of a sort has recently been made in the Lebanon, which I doubt we would have seen had it not been for recent events, particularly the successful elections, in Iraq. I believe that there is hope for the world of surviving the nuclear threat. That hope does not depend on making the mistakes that were made way back in the 1930s when people wrongly believed that aerial bombardment would destroy civilisation, and were therefore determined to limit the weapons and, in a sense, abolish the war. They limited the weapons, but they did not abolish the war. Instead, they brought it about. The way to limit the threat of nuclear weapons is to promote the spread of democracy. If democracy spreads, the nuclear problem will take care of itself.

2.30 pm

Dr. Gavin Strang (Edinburgh, East and Musselburgh) (Lab): We all agree that we are discussing an important subject, and I congratulate my hon. Friend the Member for Islington, North (Jeremy Corbyn) on initiating this debate. As he reminded us, the treaty on the non-proliferation of nuclear weapons—the NPT—came into operation in 1970. The hon. Member for New Forest, East (Dr. Lewis) also referred to the treaty, which originated during the cold war. Looking around, I see other colleagues who took part in similar debates during that period; some of us had most of our adult political lives during the cold war.

I wish to make a simple point, which is not intended to be a response to the previous speaker. At the time when the SS20s and the cruise missiles were being deployed, we were justified in being very worried that there might be a nuclear exchange. It might first occur at the theatre level, but most of us were convinced that, if such a nuclear exchange occurred in Europe, it could

quickly escalate to a major all-out nuclear attack. Of course, that would have been Armageddon; the survivors really would have envied the dead. It is worth acknowledging that we are now free of that threat, which is a tremendous advance. Whatever the problems facing us—I shall refer to them shortly—the fact is that that threat and fear is behind us, because the cold war is over.

New problems have arisen since the end of the cold war. Recently, there was the 9/11 attack in the United States of America in 2001. As a result, there has been a huge focus on the need to counteract international terrorism. Our Government and other western Governments, including that of the US, have certainly taken such a focus. Furthermore, this week is the first anniversary of the Madrid train bombing. I shall not be drawn into some of the arguments advanced by the hon. Member for New Forest, East, but I point out that there is an issue in relation to the possibility of a terrorist organisation eventually getting its hands on weapons of mass destruction; in the long term, there must a risk of al-Qaeda or another such organisation getting hold of a dirty nuclear bomb. In that context, I simply wish to make reference to the proliferation security initiative, which is intended to interdict the movement of WMD-related materials. Importantly, the group of 11 states involved includes the United States, France and the United Kingdom.

I was quickly going to list some of the pluses and minuses of the period since the NPT came into operation, and particularly the '90s and beyond. My hon. Friend the Member for Islington, North covered some of them, and I shall not repeat what he said, but I was glad that he referred to the achievement of the African National Congress in South Africa; we should always acknowledge that that incoming Government made a tremendous decision.

It is not all gloom; we also have the strategic arms reduction treaties, START 1 and START 2. It is fair to say that START 2 has not yet fully delivered. Instead of START 3, we have the strategic offensive reduction treaty or SORT, on which I know that some Members might wish to comment, because in several respects it does not offer as much as we would have liked. The particular treaty I wish to highlight is the comprehensive test ban treaty or CTBT, which the United Nations General Assembly adopted in 1996 and which France, Russia and the UK have ratified. That is important, because the five official nuclear states must ratify it before it comes into operation. It has not yet come into operation because neither China nor the US has ratified it, but it is an important treaty, and I hope that it will come into force.

My hon. Friend referred to the minuses. There are lots of them; not least, they include the fact that the five official nuclear states—those that existed when the NPT was established—have been joined by what they officially call nuclear-capable states: Israel, India and Pakistan. In the context of Pakistan, there was the worrying revelation that A.Q. Khan, who was a senior scientist and manager of the Pakistani nuclear programme, was part of a network that was involved in selling nuclear weapon know-how and materials to other countries. It is a negative development when any new country develops nuclear weapons, and it is a positive development when any country gives up nuclear weapons, as South Africa did. I could touch on Iran and North Korea, as my hon. Friend did, but I will move on, because I know that some of my colleagues want to take part in the debate.

Given the run-up to the last two NPT conferences in 1995 and 2000, I think that there is a feeling in many countries, which is shared by many people, that the world has not delivered sufficiently and that nuclear weapon states in particular have not delivered enough. The treaty was a bargain struck in 1970 between nuclear weapon and non-nuclear weapon states that nuclear weapon states would be allowed to keep nuclear weapons on the basis that they would get rid of them and help non-nuclear weapon states to develop nuclear power peacefully.

As a reflection of many non-nuclear countries' frustration with the lack of progress, the new agenda coalition of eight states was set up in the 1990s. That was an important development, as the coalition is a positive force for nuclear disarmament. In 1999, at the General Assembly of the UN, it called on nuclear weapon states to

"make an unequivocal undertaking to accomplish the speedy and total elimination of their nuclear arsenals and to engage without delay in an accelerated process of negotiations, thus achieving nuclear disarmament to which they are committed under article VI of the Treaty on the Non-Proliferation of Nuclear Weapons".

That resolution was carried by 111 votes to 13, with 39 abstentions.

The new agenda coalition has called for the negotiation of a general convention banning all nuclear weapons, using the model of the 1983 chemical weapons convention. As hon. Members recognise, there is currently an implicit understanding that France, the UK and China will be let off the hook a bit until the US and Russia further reduce their arsenals. Much as we want those arsenals to be reduced, we may well have to consider other ways in which to get better responses from nuclear weapon states and to have more impact on the situation.

I look forward very much to hearing what my hon. Friend the Under-Secretary has to say. I have no doubts about his personal commitment to ensuring that the British Government do their best to achieve progress. Indeed, I think that we all recognise that the present Government have made some progress. The British permanent representative to the UN conference on disarmament, which is the main disarmament body and is based in Geneva, set out some the things done in the preparatory committee for the fourth conference last year. I am sure that my hon. Friend the Under-Secretary will add to what he said, but I point out that the UK has provided working support for a fissile material cut-off treaty, which would be an important advance if we could achieve it.

We have a long way to go. My hon. Friend the Member for Islington, North has a long-standing, consistent interest in this matter, and there is a general consensus on the Government side, even if it does not extend to the other side of the House, that we need to give this matter high priority and that more needs to be achieved, not least at the conference. It is remarkable that the 1995 and 2000 conferences came out quite well in the end, although there was a lot of pessimism in the preceding years. The same might happen with the next

[Dr. Gavin Strang]

conference; I certainly hope that it will be successful, but as important, if not more so, is what happens afterwards.

Mr. Deputy Speaker (Mr. John McWilliam): Before I call the hon. Member for Aberdeen, North (Mr. Savidge), it might be for the convenience of the Chamber for me to indicate my intentions. If there is a Division in the main Chamber, I will suspend the sitting for 15 minutes.

2.40 pm

Mr. Malcolm Savidge (Aberdeen, North) (Lab): I congratulate my hon. Friend the Member for Islington, North (Jeremy Corbyn) on securing the debate, on his thought-provoking speech and on the work that he has done over many years in raising this highly important issue.

There is common agreement that the British Government are right to want to use their presidency of the G8 and the European Union to tackle two of the great world problems: climate change and global poverty. However, it could be said that proliferation is possibly an even more crucial issue facing us this year. The recent report of the UN high-level panel warned us that

> "We are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation."

It said that—despite the fact that, in some ways, one could say that until now the non-proliferation regime has been remarkably successful at limiting proliferation. Indeed, ironically, the invasion of Iraq showed that the nuclear non-proliferation treaty plus containment diplomacy were much more successful than most of us had expected. Iraq had probably abandoned its nuclear weapons programme and abolished its weapons of mass destruction by the mid-1990s.

Some apologists for that war claim that it has been successful in putting pressure on countries such as Libya. I find that a difficult argument to follow, because I think that Libya was already showing signs of constructive engagement since the negotiations on Lockerbie. It could at least as easily be argued that countries such as North Korea and Iran might see the risk of a US invasion as a reason for wanting to develop a nuclear deterrent.

Iran and North Korea reflect one of the weaknesses of the existing treaty. First, the treaty assumed that civil nuclear production and military nuclear production can be separated. In practice, there is an increasing possibility of dual use. The same centrifuges that are used to enrich material up to civil nuclear use might further be used to achieve the enrichment to weapons-grade material. That is so even when one is applying the additional protocol. As my right hon. Friend the Member for Edinburgh, East and Musselburgh (Dr. Strang) said, Iran and Libya also illustrate the tremendous danger that was represented by the A.Q. Khan network and the possibility of nuclear weapons coming from a nuclear black market and their being used not only by states but by terrorists.

The second great weakness in the treaty is the situation of the de facto nuclear weapons states—India and Pakistan, and particularly Israel, because it is a catalyst to proliferation in the middle east.

In the eyes of many countries, the third great weakness has been the position of the nuclear weapons states. There has been a perceived lack of commitment on their part to pursuing nuclear disarmament and particular concern about the position of the Bush Administration. One must have considerable sympathy for the leaders of the new agenda coalition states when they said that the Bush Administration seem to be treating the treaty more as if it were an à la carte menu from which they could pick the bits that they liked than as a proper international treaty.

The review conference of 2000 was a considerable success, not least because Britain played a very constructive role in bringing together some of the nuclear weapons states and the non-nuclear weapons states. There was an action plan, which contained 13 steps. Various people are to blame, but I must say that the Bush Administration are particularly to blame for having virtually discarded that. They have abolished the anti-ballistic missile treaty and are refusing to make any progress towards the comprehensive test ban treaty. They share blame with China for the fact that the production of fissile materials ban has been stalled in arguments over the possibility of weapons in space. The Moscow treaty is widely perceived as not doing nearly enough to produce irreversible and verifiable reductions in nuclear weapons.

Then, of course, there is the worrying talk about producing new nuclear weapons systems, including ones that would make nuclear weapons more usable, thus breaking the nuclear taboo that has been common to all states for several decades. There is also talk of breaking the negative security assurances that we give to non-nuclear weapons states. That is also worrying, because it gives the impression that there is something arbitrary and capricious about the way in which the Administration regard not only bits of the treaty but the designating of states as to whether or not they are entitled to nuclear weapons. We need not an arbitrary but a fair system of international rule of law by treaty if we are to build a stable world.

Mr. Andy Reed (Loughborough) (Lab/Co-op): My hon. Friend speaks eloquently and with a great deal of knowledge on the subject. He has come to the crux of the problem. Even the Government's strategic defence review of 2004 discussed ending nuclear weapons. They have said that if it is possible

> "to include British nuclear weapons in any negotiations, without endangering our security interests, we shall do so."

Part of the problem is that, despite the fine words said in 1995 and 2000—and possibly again in 2005—the crux is the enforcement and the signals sent out to countries in between those words. What does my hon. Friend propose we can do to ensure that many of the things that

he has talked about are put into place on the ground between the conferences, rather than just having the fine words every five years?

Mr. Savidge: I will answer that later on. There are one or two proposals that I would like to touch on and I am conscious of the time.

Mr. Deputy Speaker: Order. The hon. Gentleman said later on. The Member raising the debate ought to have an opportunity to hear a proper reply from the Minister. I have no power to impose time limits, but a couple of Members are trying to catch my eye before the winding-up speeches. Would the hon. Gentleman bear that in mind when he thinks about later on?

Mr. Savidge: I will try to do that.

Obviously, there have been some hopes that the Bush second term might prove to be slightly more conciliatory. I have to say that the announcement yesterday of the appointment of John Bolton, who could be described as one of the most virulent and outspoken opponents of arms control and the United Nations, as the US ambassador to the United Nations bodes very ill for the future of the treaty and of the planet.

The UK needs to play a constructive role, as we did in the previous review. Some states will obviously go to the conference purely to try to be disruptive by criticising the United States. The United States needs to be persuaded to be more flexible. We have to oppose absolutely any suggestion by the US that the agreements of 1995 and 2000 can be regarded as history. Allowing a new Administration of any state to ignore everything that that state has agreed in the past breaks down not only the NPT but the whole basis of international law. We must try to reinforce the NPT and the previous agreements of 1995 and 2000 and try to preserve as many of the 13 steps as possible.

Many positive proposals have been put forward by Dr. el-Baradei, as mentioned by my hon. Friend the Member for Islington, North, by some of the NGOs and by various of the states, such as the new agenda coalition. We will not make much progress on the CBTB, but we should at least try to get agreement to maintain a moratorium on testing. We should try to get the fissile material ban through and agree to Dr. el-Baradei's proposal to try to modify reactors to reduce the flow of production of weapons-grade material. We need to strengthen the additional protocol, bring in the de facto states and take firm action with states that withdraw from the NPT.

The nuclear weapons states must abandon the idea of new nuclear weapons programmes. We must make some proper progress towards nuclear disarmament by strengthening treaties such as the Moscow treaty or going well beyond them. Other countries should listen positively to what Britain has done in de-alerting nuclear weapons. It is absurd that so long after the end of the cold war we should have nuclear weapons on a hair-trigger. We need to develop the work that Britain is doing to improve verification, reduce the role of nuclear weapons in strategic thinking, strengthen the negative security assurances and the International Atomic Energy Agency, and try to extend nuclear-free zones, which now cover most of the Southern Hemisphere.

In 2000, Britain played a positive role in bringing the states together. I hope that in 2005—a far more difficult and dangerous time—we can also act as a bridge between the different states. The stakes could not be higher. If the NPT breaks down and there is proliferation and nuclear arms racing, we could face not only nuclear terrorism in future decades or centuries, but regional nuclear war or even major nuclear war, which, in a worst-case scenario, could endanger the very survival of the human species.

2.50 pm

Tony Lloyd (Manchester, Central) (Lab): I, too, congratulate my hon. Friend the Member for Islington, North (Jeremy Corbyn) on securing this debate. The hon. Member for New Forest, East (Dr. Lewis) took up the almost classical position, but—I hope that he will forgive me for saying this—the world has moved a little on since the days of the cold war.

Jeremy Corbyn: Not in New Forest, East.

Tony Lloyd: I am told that New Forest, East has not moved on since it was founded by William the Conqueror. That gives it its own charm, but does not bring it into the 21st century.

There are important reasons why we should debate the issue, not simply—and rightly—because of the run-up to the review conference this year. As my hon. Friend the Member for Islington, North pointed out, during the next Parliament this country will probably have to consider its future as a nuclear power. I do not think that my hon. Friend the Minister will tell us on this occasion what decisions are being prepared. However, it is important in considering such matters to recognise that the world is moving to higher levels of security, or insecurity. Currently, there is a strong thesis that suggests that the proliferators are in the ascendancy and that those who argue against proliferation are losing the battle.

It is worth restating the fact that one of the commitments of the nuclear states under the NPT was to de-escalate tensions, and seek more stability and security. Over the past few years Britain has played a part in that and, as my right hon. Friend the Member for Edinburgh, East and Musselburgh (Dr. Strang) said, in some respects we have made real progress. However, it would be difficult to argue that the collective world of non-nuclear powers has been given the signal that the nuclear powers have been keen to move forward.

For example, one of the major drivers in the near future might be serious movements by the United States to adopt its strategic defence initiative. That programme could be a vehicle for vertical proliferation, by which I mean that it could encourage existing nuclear states to upgrade their nuclear stocks. I do not speak for or against China, but it is the obvious example. China's nuclear doctrine has always included the capacity to do serious damage to a number of north American cities in the event of nuclear attack by the United States. There are enough deterrents in place, but if the Chinese felt that they could no longer achieve that, the obvious answer would be to increase massively the number of decoy missiles and the number of active warheads available. The knock-on effect of that on China's

[Tony Lloyd]

neighbours, principally India, could be profound. India may choose to respond; and if it did, Pakistan would up the ante, and so on. Proliferation will take place among the nuclear states if we do not actively seek to de-escalate.

We face real and different dangers nowadays—that is the flaw in the cold war logic. My hon. Friends referred to A.Q. Khan as driving proliferation. As we know, that proliferation has extended to other non-nuclear states, as has by now been well demonstrated. The problem is not just unfortunate: it is a serious flaw in the mutually assured destruction canon and means that there are now states that have been drawn, by their internal logic, into that proliferation agenda. We know, for example, that if Iran were to move along the road towards nuclear weapons, it would have a profound effect on its neighbours. Israel, as a nuclear weapons state in any case, might want to respond in some way—not, it is to be hoped, militarily, but in any case by increasing security.

However, those two drivers might have an impact on countries such as Turkey, with the prospect, perhaps, of a country such as Turkey or Saudi Arabia seeking nuclear weapons. The idea of a country with the political instability of the present Saudi Arabia becoming a nuclear weapons state is not the cheery matter that the hon. Member for New Forest, East would have us believe; it would be incredibly destabilising for the whole of the middle east. There is a real question about a Saudi Government in the future perhaps being replaced by what the hon. Gentleman himself described as non-democrats. Nuclear weapons would be catastrophic in those hands, and we should realise that.

The other big difference that is now apparent is proliferation not just to previously non-nuclear states but to non-state actors—terrorists. That is the real challenge for us all, because the most likely driver for that process is the Soviet legacy of nuclear stocks in Russia. In addition to that, there is capacity in the furtive world of nuclear proliferation for sideways leakage in a way that, from the point of view of a proliferating Government, may seem orderly—missiles in North Korea or, in the past, nuclear technology in Pakistan. It may leak into the hands of organisations such as al-Qaeda. That is a phenomenally dangerous prospect for the world, so there are strong and cogent reasons, in a situation as potentially unstable as the present, to re-examine our nuclear doctrines—our nuclear theologies, so to speak—and bring them forward into the 21st century. Britain can play a key role in that context and has done so at critical points in the past. The Government, with a genuine commitment to seeking more stable levels of security, may not be prepared to take the great leaps that were argued for in the past. Perhaps we are living in an era in which it would be sensible to take incremental steps forward. However, Britain could take the lead in arguing for those incremental steps, which could make the world considerably safer.

Part of what I am talking about might involve, as my right hon. Friend the Member for Edinburgh, East and Musselburgh mentioned, the fissile material cut-off treaty. It would be very significant if we could make progress with that. It would be very significant if the United States and China could make progress on the test ban treaty. A big flaw in the existing NPT structure, although it is very difficult to reorganise, is the role to be assigned to the nuclear states that are outside the treaty provision—India, Pakistan and Israel. It is far more sensible for them to be brought into the framework so that they can play a constructive rather than destructive role.

I hope that the Government will consider—it is vital in the context not just of Iran but of proliferation around the world—that it would not be ridiculous to give Iran some military guarantees against attack. Those need not be military guarantees for all circumstances, but guarantees against attack, and particularly nuclear attack. It would not be unreasonable to tell the Iranians that we recognise that, with two nuclear near-neighbours, the world could give some guarantees.

Whether the Iranians would believe the guarantees would always be a matter for negotiation, but there are practical steps that a well-disposed British Government, which I believe we have, could take part in to move us away from the current increasing insecurity of the planet, and towards increasing security. There will not, perhaps, be the great romance of the clashes of the days of the cold war, but instead a rather miserable future for parts of the world, if not the world, if we allow nuclear proliferators to proceed not just with proliferation of nuclear weapons but with their use. There could be a much better world if we moved the agenda towards greater stability.

Mr. Deputy Speaker: I remind hon. Members that the Minister needs a decent chance to reply. There is half an hour, and there will be a Division shortly, but the time will be added on.

2.59 pm

Mr. Michael Moore (Tweeddale, Ettrick and Lauderdale) (LD): I congratulate the hon. Member for Islington, North (Jeremy Corbyn) on securing the debate.

The exchanges during the opening contributions lifted the debate on to a philosophical plane, although the picture painted by the hon. Member for New Forest, East (Dr. Lewis) was rather depressing. I hope that his analysis is wrong. He might be in danger of drawing the wrong conclusions from the recent Iraq war and its effects on democracy in the middle east. I do not intend to get drawn into that issue, as I would be out of order; perhaps we shall debate it on another occasion.

The non-proliferation treaty is the cornerstone of efforts to rid the world of the dangers of nuclear weapons. In the 1990s, there was a great deal of confidence that substantial progress was being made in eliminating the threats of nuclear war, but the growth of international terrorism and the exposure of the international nuclear bazaar run by A.Q. Khan dented that optimism somewhat and shook any complacency out of the system.

The review conference comes at a crucial time; not only has the context of nuclear weapons discussions changed, but the activities of key states such as North Korea and Iran are giving us cause for concern. It would be inappropriate for us to ignore some of the important steps in nuclear disarmament that have been taken in

recent years. The UK Government deserve continued recognition for the serious steps that have been taken: the withdrawal of the RAF's freefall nuclear weapon; the reduction to a single nuclear weapons delivery system in Trident; and a 70 per cent. overall reduction in the explosive power of the UK's military capabilities. The Government also signed up to the comprehensive test ban treaty in 1998, and they have undoubtedly played a significant and leading role in international diplomacy, not least in their work with France and Germany in relation to Iran.

Elsewhere, as others have said, South Africa renounced its illegal nuclear weapons programme, setting an important precedent a decade ago, and Libya's more recent disposal of its capability was a welcome step forward. Against those welcome developments, there are some real difficulties to consider. At the heart of the NPT is the tension between the five nuclear weapons states that wish to prevent proliferation in other states and, increasingly, non-state actors and the remaining 184 signatories that are willing to thole being outside the club on the understanding that real disarmament among the five will proceed.

Previous review conferences have experienced all the difficulties associated with that basic problem. In 2000, the conference eventually made some progress with the agreement to the so-called 13 steps. That highlighted, among other things, the need to bring the comprehensive test ban treaty into force, preserve the anti-ballistic missile treaty and adopt new verification procedures. The United States of America has rejected the first of those propositions and has withdrawn from the second, and we still await details of how the verification capabilities are to be enhanced. Meanwhile, states such as India, Pakistan and Israel continue to be weapons capable and are showing few signs of volunteering their systems for disarmament. North Korea taunts the world about its intentions, and Iran is engaged in a dangerous game of bluff.

Whatever historical perspective is taken on the possession and usefulness, or otherwise, of nuclear weapons, there can be no escape from the central deal at the heart of the NPT. The non-weapon states will allow the five nuclear states to possess their weapons on the basis of article VI, which demands the cessation of the arms race at an early date, and of a treaty on general and complete disarmament. Alongside that central issue are the security concerns, legitimate or otherwise, real or imagined, of those who possess or aspire to possess nuclear weapons; allusion has already been made to Iran. Equally, the nuclear weapon states themselves and others have a common interest in enhancing the verification procedures in order to ensure that non-state actors, as the jargon has them—international terrorists, as we might fear them—do not gain access to the technology and capability. The existence of A.Q. Khan's network suggests that we might be a bit off the pace, and real progress is needed on all sides at the conference to help us all catch up.

I hope that the Minister will tell us what he believes are the main features on the agenda at the conference. There is no doubt that we need to see some progress on the CTBT. We also need to see whether there is any prospect of a fissile material cut-off treaty. The welcome nuclear arms reductions of the early 1990s have been mentioned, and we need to ensure that they continue. We must also recognise that the anti-proliferation efforts of the United States and others will gain enhanced credibility if those countries are seen to participate in the whole nuclear disarmament process and not just in the bits that concern them most.

Dr. Lewis: Will the hon. Gentleman give way?

Mr. Moore: If the hon. Gentleman would not mind, I would like to conclude my comments.

Alongside those issues, some serious institutional matters must be addressed; we see them day in, day out in the international press. The most important point, however, is surely that the political will exists to ensure that the work of the International Atomic Energy Agency and others is not undermined.

I have always believed in multilateral nuclear disarmament and I retain that view very strongly. My concern is growing, however, that the process is stalled. Without further progress on disarmament, we shall not only fail to achieve the ultimate objective of a nuclear-free world, but increase the risks of proliferation and fail to equip ourselves to verify the state of nuclear capabilities throughout the world. As a nuclear weapons state, this country bears a particular responsibility and must take a lead at the conference in re-establishing some momentum in the disarmament process. The stakes have rarely been higher.

3.7 pm

Mr. Mark Simmonds (Boston and Skegness) (Con): I fear that my remarks will be interrupted by the Division bell, but before they are, let me join others in congratulating the hon. Member for Islington, North (Jeremy Corbyn) on securing the debate. He has been a doughty, consistent and passionate advocate of unilateral nuclear disarmament, although I, like my hon. Friend the Member for New Forest, East (Dr. Lewis), would be just as passionate in disagreeing with his perspective. None the less, he has maintained a level of consistency of which he should be proud.

Given the Government's commitment to non-proliferation and the current active negotiations with Iran, which the Foreign Secretary is taking up with his German and French counterparts, the UK's participation in the review conference should be significant. The review is a real opportunity to test parties' commitment to the three pillars of the NPT—non-proliferation, disarmament and the peaceful use of nuclear energy.

The geopolitical climate has changed immeasurably since the last review in 2000. We have seen the horrific events of 11 September in New York and the rise of international terrorism. We have seen the case for war in Iraq based on inaccurate intelligence about weapons of mass destruction. North Korea has withdrawn from the NPT and recently withdrawn from multilateral talks, subsequently claiming that it already has nuclear weapons. Iran appears to be misleading the IAEA and the international community over its apparently peaceful nuclear programme. Such events have underlined the importance of the non-proliferation treaty and of the IAEA continuing to work towards preventing nuclear proliferation and reducing nuclear arms throughout the world.

[Mr. Mark Simmonds]

Unlike several hon. Members in the Chamber, Conservative Members are not anti-nuclear, and I recognise the many benefits that nuclear technology has given the world because of its ability to create large amounts of relatively clean energy. Like my hon. Friend the Member for New Forest, East, I recognise that nuclear weapons played an important strategic role during the cold war years. The mutual threat between the two relatively rational adversaries ensured that nuclear weapons were never used. The non-proliferation treaty has subsequently played an important role in gradually downsizing our nuclear arsenals and preventing other countries from building new weapons through the strategic arms reduction treaties and, more recently, the strategic offensive reductions treaty. Indeed, that fact was recognised by the hon. Member for Islington, North and the right hon. Member for Edinburgh, East and Musselburgh (Dr. Strang).

The hon. Member for Islington, North was right to say that countries without nuclear weapons have been concerned for some time that nuclear powers are not progressing under article VI to reduce nuclear arsenals, and that there is a resistance to disarmament, despite disarmament being a stated objective of the treaty. I am sure that some hon. Members in the Chamber today would argue that that is not so. Indeed, the United States, the Soviet Union and more recently Russia have worked very hard through various treaties to reduce their nuclear warheads to secure a satisfactory resolution of at least part of article VI of the original treaty.

We accept that, in a utopia, the globe would be free of nuclear weapons, but proliferation must be controlled, and reductions through bilateral treaties between the United States and Russia must continue before the UK commences disarmament discussions. That must happen only when the Government of whichever political party are convinced that our national security will not be undermined.

Unfortunately, the debate must take place against a threat posed by nuclear weapons and other weapons of mass destruction that may be greater now than it has been for some considerable time. I was intrigued by the comments made by the hon. Member for Manchester, Central (Tony Lloyd), who seemed to be arguing that the world is now a safer place than it was during the cold war.

Tony Lloyd *indicated dissent.*

Mr. Simmonds: He is shaking his head, which I am pleased to see.

The danger came with the break-up of the Soviet Union and the transfer of nuclear technology and fissile materials. Rogue states and non-state actors—terrorists—can now obtain nuclear technology and fissile materials with the intention of holding the world to ransom.

Sadly, rogue states and non-state parties are not the only ones who pose a problem. Unfortunately, as has already been mentioned, India, Pakistan and Israel refuse to join the NPT, which has led to many difficulties in enforcing the regime. Israel's status as the only nuclear power in the middle east prevents that most dangerous area of the world from becoming a nuclear-free zone. Thankfully, the India-Pakistan situation appears to have stabilised in recent years, but there is always the possibility of a crisis developing. I want all three states to be encouraged to join the NPT to help them to join the international community in this area.

Furthermore, the activities of the Pakistani scientist Qadir Khan show that Pakistan's refusal to comply with the wider implications of the treaty has created a significant problem, which became clear when Libya's decision to dismantle the nuclear programme revealed a clandestine market in nuclear material. Although some states have refused to sign the NPT altogether, other states—Iran and North Korea are the two most obvious ones—used it as a cover for the development of nuclear weapons.

Although all signatories of the NPT are entitled to use nuclear fuel for peaceful purposes, Iran's huge wealth of natural resources makes its large-scale nuclear programme cause for concern. Despite what the hon. Member for Islington, North says, Iran has continued to mislead the IAEA over its acquisition of centrifuge technology and enrichment, which, with modern-day technology, is not necessary for the pursuance of domestic nuclear capabilities. It also refused to allow nuclear inspectors to visit parts of a key military complex at Parchin only 10 days ago.

North Korea is another country that has flouted the NPT—indeed, it has withdrawn from it—since the previous review meeting. The hon. Member for Aberdeen, North (Mr. Savidge) argued that the North Koreans have acquired a nuclear capability because of the threat of an invasion by the United States. I argue that that is not the case, evidenced by the fact that, again following Libya's welcome disarmament, it was clear that North Korea sold uranium hexafluoride to Libya for the enrichment of nuclear weapons.

Mr. Savidge: I thank the hon. Gentleman for giving way in a very interesting speech. I did not suggest for a minute that that was North Korea's sole purpose for acquiring a nuclear capability; I said that that might be an influence on such states.

Mr. Simmonds: I am grateful for that clarification.

There are two main problems with North Korea. First, it is creating regional instability. The Minister will know of the domestic debate in Japan that questions whether is it right that Japan should be the only major power without nuclear weapons when North Korea has gone nuclear and South Korea wants to go nuclear. That political situation in Japan is causing great consternation. Secondly, rogue states with nuclear weapons and fissile material may provide nuclear weapons on the black market to non-state actors who could create dirty bombs and mayhem in many towns and cities throughout the world.

Clearly, some distinct factors need to be resolved at the review conference, which is to take place in May. The NPT needs to be strengthened to prevent the spread of technology and knowledge. Steps must be taken to secure military and civilian nuclear materials and technology in every country, including Britain, in order to avoid materials going missing. That is particularly appropriate for the ex-Soviet states.

A number of key areas need to be discussed and decisions must be taken. There is the issue of the comprehensive test ban treaty; can the Minister update us on his view of the position of the United States and China? There is the ban on the production of fissile material. Does that relate just to existing stockpiles, or only to future production? That subject was mentioned by the hon. Member for Aberdeen, North. Countries that withdraw from the NPT should immediately be referred to the United Nations Security Council.

Nuclear suppliers should consider limiting the supply of enrichment and reprocessing plants to those states that already possess them. We should discuss creating a special committee of the International Atomic Energy Agency board of governors that would focus intensively on safeguards to ensure that nations comply with their international obligations. We should consider allowing only those states that have signed the additional protocols to import civilian nuclear programmes.

We should discuss raising inspection programmes for additional protocols. Many states have signed up to the additional protocols, but have not yet ratified them. That includes significant players, such as Russia, Iran, Uganda, Niger and Mexico. It is clear that the technology for proliferating resistant nuclear energy systems exists. Enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful means. That technology must be shared and facilitated, and there must be verification to ensure that those who are genuinely trying to benefit from nuclear energy and to facilitate the provision of it for peaceful purposes do not transfer technology across for military means. There should also be discussion of the adoption of an additional protocol to ensure that states and parties are unable to divert fissile material to secret weapons programmes.

The 2005 conference needs to succeed. In an ever-more dangerous world, members of the responsible international community need to stand together—both those with nuclear weapons and those without. It was not anticipated that the previous review, in 2000, would be a success, but I give credit to the Government: through hard work and a willingness to take a strategic view and to compromise, they played a major role in ensuring that it was a success. Whatever political party is in government in May when the review takes place, Britain needs to play a full and constructive role in the meeting.

3.18 pm

The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Chris Mullin): I welcome the debate, and thank my hon. Friend the Member for Islington, North (Jeremy Corbyn) for initiating it. As others have said, he has a long and distinguished record of interest in this most important issue. We have seen a number of familiar faces today, and heard a number of familiar arguments, but they are no less interesting for having been heard before. As my hon. Friend said, these arguments are fundamental to the future of the human race, and it is right that we are debating this subject.

I believe that we have a good story to tell, as I think hon. Members on both sides have acknowledged. I shall try to set out a bit of it in a moment, but my hon. Friend asked one or two questions, so I shall try to deal quickly with those first. He asked about our policy towards Iran. It is well known that our policy is to continue engagement, along with two European Union Foreign Minister colleagues. In fairness, President Bush has said that he supports this approach.

3.19 pm

Sitting suspended for Divisions in the House.

3.48 pm

On resuming—

Mr. Mullin: My hon. Friend asked about our plans for replacing Trident. As I am sure he knows, no decision has yet been taken, but we are keeping our options open. A decision will need to be taken during the next Parliament. He asked what is going on at Aldermaston and whether it is consistent with the NPT. My advice is that what is happening is consistent with the treaty and that the modernisation of facilities at Aldermaston and the decommissioning of those no longer required, of which we have made no secret, is an ongoing programme of work to meet safety, regulatory and operational requirements. Were there to be significant developments, we would, of course, inform Parliament.

The hon. Member for Boston and Skegness (Mr. Simmonds) asked about the comprehensive test ban treaty and the position of the United States and China. I do not speak for the Governments of the US or China, but I am not aware of any change in their position. We believe that they should both ratify.

The nuclear non-proliferation treaty is the cornerstone of the non-proliferation regime. We remain fully committed to the treaty and we participate actively in the review process. The treaty is strong; it has the widest membership of any arms control treaty and retains the wholehearted support of the United Kingdom and the majority of the international community. We want universal membership, although that may not be achievable in the current circumstances. We are also committed to strengthening the treaty to face new challenges.

Several hon. Members have asked what we want out of the review conference that will take place soon. The UK's main goal will be to emphasise the need for greater efforts in the non-proliferation and compliance parts of the treaty. Recent events have shown that a number of states continue to seek clandestine nuclear weapons programmes and also that individuals are willing to assist them in the proliferation of sensitive materials and technology. The treaty must therefore be strengthened and the political will generated to prevent such action.

The treaty remains at the core of our nuclear counter-proliferation policy. It has proved successful in limiting the number of countries deciding to develop nuclear weapons. It provides the essential underpinning to maintain international cohesion when addressing the challenges posed by Iran and North Korea, as it did recently in respect of Libya's nuclear programmes. It also serves to strengthen the controls on the transfer of sensitive technology, without which progress in the International Atomic Energy Agency and other forums would become more difficult.

[Mr. Mullin]

During the review conference, we will outline the considerable progress that we had made on nuclear disarmament. It says in my briefing document that that was not often acknowledged, but the main Opposition party, the Liberal Democrats, and Labour Members have acknowledged today that the UK's record on disarmament is good. The United Kingdom has made considerable progress on the 13 practical steps towards nuclear disarmament that were agreed at the previous review conference five years ago. For example, we are working on a programme to develop UK expertise in verifying the reduction and elimination of nuclear weapons internationally. It is a three-part exercise, which sets out the methodologies for the verification of nuclear disarmament.

We will focus at the review conference on monitoring the nuclear warhead complex. We shall also summarise the range of technologies and approaches that have been researched during the five-year programme. The work will provide the basis for methodologies that could be used in a verification regime for a future disarmament treaty. We will publish a consolidated paper on that work at the conference. The United Kingdom remains fully committed to all aspects of the nuclear non-proliferation treaty, including global and verifiable nuclear disarmament. We have a good record of fulfilling our NPT obligations on nuclear disarmament. The hon. Member for Tweeddale, Ettrick and Lauderdale (Mr. Moore) spelt out some of the measures that we have taken, but I shall describe them in slightly more detail.

We have withdrawn and dismantled the RAF's freefall bomb, so Trident is now our only nuclear weapons system. We dismantled the last Chevaline warhead in 2002. We have reduced our operationally available stockpile to fewer than 200 warheads, which is a reduction of more than 70 per cent. in the potential explosive power of our nuclear forces since the end of the cold war. We have reduced the readiness of our nuclear forces: only one Trident submarine is now on deterrent patrol; it carries 48 warheads. The submarine on patrol is usually on several days' notice to fire and its missiles are detargeted.

We have signed and ratified the comprehensive nuclear test ban treaty and continue to promote its early entry into force. We have placed fissile material no longer required for defence purposes under international safeguards. All enrichment and reprocessing facilities in the United Kingdom are now liable to international inspection. We have continued to press for negotiations on a fissile material cut-off treaty. Indeed, we announced in 1995 that we had stopped the production of fissile material for nuclear weapons and other nuclear explosive devices.

We have been more transparent about our stockpiles of nuclear and fissile materials, and have begun a national historical accounting study for fissile material produced. We have signed and ratified the relevant protocols of both the treaty of Rarotonga, which is the south Pacific nuclear weapons-free zone, and the treaty of Pelindaba, the African nuclear weapon-free zone. We are also engaged in negotiations on nuclear weapon-free zones in central Asia and south-east Asia.

The Government's policy on nuclear weapons remains as set out in the 1998 strategic defence review and the 2003 defence White Paper. We are committed to working towards a safer world in which there is no requirement for nuclear weapons. We continue to play a full role in international efforts to strengthen arms control and prevent proliferation of chemical, biological and nuclear weapons. However, the continuing risk from the proliferation of nuclear weapons and the certainty that a number of other countries will retain substantial nuclear arsenals means that our minimum nuclear deterrent capability, currently represented by Trident, is likely to remain a necessary element of our security for the foreseeable future. We continue to support multilateral negotiations towards mutual balanced and verifiable reductions in nuclear weapons worldwide. When we are satisfied that sufficient progress has been made to allow us to include British nuclear weapons in any negotiations without endangering our security interests, we shall do so.

It has been suggested that the non-signatory status of India, Pakistan and Israel fundamentally undermines the non-proliferation treaty. Those countries are not subject to all international non-proliferation norms. As has already been suggested, such a lack of control might, in the case of Pakistan, have contributed to the serious case of proliferation of nuclear technology through the A. Q. Khan network.

The UK continues to call on all non-signatory states to become signatories to the NPT, as non-nuclear weapon states. We are additionally pressing them to sign up to other agreements that control nuclear proliferation. We want them to join early negotiations on a fissile material cut-off treaty; we would like India and Pakistan to become party to the comprehensive nuclear test ban treaty, and Israel to ratify its accession to that treaty. We have been encouraging negotiations on a weapons of mass destruction-free zone in the middle east and look forward to the proposed conference on the issue in the near future.

We live in an uncertain world. The non-proliferation treaty faces challenges from states such as Iran and North Korea. We believe that the global community needs to strengthen the treaty by ensuring full compliance by such states. For our part, the UK is continuing to work in collaboration with the international community to ensure that Iran operates within its obligations under the treaty. We have also worked with the United States to secure Libya's agreement to renounce its clandestine nuclear weapons programme. Both of those efforts demonstrate our clear commitment to strengthening the non-proliferation regime. As part of the work, we also want to see a strengthened International Atomic Energy Agency. We are committed to spending up to £400 million over 10 years through the global partnership to help tackle the weapons legacy of the former Soviet Union. It is also intended that the work should be expanded to cover states such as Libya and Iraq.

I hope that those efforts, and others that time does not permit me to enumerate, demonstrate our commitment to building a secure and peaceful world, free from

nuclear weapons. We are working towards creating a future in which the UK is secure enough to be able to disarm completely.

Jeremy Corbyn: In the advice that the Minister has been given, what is the legal position of Britain in developing a new generation of nuclear weapons within the terms of the NPT of 1970?

Mr. Mullin: My advice is that it is permitted. However, I shall write to my hon. Friend with the details.

Mr. Deputy Speaker: Order. May I ask all hon. Members who do not wish to stay for the next debate to leave quickly and quietly?

Port Sunlight

3.59 pm

Mr. Ben Chapman (Wirral, South) (Lab): I am delighted to have secured this debate on planning applications at Port Sunlight village. It presents an opportunity for me both to highlight the importance of the village to our heritage and to represent the concerns of residents, which I substantially share. This self-contained residential area is hugely significant, not only to the region, not even solely to the country as a whole but internationally, as I hope that a short history will help to illustrate.

Port Sunlight was born of a most laudable combination of human qualities, which is often found in the throes of the industrial revolution—the entrepreneurial spirit and philanthropy. English Heritage has said that Port Sunlight is arguably the finest remaining example of the so-called workers' village and a forerunner to the garden city movement. In common with Bourneville, the home of the Cadbury brothers' chocolate factory, and Saltaire, established by the wool baron Sit Titus Salt, Port Sunlight was founded in order to provide self-contained, clean, modern and sanitary accommodation for workers employed at the adjacent factory. William Hesketh Lever, born in 1851, expanded his father's already prosperous enterprise, before beginning to specialise in the marketing of soap in 1884. Business boomed and, to cater for demand, construction of new premises began in 1888. In the following two years, land was purchased to allow for 28 houses to be built.

The architect of the initial round of construction was William Owen but, subsequently, a plethora of people lent themselves to design homes, which has resulted in the creation of the unique mix that we enjoy at Port Sunlight today. Uniquely, and in contrast to Bourneville, Lever and Owen married the philanthropic endeavour of improvement of the working class with the visual tradition of the sylvan suburb. By the turn of the century there were 400 houses, and the village continued to expand; today, there are nearly 1,000 dwellings. Port Sunlight possesses a character which it has preserved well; my constituency, the community and the country are richer for it.

A rich tapestry of features contribute to making Port Sunlight what it is. The Lady Lever art gallery contains one of the most beautiful collections of fine and decorative arts in the country, and the recently refurbished Gladstone theatre is a gem. They are but two such institutions, and they are not merely minor curiosities—they are part of our cultural heritage. The importance of Port Sunlight was recently recognised, when a project of £1 million, to construct a heritage centre befitting its status, received funding partly from the Heritage Lottery Fund and partly from the European Union objective 1 programme for Merseyside.

Port Sunlight is also a living place, with a pub, a school, a church, a bowling green, and, until recently, a post office—the Post Office, with a shortage of sensitivity, recently announced its closure. In addition, there have been places of work in the village—a garden centre, offices, and a gardeners' compound. The village also has its own railway station. It needs to be a living and working place, not a "Disneyfied" dormitory.

[Mr. Ben Chapman]

However, there is a problem. After Unilever—as the company became—set up a new company to manage the village at arm's length in the 1960s, a process began that eventually led to housing being sold, either to residents whose tenancies had expired, or on the open market. In 1999, management of the village passed to an independent charitable organisation established for the purpose, the Port Sunlight village trust. Its declared responsibilities include to preserve

"and maintain the Port Sunlight Conservation Area ... in Merseyside for the benefit of the nation at large, the present character and amenities of that area and whatever of the historical, architectural and constructional heritage may exist in the Port Sunlight Conservation Area aforesaid whether in the form of buildings ... open spaces or otherwise which are of particular beauty or historical, architectural or constructional interest."

I regret that the proposals made jointly by the trust and Miller Homes, which I will outline shortly, threatened those terms of reference and the character of the village. The trust appears by omission tacitly to admit that the plans do not fit with the mission statement I have quoted, by referring to it as setting out what

"the trust may do and does not in any way determine what the Trust must do."

It is not the fact of the proposed developments per se that cause me and many of my constituents concern, although by their nature plans for development in conservation areas with listed status such as Port Sunlight should be treated with the utmost caution. Any development, no matter how it fits in with existing designs, can alter a village—in this case a village of 1,000 dwellings already—if it is of sufficient scale.

New homes have been constructed in the past decade or so, but have not presented a particular problem. However, they were designed in the traditional arts and craft style and blend in with the village as it stands. Rather, it is the background to the trust's insistence on recent proposals that requires close attention, for the justification is claimed, substantially, to be financial.

The village trust says that the planning permission that it seeks is essential to its needs if it is to comply with the covenant established with the trust's inception. The trust says that, for various reasons, it needs to develop and raise money by selling new properties for capital and by building properties to rent. Accordingly, the trust and Miller Homes submitted six applications, which could have provided 296 new dwellings, apparently on the questionable basis that if enough applications were submitted for enough dwellings, at least some would get through. By themselves, 296 dwellings would change Port Sunlight village, whatever their design.

From that swathe of applications made to the Wirral borough council planning department, for dwellings of varying design and location, two were accepted on 11 January 2005. Just for the record, they are for 21 apartments on Water street and 62 apartments on Wharf street. The two approved applications may involve the least offensive of the designs proposed and at least one is in the arts and crafts style, but the development of 62 apartments raises the greatest concern, because those apartments represent a deviation from the character of the village.

The trust's financial predicament, which is claimed to be the cause of the development, has two elements. First, prior to the establishment of the trust a financial audit was undertaken with a view to making the trust self-sufficient in building and public space upkeep, with the aid of an annual income provided by Unilever as part of a £25 million settlement with which the trust was established. Even now, Unilever does not accept that that dowry was insufficient for the purpose. Moreover, it was for the trustees who first joined the trust to establish that it was adequate—including, in my view, by showing due diligence in relation to it. In the light of further studies conducted after the trust's inception—and, effectively, by the trust itself—that sum was claimed to be insufficient to cover the costs of maintaining and refurbishing the complex.

Secondly, the trust's finances were hit by losses suffered as a result of the stock market downturn in 2000. That the stock market has declined is beyond question, but it seems to me that what goes down must eventually come up. In any event, although consistently prayed in aid of what is proposed, finances should not be a material issue in such planning matters. Before any account is taken of the finances, I would need to be satisfied that the trustees had done all that they could through, for example, benchmarking with other model villages and learning from them, responsible tourism, exploiting the grants regime and so on. After all, Merseyside is an objective 1 area.

Many other aspects of the consideration of the applications were questionable, not least the consultation with residents. The problem is that, although only two applications were approved, they were particularly open to debate. For the residents, it appeared that the council may have been acting against its own planning guidance, which states that local planning authorities should reject poor design where decisions are supported by clear planning policies, and that

"special regard should be had for such matters as scale, height, form, massing",

in respect of

"the traditional pattern/frontages ... and detailed design."

Furthermore, it was felt that the consultation with the residents was somewhat unsatisfactory and not in the spirit of the code of conduct. Some of the residents' objections, for example, were not included in reports submitted for consideration by the planning committee.

The Commission for Architecture and the Built Environment has lodged objections to the designs themselves. Although the guidelines were not ignored, I cannot say without compunction that the designs are in keeping with the character of the village. Some of the proposed apartments would be three storeys high, but adjacent to two-storey existing buildings. The materials to be used would not be wholly sympathetic to the surrounding buildings. Moreover, there would be a high density of apartments, which would be at odds with William Lever's leafy suburban vision. The problem seems to be that the designs are confused; they are neither one thing nor the other.

As part of the planning committee's consultation, CABE submitted the following comment:

"The footprint of the ... proposal for Wharf street that has been implemented is extremely large and is completely out of character with the other buildings in Port Sunlight ... CABE do not think any"—

I emphasise the word "any"—

"of the schemes are of a high enough quality to receive planning permission."

However, two did.

When the applications were approved, the trust expressed its disappointment that the remainder were rejected. It said:

"We will have to go away and come up with some other plans about how we take things forward—whether that be appealing some of the decisions that haven't gone in our favour or coming up with alternative developments".

The chairman of the planning committee said:

"The concept of conservation means to some that nothing ever changes. Others say that if anything does happen it must take on the spirit and flavour of the original architecture and form of an area. I hold the second opinion. I believe that so long as things are handled properly change and improvement can be achieved."

I do not dissent from that, but the problem is that one wholly inappropriate design was recommended by the planners for approval. The very body entrusted with the protection of the village is now casting itself as a developer. Is the village properly protected in such circumstances?

As I said, the final word may not have been spoken. Decisions were taken on 11 January, but more will be sought. It is commonplace for developers who have had applications turned down to appeal, unlike protestors against proposals, who get no appeal. Developers can appeal ad infinitum, but I hope that they will be more responsible and that there will be pause for thought.

Before any further steps are taken or any proposals are made, I ask that certain items are considered. First, full account should be taken of those for whom the development will form part of the fabric of their lives. I pay tribute to the Port Sunlight Conservation and Residents Society and its campaign group Save Port Sunlight, which have attempted to limit inappropriate development. Those involved have organised, deliberated, written letters and collected 2,200 signatures for a petition. None of those efforts should be underestimated, but it saddens me that they became necessary.

I am afraid that there seems to have been a lack of constructive dialogue between the residents on the one hand and the trust and Miller Homes on the other. I hope that that will be put right, because dialogue is essential. It should not be merely cosmetic, because, in the long run, no one will benefit, and there will only be losers. The refusal by the trust and, to some extent, Miller Homes to engage seriously undermined the consultation process. What consultation there was with residents consisted of a four-hour presentation in a pub. Now, four hours is a long time, but the residents felt that they were being talked at, not listened to. The trust and Miller Homes were either unable or unwilling to answer many of the questions put to them. If residents had approached the issue with the mind of a saboteur, I could understand the trust's reticence, but that was not the case.

The second point that I would like the Minister to consider is that there needs to be a master plan before any planning decisions are taken. As part of Liverpool's capital of culture year in 2008, Port Sunlight is, rightly, being promoted as a major attraction. Visitors will come from all over the United Kingdom and around the world. They will all congregate on Merseyside, and many will come to Port Sunlight. With the capital of culture year, we on Merseyside have only one crack of the whip. The trust has cited long overdue maintenance and repairs that need to be carried out in advance of that as its overriding concern. Thus, there is a motivating factor for the cash-raising developments. It is right in so far as it recognises that work is needed and overdue. However, it is my belief and that of residents and other interested parties that not enough has been done to exploit other potential sources of funding.

There should have been a greater focus—admittedly limited by inadequate heritage centre facilities—on attracting tourists and exploiting the tourist stay. The new visitor centre will help in that enterprise, but there are other initiatives to be taken. Some buildings may have lain idle for want of a realistic rental price being sought.

Thirdly, a proposal for a conference on the future of Port Sunlight, put forward by English Heritage, is coming to fruition. It will bring together representatives from model villages across the UK in order to provide a forum for the exchange of ideas, as well as for the development of best practice in respect of long-term management. That is well overdue and much to be praised.

In addition, English Heritage has offered to provide advice and, possibly, financial assistance to help the trust come up with a sustainable vision for long-term upkeep of the village. That is to be welcomed. I am delighted to have been asked to chair the conference, which will take place at Port Sunlight—hopefully, in the autumn.

Fourthly, English Heritage will be producing an authoritative book on Port Sunlight in its Informed Conservation series and I hope that that will act as a reference point for any future steps that might be taken in the village.

Fifthly, we need to take account of the potential for world heritage site status. If Saltaire and New Lanark can qualify, some would say, surely Port Sunlight could qualify—perhaps even more so. Lord McIntosh of Haringey, the Minister for Media and Heritage, has told me that the earliest that it could be included on a tentative list for nominations is 2006. We therefore have an opportunity to help Port Sunlight to get the best possible chance of being judged a site of "outstanding universal value", which I think it is, as is required by the criteria for eligibility. I hope that when we move forward with that, we can get more support than we have had in the past from Wirral metropolitan borough council.

Sixthly, and finally—you will be glad to learn, Mr. Deputy Speaker—I urge Unilever to use its good offices to ensure that any future development that is necessary at Port Sunlight is responsible. Not only does Unilever still have a vibrant factory as part of the Port Sunlight site—as a consequence, it objected to the proposals that were put before the planning committee—but that vast international company has, after all, Port Sunlight as its birthplace. It is a key—possibly the key—element of the Lever heritage. Unilever has a vested interest in the success of the village and I hope that it will do all that it can to stress that.

[Mr. Ben Chapman]

Let us hope that on the basis that I have outlined, all the parties concerned will reflect long and hard before making any further proposals for development at Port Sunlight.

4.18 pm

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Phil Hope): I congratulate my hon. Friend the Member for Wirral, South (Mr. Chapman) on securing this debate. He raises an issue that is clearly important to a good number of local residents and, indeed, more widely.

Until this debate I was not particularly aware of Port Sunlight or its story and fascinating history. As my hon. Friend so eloquently explained, it is an important part of the legacy of efforts made by a number of philanthropic Victorian factory owners to secure decent homes for their workers. Thankfully, we now have our own decent homes strategy to redress that problem in the 21st century, but historically Port Sunlight ranks very much alongside the examples that he quoted of Saltaire and Bournville.

Port Sunlight village follows from the Levers' decision in the 1880s to move to new premises. That provided the opportunity for a fresh start, in the form of not only a new, modern soap factory—by the standards of the day—but nearby decent housing for workers, with schools, a library and other public buildings to encourage tenants towards self-improvement. That was, perhaps, an early example of sustainable community development.

The first houses were built in the late 1880s and the building continued up to the start of the second world war. Different phases of building are distinguishable by the materials used, and they are all laid out in a landscape garden setting. I understand that no two blocks of houses in the village are identical. Particularly noteworthy is the fact that from the very beginning, in the late 19th century, every home was provided with a bathroom. That is quite exceptional. Because I was not familiar with the site I found some photos on the internet, so that I could visualise what my hon. Friend has been describing.

Modernisation and renovation work over the years has brought the village up to date, but without affecting its essential character and appearance adversely. I think that that has been acknowledged locally by the council in the designation of the village as a conservation area, and, nationally, by the fact that so many buildings—900 of them—have been included in the statutory list of buildings of architectural or historical importance. I very much agree with my hon. Friend that Port Sunlight village is a nationally—indeed, internationally—important place. It enjoys an international reputation and attracts a great number of visitors.

My hon. Friend has suggested, here and elsewhere, that the village might be a candidate for world heritage site status, under the terms of the UNESCO convention. I think that my hon. Friend will know, because he has been in touch with her about it, that that is a matter for my right hon. Friend the Secretary of State for Culture, Media and Sport. To qualify for world heritage status a site must be of outstanding universal value judged against the criteria set out in UNESCO's operational guidelines. However, I might add that following a consultation exercise in 1998 and further discussions the Government drew up a list of 25 potential sites.

After a rule change by UNESCO, which took effect in 2002, the UK is allowed to submit only one nomination per year for what is described as a cultural site for world heritage status. Some 17 sites remain of that initial tentative list of potential and future nominations. I think, therefore, that my hon. Friend can see that there will be a substantial number of sites for the Government to put forward in future years. That said, the Government expect to review the list in the next couple of years, and that will provide an opportunity to make the case for Port Sunlight. No final decisions have been taken about the form that the bidding process might take, or the precise timing.

The criteria are very demanding, so a strong case would need to be mounted to persuade the Secretary of State to put Port Sunlight on the list of potential UK sites. I shall of course communicate this debate to my right hon. Friend so that she is aware of the bid that may be on its way.

Since 1999 the responsibility for the management of the landscape and environment of the village, in particular, and of the heritage centre there, has rested with a charitable trust, the Port Sunlight village trust. For reasons that I think my hon. Friend has explained, the trust was not adequately funded for the work that it took on, and it now needs to generate additional future income and capital to fund a backlog of work and help to secure the future management and maintenance of the village. That is a debate that my hon. Friend has raised; the question is how to go about the task.

My hon. Friend suggested that the trust might not fully have explored the availability of grant aid to support its aims and that it might do more to generate income through tourism development. I can only suggest that he and his colleagues continue to exhort the trust to pursue those possibilities with the borough council and other agencies.

Of course, the main issue that concerns my hon. Friend, about which he has spoken, is the proposal by the trust to generate capital receipts by releasing land in the village for housing development. To that end, the trust, with, in some cases, the developer, Miller Homes, submitted a batch of six planning applications for a housing development on sites that overlap or lie adjacent to one another at the edge of the village, quite close to the factory buildings and straddling the boundary of the conservation area.

The planning applications have been determined by Wirral metropolitan borough council. In January it granted permission for two of the applications and refused permission for three. Those three are now the subject of appeals to the Deputy Prime Minister, together with the sixth, on which the applicants have appealed because of the council's failure to determine it in the prescribed period. Arrangements have been made for a public inquiry to be held into the appeals, and that is scheduled to open on 20 June.

My hon. Friend will appreciate that, in the circumstances, it would not be right for me to say anything today about the merits or otherwise of the

developments proposed, because that might be seen as prejudicing the outcome of the appeals. Nor do I think it right to comment on the decision of the council to grant permission for the proposed apartments on Wharf street that so concern my hon. Friend and his constituents. Those were decisions for the council to take, and in doing so I am sure that it paid particular regard to the comments of CABE and English Heritage, as well as the many representations that I understand it received from other organisations, local people and, of course, my hon. Friend.

In determining such planning applications, the council will, I am sure, have paid close regard to the likely effect of the proposed development on the setting of nearby listed buildings and the character and appearance of the conservation area. Indeed, planning Acts require them to do so. The two main planning policy guidance notes relevant to the case appear to be PPG15 on planning and the historic environment and PPG3 on housing.

PPG15 provides a full statement of the Government's policies for the identification and protection of historic buildings, conservation areas and other elements of the historic environment, and then explains the role of the planning system in their protection. It explains the importance of early consultation with the local planning authority on development proposals that would affect historic sites. The planning guidance also emphasises the importance of the requirements, set out in planning Acts, for local planning authorities to pay special regard to the effect of the development on the setting of listed buildings, and to the desirability of preserving or enhancing the character of conservation areas, when considering applications for planning permission. It is important to remind the House that that planning guidance exists, and that local authorities are expected to pay due regard to it.

The aspects of PPG3 relevant to this subject are the requirements to give priority to the reuse of previously developed land in urban areas, to make efficient use of land by building in a net density of no less than 30 dwellings to the hectare, and to promote good design in new housing developments.

Proposals to build near listed buildings, and in or close to conservation areas, can, as the proposals for Port Sunlight amply demonstrate, lead to considerable debate about the form that the development should take, and indeed about whether any development should be allowed at all. It is a most difficult balancing exercise. It is disappointing that the development permitted at Port Sunlight caused such strong local opposition, particularly if, as my hon. Friend suggested, a better solution might have been achieved through more meaningful dialogue. It is for the local planning authority to ensure that there is proper consultation on these matters. My hon. Friend's points about the future and about the importance of effective dialogue are well made and, I hope, will be well received.

I tend to agree with my hon. Friend that if similar problems are to be avoided in future, it may be prudent for the trust and the borough council to agree a master plan for the village after appropriate consultation, particularly with local residents. That can only be of benefit to the site, but of course it is for those parties, and not the Government, to decide. Under the new regime in the Planning and Compulsory Purchase Act 2004, it is open to the local authority to develop an area action plan, and that would feed into the wider local development framework. I hope that that will provide opportunities for taking this matter forward.

My hon. Friend mentioned that he is chairing a conference that is taking place this year with English Heritage on the future of the site; I am sure that that, alongside the planning process currently in train, will provide another opportunity to consider the many issues that he has raised, and will provide a good opportunity to think afresh about the way forward. I congratulate him on securing this debate, and on making an impassioned plea on a topic that is clearly of great concern to his constituents.

Mr. Deputy Speaker (Mr. John McWilliam): Before I call Norman Lamb, I should say that a Division is likely at some stage, and when that happens, I shall suspend the sitting for 15 minutes.

Shoreline Management (Norfolk)

4.30 pm

Norman Lamb (North Norfolk) (LD): I am very pleased to raise an issue of great concern to people in my constituency. I am also pleased to see the hon. Member for Great Yarmouth (Mr. Wright) in the Chamber. We have worked together on the issue, and I think that our views on it are similar.

The draft shoreline management plan has hit coastal communities in north Norfolk like a bombshell. Some of the people most directly affected are present today. They feel strongly about the issue and its impact on their futures and livelihoods. I hope that the Minister will also take their concerns seriously and understand why they feel as strongly as they do.

My purpose today is to inform the Minister of the local reaction to the draft plan, which has been prepared in accordance with his Department's approach as outlined in the consultation document "Making Space For Water". As the Minister will know, we are in the middle of our own consultation process on the draft plan. It is fair to say that there is great public cynicism these days about the process of consultation. Most people assume that decisions have already been taken and that whatever the reaction to such a consultation exercise, it will make no difference. My first question to the Minister is therefore whether he will listen to what we are saying and act on the genuine and serious challenges that we are making to the proposals.

It is important to make a few things clear. I do not claim to speak as an expert on coastal erosion and I do not claim fully to understand, for example, the impact of offshore dredging. However, I speak on behalf of a number of coastal communities who feel deeply disturbed by a change in approach that threatens their homes, their security and in some cases everything that they have ever worked for.

I accept and understand that the management of the coastline is a massive challenge for any Government. I can remember walking along the cliff top in the mid-1990s with the then Conservative Minister. The district council was putting forward a proposal for a defence scheme for Happisburgh and seeking grant aid from the Government. The money was not forthcoming and the Ministry of Agriculture, Fisheries and Food stated as its policy that

"to attempt to protect every inch of coastline from change would not only be uneconomic but would work against the dynamic processes that determine the coastline and could have an adverse effect elsewhere and on the natural environment."

That was the Government's position in 1993.

I also understand that erosion of the coast has been going on for centuries. Many lost villages along the coast of East Anglia bear testament to that. None the less, people want their homes and communities protected. That is their main wish and top priority.

I am also aware of the potential impact of climate change. We are told that the country is tilting, with the east coast dropping by a millimetre or two every year. With climate change causing sea levels to rise by 4 or 5 mm a year, the combined effect is that the sea level is rising by about 6 mm a year. Given that much of north and east Norfolk is close to sea level, the potential implications are clear for everyone to see.

We do not approach the subject seeking to deny clear and stark facts. But we demand that people are treated fairly and in accordance with the principles of social justice. I want to demonstrate to the Minister the immediate impact of the publication of the draft plan. The plan, as he will know, contains maps, which are already inaccurate because of the rate at which erosion is changing the contour of the coastline. Those maps show clearly properties that are expected to be lost to the sea within specified periods of time. Without the plan's even having been approved, there has been an immediate and significant impact on property values, particularly in certain locations, on the saleability of property and on people's ability to secure a mortgage and to obtain insurance.

However, the impact goes well beyond the properties shown to be at risk on the shoreline management plans. Predicting the rate of erosion is a notoriously inexact science, as the Minister will recognise. For example, a plan drawn up for Happisburgh in 1992 by Halcrow, which is now responsible for the shoreline management plan, showed a line where the coast would be in 60 years' time. We overtook that line in 2004, after just 12 years—an inaccuracy factor of five. The uncertainty that results from the inexact nature of the science means that the plans have blighted far more properties than might be imagined. Just last weekend, I heard about a property situated a mile from the coast that had lost 25 per cent. of its value. It is in no realistic danger for a considerable time, but it is suffering the real effect on property values.

Let me read from a letter from a constituent, who makes the point very well:

"My wife and I moved to Overstrand—"

one of the villages affected—

"just over two years ago. Because of my wife's ill health we decided to move from our current period property to a bungalow which would be easier for her to manage. We received and accepted an offer for our property in the middle of January and had an offer for a bungalow accepted. The moving process was well under way and we anticipated completion by the middle of March. Last week, our buyer pulled out because of the present uncertainty regarding the future of Overstrand. They were very keen to move to Overstrand and they had registered their children at the local school".

That is an example of the impact of the proposed shoreline management plan on two families. It is having a devastating effect and must not be allowed to go forward.

In the past few weeks, we have held public meetings in Happisburgh, Bacton, Mundesley and Overstrand. About 1,000 people have attended, at very short notice. That number in itself demonstrates the strength of feeling on the issue. People have told me of their circumstances both at those meetings and by letter. How does the Minister respond to people who have purchased property in the past few years, when the official policy was to hold the line, to defend the coastline? They are likely to have bought with the benefit of a mortgage, and could suddenly be plunged into negative equity. They will be left paying off their mortgages in the knowledge that there will be little or no capital asset left when they have finished paying.

The situation has been described as "a creeping paralysis" by Clive Stockton, deputy leader of the district council and a business owner in the village of Happisburgh, who is here today. His business is a pub,

which is profitable and successful. He has now had it valued at less than half what it cost to buy 14 years ago. That illustrates the real and current impact of the plan. I challenge the Minister to tell us whether he believes that it is socially just that a generation of people who happen to own properties in the affected villages could lose everything as a result of the Government's decision that it is too expensive to defend the coastline. What is disturbing is the absence of any indication that the Government recognise the human cost of effectively abandoning stretches of coastline.

I want to consider the matter of compensation. I understand that in France there is a compensation scheme called, in a typically French way, a solidarity fund. The Minister will be aware that I have written to him about compensation. When he wrote back to me on 16 November 2004, he confirmed that there were "no current plans" to introduce a compensation scheme, and that there was "nothing to discuss". However, I have spoken to civil servants in his Department who tell me that the matter is being considered. In his letter, the Minister did, perhaps, hint at the possibility of some movement, when he recognised that the issue was "of great interest", and that the Government would consider

"the issues further with a view to clarifying future policy and its implications"

in the Government response to the consultation "Making Space For Water".

The introduction of the compensation scheme would immediately address the problem of blight. Our suggestion is that payment is made at the point when the property is lost to the sea, and that it is based on the value of that property without the problem of erosion. I recognise that such a scheme must be carefully designed, and I understand that any Government must be careful about open-ended commitments, but the case for such a scheme is overwhelming. It would immediately address the problem of blight described in the letter that I read to the Minister, because it would give people renewed confidence to buy into these communities. Purchasers would know that their investment was safe. What hope can the Minister give those communities that do not have such a scheme?

Importantly, the scheme would also have another very beneficial effect. At the moment, a decision to abandon a stretch of coastline is a no-cost option for any Government, so it looks very attractive. A compensation scheme would force any Government to judge more effectively whether to abandon the coastline or to defend it. They would have to balance the cost of compensation against the cost of defence.

I therefore directly challenge the Minister on this crucial subject. Does he accept that the principle of compensation is being discussed in his Department? Does he acknowledge that the publication of the shoreline management plan has now made this an urgent and pressing issue, because of its immediate impact on communities? Does he also accept the real and serious risk of blight in coastal communities unless the Government act?

Two other issues have not been adequately dealt with in the draft shoreline management plan—the impact of dredging, and the basis on which we establish the total cost of what is at risk if coastal erosion is not controlled.

Extraordinarily, given its implications, the draft shoreline management plan says little about dredging. It states:

"Whether or not there are links between offshore dredging and coastal erosion is uncertain".

That is all it says, but at least it acknowledges that the impact is uncertain. I become very frustrated when I hear the dogmatic assertion that dredging has no effect on the rate of erosion.

I pay tribute to Malcolm Kerby of the coastal concern action group, who is in the Chamber today. He has put body and soul into representing the interests of these communities, and does it very responsibly. He and I, and Peter Frew from North Norfolk district council, travelled to Brussels some time ago to meet Stefan Lombardo, who was head of the research project Eurosion, which is funded by the European Commission. He made it clear that offshore dredging could increase the rate of erosion. One must examine each case to determine the potential impact. Furthermore, he made it clear that he was not satisfied that the process of environmental impact assessments in applications for dredging licences was robust enough. The precautionary principle must be applied.

The problem is that substantial sums of money are made from dredging. In 2002 alone, the Crown estate received £5.2 million, which is 40 per cent. of its total income from the whole country, from marine minerals dredging off the Norfolk coast alone. The construction industry inevitably demands ever-increasing volumes of aggregate to meet, apart from anything else, the Government's own building plans.

When the Minister replied to a parliamentary question from me back in January 2004, he confirmed that research was under way on the impact of dredging. Will he provide any more information on the outcome of that research? I know that research has been done, but what about the research that he said was under way last year?

Many people argue that until we have a greater understanding of the impact of dredging, there should be a moratorium on dredging anywhere close to the coast. There must surely at least be a case for tougher assessment of new licence applications. Alternatively, there is surely a case for some of the revenues raised from dredging to be used for defending our coastline, or for building up a compensation fund.

The draft shoreline management plan presents a false picture of the real cost of doing nothing. Appendix H.3.1.1 states that

"losses and benefits have been calculated only on the basis of residential and commercial property values. Other assets, such as utilities, and highways, and intangibles such as recreation, impacts on the local economy or environment, have not been valued or included".

That makes nonsense of the whole plan. Surely, before taking decisions on how to progress with something so fundamental, which affects so many people's lives, we should have a clear understanding of the full cost and of the impact on the Norfolk broads, tourism, relocation of communities and our precious heritage.

It is ludicrous that a decision of the district council to refuse an application for planning permission in a place close to the cliff edge where it is ludicrous to build new properties can be overturned on appeal by Government

[Norman Lamb]

inspectors. I accept that that is not the responsibility of the Minister's Department, but it is a failure of joined-up government.

The draft shoreline management plan is fatally flawed. It touches on the crucial issue of dredging in one sentence, but reaches no conclusion; it says nothing about the real social and economic impact of abandoning the coastline; it cannot address compensation because that would require Government action; and it fails properly to identify the full cost of doing nothing. Unless and until those crucial issues are addressed, the plan will be overwhelmingly rejected by local people and, no doubt, by members of North Norfolk district council.

Finally, I repeat my request to the Minister to meet local people. Will he meet them, preferably in Norfolk but, if not, here? This matter is crucial to them, and they deserve the chance to tell him their views directly, as well as having me represent them and put forward their views.

4.46 pm

Mr. Anthony D. Wright (Great Yarmouth) (Lab) *rose—*

Mr. Deputy Speaker (Mr. John McWilliam): I take it that the hon. Gentleman has the permission of both the Member who secured the debate and the Minister?

Mr. Wright: Yes. Thank you, Mr. Deputy Speaker. I shall be brief because I respect the fact that this is the debate of the hon. Member for North Norfolk (Norman Lamb); I simply want to make a few pertinent points. The hon. Gentleman has made all his points admirably and I agree with many of them.

As far as the coastline is concerned, my responsibility for my constituents is from Winterton down to Hopton. Some issues affecting that area may be different to those raised by the hon. Gentleman, but I want to raise one or two relevant issues with the Minister, some of which have been touched on. The first such issue has been raised by my constituents. Responsibility for different parts of the coastline falls to different agencies. In one area in Winterton, it is probable that Great Yarmouth district council is responsible for one part and the Environment Agency for another. We should consider making one agency responsible for the whole coastline.

Property blight, on which the hon. Gentleman touched, will probably affect many areas along the coastline. There is also the issue of planning blight. Most planning legislation looks only 20 years ahead. Development is already under way in areas that could be lost. What should we tell people when issuing land searches?

Important wildlife habitats could be under threat should the shoreline management plan go ahead. We have limited or no resources to fund coastal defence work through the borough council strategy. New sea walls would cost around £10,000 a metre; one groyne would cost around £30,000. Are more resources available? Is there a relationship with offshore dredging? The report says conclusively that there is no scientific evidence; I call again for the immediate cessation of at least the export of aggregates, which would reduce the need for dredging by 40 per cent.

The SMPs were prepared using guidance and methodology provided by the Department for Environment, Food and Rural Affairs. Perhaps that is why issues such as social justice are not considered. In nature's terms, the coastline is totally interrelated; what is taken from one part must affect another. If North Norfolk district council invests in defences and we further south do not, the coastline lower down will suffer accelerated erosion.

Will the Minister consider our proposal for an underwriting scheme under which the Government may pay the market value for properties that are lost? That would enable them to withdraw from sea defence expenditure in certain areas without punishing those who live in affected areas. Will they take control of all coastal protection issues in order to give consistency, put resources in place and deal with defence?

I shall end now as I realise that the hon. Member for North Norfolk needs to receive a response. I simply wanted to put my points forward as the MP for a constituency with a substantial amount of coastline.

4.49 pm

The Minister for the Environment and Agri-environment (Mr. Elliot Morley): I congratulate the hon. Member for North Norfolk (Norman Lamb) on securing the debate. He has written to me on several occasions and I am aware of local residents' concern. I have a great deal of sympathy with the hon. Gentleman about many of the points that he raised. Indeed, my hon. Friend the Member for Great Yarmouth (Mr. Wright) has also been very active on behalf of his constituents, and has written in similar vein.

I want to respond by setting out the strategy in context. There has been some misinformation on the issue and people have been misled. Also, many people want to look for simplistic solutions when the situation involving coastal dynamics is complex.

The hon. Member for North Norfolk will know that the Government have provided major increases in investment for the funding of flood and coastal erosion risk management in recent years. That is set to continue in the next three-year spending period. However, we cannot mislead people and suggest that we can defend every inch of the coastline. I know that the hon. Gentleman was being very reasonable and realistic about that in the case that he made.

The issue is not just finance but sustainability, technical solutions and what will work. My understanding is that the original shoreline plan, even where it currently recommends holding the line, was arrived at by overruling the expert engineers and consultants. They advised local authorities at that time that the defences were not sustainable and would not withstand the coastal movement and dynamics that were involved. They have been proved right.

Norman Lamb: Will the Minister at least accept that it is reasonable for local people to work on the basis of what the shoreline management plan said? Whether or not it was made by overruling experts, it was the plan that local people worked on.

Mr. Morley: I accept that local people would not have been aware that expert advice was overruled on the basis of a very similar argument to the one being made in the current round of consultations. I also want to make it clear that the Government are committed to social justice, given the increasing risks connected to climate change and development. However, we must set priorities for who gets schemes first, on the basis of need. We have tried to operate them in an open and transparent way, through such things as a priority scoring system, so that people can see their position on the list and why the scores have been set as they have. That is new, and we have done it so that we can be open and honest with people, and not mislead them.

DEFRA encourages operating authorities to take a strategic approach to flood and coastal defence problems. As part of that, it has indeed issued guidance for coastal defence authorities, to assist with the preparation of shoreline management plans. Those plans are designed to enable a strategic approach to be taken to flood and coastal defence works along the coastline, based on the detailed understanding of its natural processes, planning issues, current and future land use, defence needs and environmental considerations. All the points that the hon. Gentleman raised about infrastructure and the Norfolk broads are taken into account in relation to shoreline management plans.

The draft SMP for north Norfolk is one of three to be used to carry out a trial of guidance for the second generation of SMPs; the aim is to provide a large-scale assessment of the risks associated with coastal processes and present a policy framework for reducing risks to people and the developed, historical and natural environment, in a sustainable manner. Those are the very points that the hon. Gentleman raised.

The draft was published in December last year and people living in North Norfolk, Great Yarmouth and Waveney are being asked for their views on how the coastline from Kelling to Lowestoft Ness should be managed. The consultation ends on 31 March. The work is funded by DEFRA and is the culmination of two years' work by engineering consultants who have been appointed by, and work for, North Norfolk district council, Great Yarmouth borough council, Waveney district council, the Environment Agency, English Nature and Great Yarmouth port authority. They engage experts and consider the coastal dynamics.

The draft SMP has, of course, not been completed. It has not been sent to DEFRA for agreement. That happens at the end of the process. I have not seen the details of the shoreline management plan. I am not involved in such matters, nor should I be. It is a locally-led process and it should be based on local consultation. The hon. Gentleman raised many points. If there were errors in the plan, the consultation process is the right way in which to deal with such matters and to bring about amendments. He asked me to meet residents, but that would be a pointless exercise. I am interested in people's views, and he knows that I read his letters in great detail, but there is nothing that I can input into the shoreline management plan because it is determined locally. I will not see the final plan until it is complete and sent to me. People are being misled if they think that, by lobbying me, the plan will change.

Norman Lamb: But the Minister knows that, even under his existing priority scoring scheme, there is no chance of the communities having a scheme that will meet the criteria to obtain funding. It is nonsense to suggest that there is any possibility of their obtaining funding from DEFRA. The process is being driven by DEFRA. The Minister has already said that the new shoreline management plan is being prepared on the basis of guidance from his Department and in accordance with "Making Space for Water", which was issued last October. He cannot opt out of it.

Mr. Morley: I repeat that I have no input into the shoreline management plan. Each one has to be designed to take into account local circumstances and needs, and that is right and proper. I do not accept the hon. Gentleman's argument. There are communities that think that they are facing immediate threat, but which may not face a threat for 50 or 60 years. At present, the scheme could cost millions and defend houses in single figures, but in 50 years the cost-benefit analysis and the scoring system may have changed. It is likely that there will be several revisions of the shoreline management plan during that time. So it is wrong therefore for people to think that they are immediately under threat, that the shoreline management plan will be the only shoreline management plan and that there will not be changes in the future. It is true that some people may be more immediately affected than others, but we must recognise that those are the circumstances of the case.

As for assistance to communities—my time is short, so I must be quick—I confirm that there are no current plans for compensation. The present arrangements have been the same for all Governments. I note that that is also Liberal Democrat policy. It is certainly the Conservative party's policy, although we are in a pre-election period and I very much fear that some people will make all sorts of false and unsustainable promises. I am trying to be honest about such matters.

As for our plan, we recognise the impact on communities so we are considering issues further with a view to clarifying future policy and its implications. We hope to publish a formal response soon to the points that have been made on such issues as part of the consultation on "Making Space for Water". Compensation is one of several different approaches to help individuals and communities adapt to change. However, there has never been a compensation scheme in this country, given that we provide coastal defences under permissive powers. The implications are not only for Norfolk. If a scheme is introduced, it will apply throughout the country. We must then ask ourselves whether it should be applied to flood victims or people who have already lost their homes to coastal erosion. It is difficult.

I am always open to evidence that aggregate dredging is a problem. We insist that a coastal impact study is carried out to provide information on a scheme to make sure that proposed dredging is far enough off shore to

[Mr. Morley]

ensure that there is no beach draw-down into deepened areas. There has not been evidence that offshore dredging has caused coastal erosion. We keep an open mind on such matters. We look for such evidence, but those people who say that it does cause coastal erosion have an obligation to bring forward the evidence. None has been forthcoming from any source, including the European Union source that was mentioned. No criticism has been made of the environmental impact assessment study that is applied in such cases. I regret that my time is coming to a close. The hon. Member for North Norfolk might wish to raise other points with me as a result of the debate and I shall be only too pleased to answer them in further detail.

Question put and agreed to.

Adjourned accordingly at Five o'clock.

Westminster Hall

Wednesday 9 March 2005

[MR. EDWARD O'HARA *in the Chair*]

Coal Industry

Motion made, and Question proposed, That the sitting be now adjourned.—*[Mr. Ainger.]*

9.30 am

Mr. Denis Murphy (Wansbeck) (Lab): I should like to thank the House for allowing me this debate.

On 26 January this year, UK Coal stunned everyone in the north-east by announcing the premature closure of Ellington colliery, with the loss of 370 jobs. The behaviour of the company in the run-up to that announcement and subsequently has been scandalous—I shall return to that later.

Electricity generation in Britain is currently fuelled by coal at 34 per cent., gas at 36 per cent. and nuclear at 22 per cent., with oil, hydro and renewables contributing the remaining 8 per cent. Those figures vary slightly depending on price and availability, but that is the general market share.

We are moving away from the dash for gas, but are in the midst of a dash for renewables. Although there is no doubt that renewables will make a contribution and now command all the political and public attention, there are genuine question marks against their efficiency. Unit costs for renewables are high per kilowatt installed, production is variable, they are unreliable for base load production and it is doubtful whether they will ever deliver value for money. Nevertheless, they are required in order to broaden our energy base. However, I doubt whether we will meet our ambitious targets in the proposed time scale.

The nuclear industry is regarded by many as holding the key to Britain's long-term electricity requirements. However, it does not offer a quick fix. There is a long lead-in time for project implementation and the lack of smaller and more flexible units makes the nuclear option expensive. The nuclear industry can and should continue to play an important role in the medium term. As a nation, we need to debate whether we want a new generation of nuclear power stations to provide a longer-term solution. Everyone recognises the need for secure electricity supplies, yet no one wants to live near a nuclear power station. The debate promises to be interesting.

Over the past 15 years, the dash for gas—the fuel seen then as a more efficient and cleaner energy source than the alternatives—has resulted in a significant decrease in the nation's gas reserves. It is well known that domestic UK gas supplies are diminishing, and that we will need to import large amounts of gas to feed the new generating capacity. There will be huge capital costs, as well as high gas prices to be paid. Liquid natural gas requires capital-intensive transport infrastructure, which requires liquefying plants, refrigeration and pressurisation ships, and gasification stations at UK ports.

Jon Trickett (Hemsworth) (Lab): I am listening carefully to the powerful case that my hon. Friend is making, but has he noticed where the imported gas is likely to come from? It will come from thousands of kilometres away, through areas that are subject to civil disorder, earthquake zones and so on. The pipelines will be vulnerable to attack, will they not? Is that not a further factor in considering an energy policy that relies largely on gas?

Mr. Murphy: My hon. Friend makes a fair point.

Coal-fired power generation constitutes some 34 per cent. of the total in this country—surprisingly, 2 points up from the use figure in 2002—and requires some 53 million tonnes of coal a year. Of that, approximately 20 million tonnes is produced in the United Kingdom. In my view, we will continue to need upwards of 50 million tonnes of coal each year for the next 20 years. The argument, therefore, is not whether we use coal or another fuel; rather, it is whether we use British coal or source coal from surplus world supplies.

The greatest number of job offers that the unemployed miners at Ellington have received have not come from the new business parks on Tyneside 12 miles away, as one would have expected. Rather, they have come from 12,000 miles away, from New Zealand, a nation desperately short of skilled miners as it seeks to expand its mining industry. An article in *The New Zealand Herald* stated:

"State-owned miner Solid Energy is offering unemployed British miners jobs"

because of the company's rapid expansion and because

"it doesn't have time to train New Zealanders . . . Solid Energy is due to visit Northumberland in the next few weeks"

to interview miners from the 150 responses that it has received. Chief operating officer Barry Bragg said:

"A lot of projects are under way and we need to get them running."

and the company intended to offer a fresh start down under to those miners

"who have been cast aside by the British mining industry."

Solid Energy's chief executive Don Elder said that

"known global oil and gas reserves would be largely exhausted within 20 to 50 years, but abundant and accessible coal reserves would last more than 200 years."

That should surely send a warning to us all.

Every country with a coal-mining industry is expanding coal production and, in some cases, coal burn. In the United States, both main candidates in the 2004 presidential election proposed major investment in the US coal sector, especially for clean coal technology, in order to protect energy security and upgrade the environment. Similar proposals for expanding coal production are being made in Germany, where the cost of production is far higher than in the UK. However, such decisions are not being left to market forces. Energy security lies at the heart of the German Government's energy policy.

China and India require vast amounts of power to fuel their predicted growth. Most of that energy will come from coal. China alone wishes to build another 20 large coal-fired power stations. Had we as a nation invested in the development of clean coal technology, we

[Mr. Murphy]

could have sold those countries that technology. Instead, we have watched our research and development wither on the vine, where once we led the world.

What then of Britain's largest and most reliable source of fuel, coal? The first question must be: what on earth happened to an industry that 20 years ago employed 180,000 people at 200 sites? Have we learned anything from the mistakes of the Thatcher and Major Governments? They virtually threw away the bulk of the UK deep-mined industry, at enormous cost and in the face of the definitive run-down of UK oil and gas reserves. The cost amounted to £30 billion in today's money, in redundancy and pit closure costs, written-off investment for closed mines, and wider economic and social costs.

Some major costs persist even to this day, including long-term unemployment and ill health. A report recently published by Sheffield Hallam university highlighted the problem, particularity in south Wales and my own area, Northumberland, where it has not been possible to replace the massive number of jobs lost from mining.

I would, however, congratulate the Government on the many initiatives that they have put in place to address those problems. Such initiatives are genuinely making a difference in former mining areas. Without the operating aid and the investment aid, I doubt whether we would have an industry left to debate. However, has that aid been too little and, as far as the industry's owners are concerned, too late?

That brings me to the company that owns the bulk of the remaining surface and deep-mined sector, UK Coal. In my view, and, more surprisingly, in that of many in the City, UK Coal is not able to carry out its mining functions. It is a company rapidly turning into a land and property developer, and it will use any excuse to rid itself of its responsibilities and, if necessary, its contracts.

The work force at Ellington experienced at first hand what was, at best, the incompetence of the directors, or—what is more likely—a deliberate act of industrial vandalism not seen for decades. There is no doubt that the coal face was flooded. There was never any doubt that the face could have been pumped dry and production commenced quickly and safely. Every person at the pit, many of whom had more than 30 years' experience, knew that to be the case. They were horrified when Mr. Spindler, the chief executive, visited the mine and, within three seconds of speaking to the trade union, announced its closure.

I am indebted to my hon. Friend the Minister for Energy and E-Commerce and to my right hon. Friend the Prime Minister for their personal intervention in trying to persuade UK Coal to allow the work force a few more days to prove that they could recover the coal face. I am afraid that those requests, along with many more, were rejected. UK Coal refused point blank, saying that if the pit was not unsafe, it was uneconomic.

UK Coal cannot be allowed to sterilise any more of the nation's reserves. It currently mines coal that provides 20 per cent. of Britain's electricity. It has invoked force majeure at Drax power station, and there are serious doubts as to whether it can fulfil its contract at Alcan's power station in my constituency, at which 1 million tonnes of coal a year are burned, and which was previously supplied from Ellington colliery.

I do not trust UK Coal to be the guardian of the nation's coal reserves. It does not value its employees; it must be the only company in Britain that produces a comprehensive annual report in which it does not even mention the contribution of the people who work for it. It is time that someone investigated UK Coal's real agenda, to enable us better to determine a future for this industry. I am pleased that the National Union of Mineworkers has started to do just that. It commissioned a report by a team of City energy and finance experts to provide an overview and assessment of UK Coal plc.

The report makes interesting reading. It looks in some detail at the UK power generation and distribution sector and explains the changes that have taken place since the privatisation of the industry in 1990: the buy-outs, the distress sales and the spectacular collapse of British Energy in 2003. It also explains the huge losses made by high street banks and financial institutions through underperforming loans. Although accurate figures are, understandably, hard to come by, the City informally estimates the losses to be in the order of £4 billion to £6 billion through bad debt. I am sure that more noises would have been made were it not for the huge profits that the banks were making in other operations.

The losses have left their scars on investors, who now take a much shorter-term view of opportunities in the sector. Earnings per share and positive short-term cash flows are a much higher priority than long-term prospects or social issues, and quick-exit strategies are usually part of the investment plan, which tends to favour smaller, more flexible power plants and gas instead of coal or nuclear power.

Structural changes to the market have allowed 50 per cent. of it to be bought by non-UK state-owned enterprises from Germany and France, which operate in a protected market at home. Another consequence of the short-termism of financiers has been the reduction of reserve capacity in the system. Many observers say that it has dropped below prudent levels. Electricity cuts could well occur in the United Kingdom before any new major generating capacity can be installed. The report states:

"The scenario as described portrays an inherently unstable resource system. The general public remains blissfully unaware of the risks being run, and are themselves happy as the price of electricity has been reduced by 30 per cent. in real terms since privatisation. But today much of the UK's power system, comprising essentially of long term assets is being funded by relatively short term money. Not a good recipe for long term stability."

On the mining industry, the report comments on both open-cast and deep-mining. On open-cast, it draws the logical conclusion that planning constraints are a problem in expanding the sector. On deep-mining it says:

"The question now is not just can coal production recover, but given its present outlook is it sustainable at all"?

It is useful to reflect on the sector's financial characteristics, and the Selby closure is a classic example. Riccall colliery, the last mine at UK Coal's Selby complex, mined its last coal in October 2004.

When the closure plans were first put forward, the Aire valley marker was 95p a gigajoule—a long way below the levels of 1994. Since then, spot prices have climbed even higher to 170p a gigajoule. Although I am sure that the Selby complex would have had to close at some stage, its closure in 1994 was in many ways premature. The low spot price coupled with the big mine infrastructure hastened its demise. It is hard to believe, however, that there are not recoverable coal reserves at 170p a gigajoule.

In preparing the report, the authors interviewed an engineer who had spent a decade in the design and management of mines in the Selby complex. He no longer works in the industry, but he believes that considerable value could be unlocked from some of the coal deposits in the Selby area with relatively small new investment.

Of course, another factor in the closure of the Selby complex was the anticipated redevelopment value of the land on the surface. Finance brokers' notes in August 2004 talked of Gascoigne Wood having 270,000 sq ft of undeveloped land, which could be of use to a company wishing to set up a distribution operation, especially as it has 8 miles of sidings. That was only a small part of the land bank.

The report concludes by discussing the strengths and weaknesses of the three chief executives that the company has had since privatisation. It concludes that it is too early to judge Mr. Spindler's reign, and says that he appears to be taking a hard-headed and unsentimental approach to UK Coal's mining operations. It continues:

"UK Coal is now seen in the City as a company whose principle assets are land holdings and were it not for the coal operations—the financing of which are rather opaque and bring with them some scary potential liabilities—the Companies shares would probably trade much higher. The property holdings were very conservatively valued in 2002 at £174 million, virtually the same as the entire market value of UK Coal in February 2005 of £190 million. The property assets should in time be worth a great deal more than this, so where does this leave coal mining?"

It goes on:

"It is clear that UK Coal has suffered from some adverse geological conditions in some mines, but that is all part of the deep mining business. What really seems to have hit recent performances are somewhat curious management decisions."

For example, it asks:

"Why did UK Coal sell so much output to Drax their most important customer which in turn is owned by a consortium of banks and then declare Force Majeure on the sales contract?"

It asks:

"Why does UK Coal work only one face at a time in each mine, resulting in big production and financial losses during face gaps?"

It goes on to ask:

"Why does UK Coal seemingly not engage with and value the inputs from its workforce?"

I ask my hon. Friend the Minister to intervene at Ellington once more. The NUM has secured the services of a mining engineer, Mr. Kenneth Johnson from Ashington, who is an expert on the coal seams and geology of the Northumberland coalfield. He is preparing a business plan to mine a section of coal at the Bewick Drift area of Ellington. We need time to develop that plan fully, and I ask the Minister to prevent those reserves from being sterilised by UK Coal's rush to close the pit in record time. We have a ready market on the doorstep, and that coal could be mined safely and profitably.

I conclude with a final quotation from the financial report. It says:

"From a national security perspective, the deep mining industry in Britain is too important to be allowed to wither under UK Coal's dubious stewardship. A credible alternative needs to be created. This should be possible using the considerable expertise available in Britain to operate these pits which can produce coal at or below the current market price."

UK Coal has demonstrated that it is first and foremost a property and land development company. When it comes to a decision on mining coal or closing and developing the valuable land resource, it will always choose the latter. The City puts no cash value on its mining operations, and it is well known that the value of its shares will rise dramatically if it is rid of mining. That is not a company in which the nation's coal reserve should be vested.

I urge the Minister to examine the setting up of a new company for which the only priority is the mining of coal and which will pay huge dividends to the British people through a long-term supply of coal to the power stations. Network Rail is an excellent example of the type of company that could deliver the nation's coal supplies for many years to come.

9.49 am

Mr. Brian Wilson (Cunninghame, North) (Lab): I am very pleased to take part in this debate and support what my hon. Friend the Member for Wansbeck (Mr. Murphy) has said. I assure hon. Members that anything I say about Government policy or the Government's attitude towards coal is based on experience and is in no way critical of colleagues, because I have been there, got the t-shirt and know the difficulties for people such as my hon. Friend who try to argue the case for coal in an environment that is essentially not well-disposed towards it.

I want to see a change of approach to coal. After the next election there has to be another fairly major review of energy policy and the energy mix that this country is moving towards, which will give us the opportunity to cast aside the legacy of attitudes that still exist towards coal. In my experience, coal was always viewed as a problem; it was always looking for subsidy, and giving rise to short-term problems at particular pits. Somehow it was never possible to get out of that morass long enough to look forward to see what coal contributed, could contribute and—for the reasons outlined by my hon. Friend—must contribute to the energy needs of this country for a very long time to come.

I agree with what my hon. Friend says about UK Coal. It makes no sense whatever to leave such a massive national asset as our coal reserves in the hands of a single private company, no matter how diligent, let alone a company that has the somewhat mixed record of UK Coal. A major asset that may or, arguably, may not be needed at present cannot be sterilised in the short term on the basis of random commercial decisions when it is absolutely certain that it will be needed in future. That issue does not relate simply to the current behaviour of UK Coal; it must surely be a philosophical principle that no commercial interest can sterilise a national asset.

[Mr. Brian Wilson]

If we accept that as a starting point, other things flow. We need not only an audit of the nation's coal assets, but a clear assessment of the measures necessary to safeguard future access to them. That can be done only as one comprehensive project; it cannot be done in an isolated way from case to case as crisis after crisis arises. After the election, if there is to be a new look at where our future electricity supplies will come from, I hope that the question of preventing the sterilisation of the nation's coal reserves will have a high priority.

I shall explain quickly why coal should matter and should be viewed in a much more positive light than has been the case in the past. My hon. Friend the Member for Wansbeck touched on the fact that whatever happens in the United Kingdom, coal will continue to be burned on a gargantuan scale in the world as a whole. As he knows, in my role as a trade representative, I was in China recently and the Chinese were talking merrily about increasing production from 1.6 billion tonnes to 2.2 billion tonnes in order to fuel economic expansion. Incidentally, they are also going to build 20 nuclear power stations—sound people, the Chinese.

The question is not whether the Chinese are going to burn coal, but whether they burn it in the old way, which would be an environmental disaster, or whether they burn it using clean coal technology, much of which, as my hon. Friend said, could be supplied—in fairness, some already is—from the UK. The other question is whether they are going to burn it in a way that continues to kill 10,000 miners a year, or whether they will benefit—I am pleased to say—from the contacts that they now have with our Health and Safety Executive.

Whatever happens in this country, coal will be the major source of fuel globally. China, India, the Philippines and most of south-east Asia will burn coal, and America will continue to view coal as its major fuel source. That creates the opportunity for our manufacturing and technological industries to develop clean coal technology, which we are very good at. The UK's strength could be in carbon capture and allying the needs of the coal industry with the resources and accommodation available in the North sea.

The Government have to play a part in that. I am not criticising them, because I faced exactly the same problems that they do, but there has to be some Government money to kick-start the process. It is unrealistic to think that there can be a global, clean coal technology industry in the UK without also having a domestic market, including demonstration plants and so on. We need just enough to get things going to serve the needs of our coal industry, and we need to create the base for manufacturing industry and our very important exporting industry. If we consider the statistics for coal use and the demand there will be for clean coal technology if coal-burning countries are meet their Kyoto obligations, we can see that there is a corresponding massive opportunity for manufacturing and exporting in the UK.

The other reason why coal is important and why we should be positive about it as we look to the future is that, as my hon. Friend said, a third of our electricity still comes from coal. Most people would find that a surprising statistic because all publicity about coal is unremittingly negative and suggests that coal is somehow a thing of the past. Even more crucially, at periods of peak demand that figure rises to around 45 per cent. In other words, if we do not have coal for the foreseeable future, the lights will go out; coal is as important as that.

The two questions are where coal comes from and how it is burnt. The question of how it is burnt has to be rhetorical because we simply cannot go on burning coal in an environmentally unhelpful manner, as is still the case in many power stations at present. We cannot switch on dirty old coal-powered stations when we need extra supply without taking account of the environmental consequences. The reason why our carbon emissions have risen in recent years rather than fallen, as one would like to see them doing, is probably the reliance not only on coal but on dirty coal stations. Coal will have to be burnt cleanly, and there is no point talking about a future for coal without linking it to clean coal technology.

We cannot and should not go much below that 33 per cent. figure of energy from coal if we are going to maintain a balanced energy policy. The message I preach is that it is a false argument to pit renewables against coal, coal against nuclear or nuclear against renewables; those are all subsidiary arguments. The only argument that matters is how dependent we are prepared to become on gas, and when we talk about gas, we now mean imported gas.

Based on the Government's projections, 70 per cent. of our electricity will come from gas by 2020, and 90 per cent. of that will be imported. I do not think that the great British public have latched on to that; it is something that will not happen by accident, but through a strategy that is being pursued as desirable. I know the arguments—they may be true—for saying that everything will be all right on the night: the gas will be there, the liquefied natural gas terminals are being built already, pipelines are being planned, and there is also the Orman Lange treaty, which I was delighted to see my hon. Friend the Minister conclude.

All those are reasons why the gas might be there, but there are two questions. First, there is the question of overdependence on strategic policy decisions taken in one country—Russia. Secondly, the gas will be there but at what price? Twice during my time as the Minister there were massive spikes in the price of gas, with very serious consequences for industries in this country that are heavily gas dependent. I tried hard, as I am sure my hon. Friend the Minister has done since, to get to the bottom of those spikes, but was told, "We don't really know. It happened in the interconnector". That is interesting but not very impressive as a basis for a future energy policy based on much of our gas coming into the market through interconnectors.

Do we want 70 per cent. of our electricity to come from gas? Do we want 90 per cent. of that gas to be imported? If we do not, we must maintain a more balanced energy supply. That supply must fit with our environmental obligations. Therefore, we come back to using renewables—yes, I am in favour of renewables—but we also come back to nuclear power and to clean coal, which is, in the context of the debate, the most relevant point. In other words, we must try to maintain an indigenous energy policy.

I do not think that it has been noticed to the extent that it should be that since the start of the industrial revolution, Britain's prosperity has been based on the fact that we are not only a massive energy producer but a massive exporter to the world. If we head the way that we are going, we are contemplating becoming a massive energy importer in a short time. Circumstances change, and people will say that there is no problem being an energy importer. Like many G8 countries, for example, Germany is an energy importer. However, do we want to go that way on such a scale, in such a short time? If not, we need coal and nuclear industries and we need to do our bit on renewables. Of course we depend on some imported gas, but let us not put all our eggs in one basket.

I hope that after the election, when things can be considered in a more rational and long-term manner, the strands will be brought together and we will return to the concept of a balanced energy policy in which deep-mined British coal will continue to play a significant part.

10.2 am

David Hamilton (Midlothian) (Lab): Life is full of changes. I am 54 years of age and have changed my position a number of times based on the circumstances in which I find myself. When I started in the pits in 1965, there were 450,000 miners in Britain. When I left the pits in 1984, there were about 130,000 miners. We are talking about the demise of the coal industry. My right hon. Friend the Member for Cunninghame, North (Mr. Wilson) said clearly that the big issues that we face are about security of supply and what we want to do with all other energies.

I am pleased that my hon. Friend the Member for Wansbeck (Mr. Murphy) was able to introduce this debate, which is overdue. I well understand why he raised it—it is specific to his area. However, many of us have, for a long time, thought that a major problem will face us in the not too distant future. A few years ago, it looked as though that problem was a long way away. I think that the day of reckoning is coming. I remember that an oil price hike in 1974 created major problems throughout the world, but have we forgotten about that? If we put all our eggs in one basket, in terms of how we receive our energy, we are creating a major problem for ourselves.

I am talking from a Scottish perspective, which is sometimes different from the UK position of the National Union of Mineworkers. There is an old saying in my neck of the woods: we are an island of coal, surrounded by fish. We have all those benefits. People are right when they say that other G8 countries, and other economically viable countries, can import energies, but those countries wish that they were in our position. I cannot think of many countries that are giving away what they have so that their fuel prices are determined by what comes to them.

The EU directive on emissions comes up on a regular basis. It is interesting, because Europe has a habit of making decisions and applying them differently to each country. I will watch with interest when that EU directive is applied to Poland, because I reckon that the EU will turn a blind eye to how best the issue can be dealt with there.

I said that I would talk about Scotland, which has always had the view that we must have a balanced energy supply. One of my predecessors, Alex Eadie, signed—as Energy Minister—a paper to open Torness nuclear power station under a Labour Government. A person called Tony Benn opened one of the power stations.

Mr. Wilson: He opened many power stations.

David Hamilton: Indeed, but I do not think that that is in his diaries.

I have moved from a position in which I always opposed nuclear energy. I opposed it not because I was a miner, but because of nuclear weapons. That has always been my view. However, many of the power stations that we are talking about building do not have that ingredient. Along with many of my colleagues and comrades, I take the view that there is not a competition between coal, nuclear power, gas, oil and renewables. Only two weeks ago, the energy unions all met in London. My hon. Friend the Minister spoke about what is required at that meeting. There is no competition like there was some years ago. There is enough for everyone. I strongly believe that we must address the issue on that basis.

The point has been made that we can make any decision that we want. That will not stop the United States of America, India, Africa or Australia expanding their coal industries. During the presidential election, both the Republican party and the Democrat party talked about investing £10 billion in the coal industry and in clean coal technology. The USA is driving forward because it does not have the alternatives that we do. It has got to use the coal industry to develop its proposals.

China gets 8 per cent. of its energy requirements from coal. It has one colliery that produces 10 million tonnes of coal and has 3,000 people involved in it. The expansion programme that it is talking about is not for 20 coal-fired power stations. It is talking about establishing 20 nuclear power stations and 500 coal-fired power stations. It will make clean coal technology a major ingredient of that expansion, because it recognises that it has major problems of deserts and so on. Climate change is a big issue for the Chinese—it is happening in their country. That does not stop them driving their energy requirements and their economy forward. They see coal as an integral part of that.

I believe that we, as a Government, are making a major mistake. All Governments, previously and now, have taken the view that coal can be dispensed with and that we can get it from elsewhere. I do not believe that our future lies in the middle east or in Russia. Security of energy supply is something that the people of the United Kingdom will want, and the price is worth paying. It is something that our people will work flexibly to achieve. Indeed, the miners have been working flexibly in a host of areas. A week does not go by in which the NUM does not sit down with UK Coal and others to talk about changing the flexibility of work.

It surprises me somewhat, however, that, at a meeting with the Union of Democratic Mineworkers on Thursday 24 February, my hon. Friend the Minister said that, under current working practices, he would

[David Hamilton]

find it difficult to go to the Treasury to ask for more money to be put into Thorsby colliery. He can clarify that point, but that is the information that we have. That suggests to me that negotiations can take place between employer and employee, but, when a Government get involved, it becomes difficult.

I suggested that we in Scotland have taken a different view. We have always taken an optional view across the board. We have always balanced open-cast mining with deep mining. One was developed to protect the other. We have always worked on that basis. Even now, 8 million tonnes of coal is produced in Scotland in open-cast mines. I do not oppose open-cast mining, but I reject the changes in planning applications that are being considered by politicians in the Scottish Parliament. They are trying to make open-cast mining more difficult. We must consider the bigger picture. The people who oppose windmills being established in Scotland will also oppose open-cast mining. We must take a bigger view. We must consider renewables, which I encourage and support. However, we must also consider open-cast and deep mining as part of the process that we are developing.

Longannett power station will come to an end in 2015, unless it can make adaptations. The Scottish Affairs Committee is taking evidence on that. The industry will make long-term investments if it can get long-term proposals from Government that will afford it the stability to invest, but it will not invest in an industry that the Government are saying has no future. That point is extremely important.

I realise that a number of my hon. colleagues wish to speak. I believe that it is imperative that this country develops a balanced policy for energy security. The people of the United Kingdom will not thank any of us in this Chamber when the power goes off and the lights go out. We must develop a strategy that ensures that the lights will not go out in the UK, and we shall continue to support our coal industry and the people working in it.

10.11 am

Paddy Tipping (Sherwood) (Lab): I am delighted to follow my hon. Friend the Member for Midlothian (David Hamilton), not least because I can put the record right. I was at the meeting with my hon. Friend the Member for Bassetlaw (John Mann) on 24 February, and there was no question of Government aid being contingent on flexible working practices; I know that my hon. Friend the Minister will respond to that when he gets the opportunity. We were there to argue for Welbeck colliery: we followed the path trodden by my hon. Friend the Member for Wansbeck (Mr. Murphy), who argued very strongly for Ellington colliery. I want to reinforce some of the remarks that he made about the way that UK Coal treats its work force.

UK Coal wanted new flexible working practices at Welbeck colliery, and forced them through by saying, bluntly and simply, to the men, "Unless you change the way you work, we will close the colliery at the end of this year." At Welbeck and across the United Kingdom, we have the most efficient miners in Europe, and we should be backing them, as they are prepared to take the challenge and make the change. The Government are prepared to help them make that change by ensuring that Government money is available for long-term investment in, and the sustainability of, the British deep-coal industry. The Government have made available £57 million now, of which £7.1 million is available at Welbeck—so the curious situation is that the men are prepared to back the company and work more flexibly, as my hon. Friend the Member for Midlothian said.

The Government are prepared to back the industry with real money. The real problem—the third side of the triangle—seems to be the company, UK Coal, the biggest coal owner in the country. My right hon. Friend the Member for Cunninghame, North (Mr. Wilson) made a very strong point about whether market forces and the needs of the private sector should sterilise an energy reserve. We are right to question the commitment of UK Coal, not just in its relationship with the work force but in its commitment to the industry. There are Ellington and Welbeck, but the prevailing view is that the British coalfield will soon consist of a rump of four or five pits. We must do better than that.

I say quite simply to UK Coal that it must change its attitude and the way that it works, because the issue is not just about the company but the future energy policy of this country. The company faces real difficulties: its own accounts showed a loss of £38 million in the deep-coal sector last year. Output slumped to £12 million. Production costs rose and there was a loss of £3.15 for every tonne of coal produced.

In that context, I am very pleased that the company has cut its dividends: it must be right that shareholders take some of the pain. I am pleased that, at last, it has a chief executive who comes from a mining background, and that it is going to renegotiate coal contracts. The price of coal is going up, but UK Coal is still dependent on contracts that were negotiated at a lower price two years ago. It needs to demonstrate that it will invest in the industry. The company tells me that it will invest £150 million between 2004 and 2006. There is a commitment across the company, particularly from the work force, to get those costs down. So, we have a committed work force and a committed Government, so we must now see real, substantial commitment from UK Coal.

Looking at the company's accounts, its cash flow—£400 million of it—comes from the deep-coal industry. In reality, only £4 million currently comes from property transactions. However, there is a view that it is a property company so it must change its image and show commitment.

The company must change its image because as other hon. Members, particularly my right hon. Friend the Member for Cunninghame, North, have said, we face an energy crisis: perhaps not this year or next year, but there are real problems on the horizon. Perhaps my hon. Friend the Minister will remind us when we shall see the third annual review of the energy White Paper: it is due now. Perhaps he will give us a commitment, as was angled for earlier in the debate, that after the election—whenever it comes—we shall reconsider energy policy and make coal a centrepiece.

I am concerned that our renewables targets are, quite frankly, ambitious. I think that we shall achieve 10 per cent.—not by 2010, but we shall get there. However,

20 per cent. by 2020 is really challenging. I note that the nuclear energy industry is going to run down. Whatever we say, there is currently no sign of any private sector investment coming in. We shall need that in the future. However, the most significant point has already been raised. Do we really want, by 2020, 70 per cent. of our electricity to be generated from gas, 90 per cent. of which will be imported? That would be a crazy situation to work ourselves into.

There will be a place for coal, and I hope that it will be British coal, produced by the most efficient miners in Europe. We must burn that coal cleanly, and invest in new clean coal technology. It hurts me enormously that Japan, which has no indigenous coal industry, spends more on clean coal research than we do in the UK. We can get the economics right and have an energy policy, but we must also protect the environment. That means that the way forward is Government stakeholding in investment in clean coal technology.

It has been a good, powerful debate, and I hope that we shall return to the subject as a Labour Government later this year, and come forward with new, better, and more thoughtful plans for a policy for the 21st century that has coal as its centrepiece.

Several hon. Members *rose—*

Mr. Deputy Speaker: I remind hon. Members that the contributions from those on the Front Bench must start not later than 10.30.

10.18 am

John Mann (Bassetlaw) (Lab): I should like to thank my hon. Friend the Minister for Energy and E-Commerce and the previous Minister for their help in keeping Welbeck and Harworth collieries working in my constituency, although at Welbeck, it is at a price. It might be all right for those on the surface to favour 12-hour days underground, but those who work underground are not too keen on it, so my constituents and others are paying a large price to keep coal at Welbeck.

I met a gentleman not that long ago who sat down with me here and told me that he saw the future of his country based in particular on its coal reserves. I have heard the case for coal put before, from politicians and union leaders in the industry, in my area and across the country over the years. That gentleman was rather different: he is the chief executive of Bechtel, the largest contractor working in Iraq, securing oilfields, and one of the largest nuclear companies in the world. It came as a bit of a surprise to hear him so enthusiastic about coal, so I asked him why he was. He gave two reasons: first, as has already been outlined—so I will not repeat it—he mentioned the security of supply in the long term, which is as obvious in this country as it is in the US.

It is the second reason, however, that I want to put on the agenda today, because it has not been raised. It relates not to the future of electricity supply, but to the future of the car. Hidden in Kerry's manifesto, and other manifestos in the US—and now adopted in the gas-guzzling car state of California by Schwarzenegger—is an attempt to become non-reliant on oil for the future of the car. In that context, Bechtel sees coal gasification as a fundamental part of future car energy consumption and energy requirements. That is in addition to electricity supply. We should not miss out on that. The other country that is considering it is China, which is probably already the largest producer of cars in the world—or it will be, if not next week, then next month. To be reliant on oil for the future of the car does not give it a very long future according to anyone's horizons.

I hope that we will see a delegation in the near future, before decisions are made on the future of nuclear. It should consist of MPs and unions going to see what is being done in the US in relation to coal gasification, how it is being done, the consequences and the economics of it and the investment and Government decisions required. I can suggest a potential sponsor of such a delegation: one of the solicitors—perhaps Thompsons—that have had a good deal out of the Government in terms of the coal health claims. They would probably feel it appropriate to contribute to the debate on the future of the coal industry. The timing will be everything because of the imminence of decisions on nuclear.

I want to make an important side point. The chairman of the finance and economic committee in China stated last week that China is now a net importer of coal and is desperate to import clean coal technology. Why are we not continuing to develop that clean coal technology here in a practical, everyday way and then export it to the Chinese? Shanghai is holding the Expo 2010, which is one of the biggest world trade fairs that there will ever be. That could be a centrepiece of what we are saying to the Chinese: we will help them by selling them our technology to help their environment at the same time as development takes place.

I have two final points. First, we know what the problem is. If someone nobbles people at EDF Energy in my constituency, they are pleased to explain, in reality, in a roundabout way, what the problem is: people in UK Coal have been selling coal too cheaply for too long. The electricity suppliers are laughing all the way to the bank with the contracts that they have got. That started with Budge's mentality and how he viewed the pricing of the commodity, but UK Coal has continued that. If it was selling the commodity at the right price, in terms of the current contract, it would have plenty of profits pouring in. But that one mistake is threatening the future of the industry.

Secondly, if we are returned as hon. Members in a few months' time, we will be expected to vote through an expansion and renewal of nuclear policy. There are a lot of people on the Labour Benches who will see the price of supporting nuclear as a clear guarantee from the Government that there is a future for the coal industry.

10.23 am

Mr. John Grogan (Selby) (Lab): It is a privilege to make a brief contribution to this debate, which was introduced with such passion by my hon. Friend the Member for Wansbeck (Mr. Murphy). That passion has been reflected throughout the debate, but we have also had a lot of thoughtful analysis.

I want to make three brief points. First, I want to make a suggestion to the Minister about the role of the Coal Authority. There is widespread fear across coalfields that we must get value for money from the

[Mr. John Grogan]

investment aid, which is a large amount of money—nearly £60 million. It would be good to have an enhanced role for the Coal Authority—first, in managing that investment aid and approving any further tranches—rather than leaving things to one or two officials in the Department of Trade and Industry who might not have the same expertise or the same day-to-day contact as the Coal Authority. After all, the Coal Authority is basically the regulator that licenses the mines. In terms of ensuring that UK Coal fulfils its promises on investment, an enhanced role for the Coal Authority would be good. That role would be better sitting with the Coal Authority than as an adjunct to the Department of Trade and Industry's work.

Many hon. Members have mentioned the post-electoral situation, and I hope that I will still be in a position to discuss that after the election. The Government have never been short of five and 10-year plans across a range of policy initiatives. In fact, probably only in the heyday of the Soviet Union were there so many five and 10-year plans. I am not knocking that—it is a jolly good idea. A five-year plan—at least—for coal would give some certainty. As one crisis has followed another over the past seven or eight years, many of my hon. Friends and I have beat our way to ministerial doors, which have always been open to us. Often we have seen the Prime Minister—on perhaps half a dozen occasions. We have had operating aid and investment aid, but it would be good to give a little more certainty to the industry over a five-year period about what is likely to happen in terms of aid.

It would be remiss of me not to mention, briefly, the situation at Kellingley and Selby, which was mentioned by my hon. Friend the Member for Wansbeck. It is worth putting on the record, in relation to Selby, the tremendous efforts of DTI officials, and, more importantly, of ordinary miners and many representatives of local bodies, who got stuck into the Selby taskforce. As he said, I and many people in the coalfield would have loved Selby to have just a few more years, but, regardless of that, it is worth recording the tremendous efforts that people made. Many members of the National Union of Miners were involved. Only about 50 miners, out of 1,600, are on the dole. That did not happen by accident; it happened because a lot of training took place. Every man was entitled to time off for a day's training each week, on full pay. Over two years, that made a real difference.

What happens at Kellingley will be a real test, and the situation is under review. Nearly 700 men are employed there. The NUM is negotiating for no compulsory redundancies. Certainly, Kellingley should have a bright future. It has proven reserves of 24 million tonnes, and its output this year is about 1.5 million tonnes, but there are plans to increase that over the coming years. The future of Kellingley is a litmus test for the future of the coal industry. I hope that the negotiations and discussions will be successful and will give the mine a future.

Finally, I want to reflect on clean coal technology, which has come up time and again in debates over the past seven or eight years. It is useful to look back at the various papers, some of which predate the time when my right hon. Friend the Member for Cunninghame, North (Mr. Wilson) was Minister. I was reading a summary of energy paper 67, a Government paper from 1999, only last night. It stated that Government support for the demonstration of clean coal technology

"is not perceived to constitute value for money in a country with surplus coal-fired capacity that is moderately efficient. However, the Foresight Task Force has identified a case for demonstration after about 2005, and the Government will re-examine the position in about three years time."

That re-examination was in 2002. We are now, happily, in 2005. It is make-our-minds-up time. Are we just going to continue with the research? As various hon. Members have pointed out, if that is all we do, we will never be credible in terms of selling technology to other markets, such as China. Kellingley was one possible demonstration plant and Hatfield another. In the third term of a Labour Government, it is surely time to get that demonstration plant up and running, given, for example, the resources that are going into wind energy and other forms of renewable energy.

10.29 am

Mr. Andrew Stunell (Hazel Grove) (LD): I congratulate the hon. Member for Wansbeck (Mr. Murphy) on bringing this subject before us. He has shown great passion and knowledge, as have other contributors. I bring the apologies of my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) who would dearly have liked to be here. Many of his constituents are workers at the Ellington colliery. Unfortunately, he has other parliamentary business.

The debate gives us a welcome opportunity to consider a much wider range of issues than simply the closure of Ellington. I hope that the Minister will respond to the specific criticisms raised by the hon. Member for Wansbeck about UK Coal and its approach to the closure of Ellington, the loss of the 370 jobs and the loss of 1 million tonnes a year of coal capacity.

I would like to discuss some wider issues that have also been raised. When I did my GCEs, which was a number of years ago, I scored full marks for knowing that the UK's coal production capacity was 200 million tonnes; last year, I think that it was down to 28 million tonnes. The change in the coal industry, which has been referred to, has been very dramatic and painful, particularly for the communities directly affected. Almost half the coal produced comes from open-cast production rather than from deep-mine production. That, too, is a tremendous change in the balance of the coal industry. We must remember that consumption now runs at more than twice production. So, instead of being net exporters of coal, we are importers; the figure was about 34 million tonnes last year.

That is in a context where the price for coal internationally, although it has fluctuated, is now back towards being at an historic high, and consumption is rising at the international level, too. There has been about a 19 or 20 per cent. increase in coal consumption over the last decade worldwide. Some figure show that last year was the first year in which the north American zone became a net importer of coal. It is not just China and the UK that are importing, but north America. There is every sign that there will be continued growth in worldwide consumption in years to come.

Given that context, the Minister must consider how far he is prepared to allow the UK coal production industry to shrink and whether he is satisfied with both the current situation and the one that appears to be unfolding. He may be able to respond to some questions about what future he foresees for maintaining our deep-pit work force and expertise in the UK and the mining equipment industry. Specifically, what future does he foresee for clean coal technology?

A number of speakers have pointed out that it has been frustratingly slow work to reach the point of having an effective pilot plant that demonstrates technology that would be exportable. Yet, we have heard, even in this debate, plenty of evidence that across the world, with coal production growing and increasing pressure to reduce greenhouse gas emissions, there is an increasing need for clean coal technology to be widely available at an economic price. The opportunities for the UK to provide such technology are growing.

The hon. Member for Wansbeck made the case, and I would certainly support it, that the idea that coal is dead as an energy source worldwide—or, indeed, as far as the UK is concerned—is wrong. We must concentrate on ensuring that coal's use is less damaging to the environment nationally and internationally. The idea that we are simply dealing with a declining, closing industry and that it is a matter of washing it up as neatly and cleanly as we can is mistaken. We must have a long-term perspective on where we are going next.

I am not sure that the hon. Member for Wansbeck and the right hon. Member for Cunninghame, North (Mr. Wilson) did their cases much good by attacking gas. The UK will be quite dependent on gas for a long time into the future. I do not think that anybody would really regard Norway as deeply unstable or, for that matter, subject to earthquakes. We must have some sense of perspective about what the alternatives are. There is no doubt that, for the foreseeable future, coal will form part of both our energy mix and the international one.

Mr. Wilson: Is Liberal policy committed to an energy policy based on 70 per cent. of Britain's electricity coming from gas and 90 per cent. of that gas being imported? That is clearly the spirit of the hon. Gentleman's comments. He may be right, but it would be interesting to know if that is the policy.

Mr. Stunell: One does not have a policy. One sets a direction in which policy goes. We have made it clear what we think the balance should be between renewables, gas and other sources of power generation. Indeed, when the right hon. Gentleman was a Minister, he and I debated this matter on a number of occasions and I have previously recommended that he read the book that we have produced on the topic.

Broadly speaking, I agree with what the right hon. Gentleman said today. I hope that the Minister will take time to respond to the powerful case made by the hon. Member for Wansbeck about the behaviour of UK Coal and the specifics of that situation. I also want to hear the Minister's answers about the Government's response to the balance between UK production and imported coal over the coming years.

The right hon. Member for Cunninghame, North just challenged me to say what I think about 90 per cent. of gas being imported. Does the Minister believe that it would be acceptable to have 90 per cent. of coal imported? Where does he want that balance to be struck? Where does he see the balance between deep-mine production and open-cast production in the UK in five or 10 years' time, bearing in mind representations that I have received from UK Coal about the difficulties of maintaining production of open-cast coal, never mind that of deep-mined coal? He will know that I have asked him some parliamentary questions on that topic in recent months.

When and how do the Government intend to ensure that clean coal technology forms a significant part of the research and development process in this country, so that we have a product that we can both use and export across the world?

The hon. Member for Sherwood (Paddy Tipping) raised the point about the timing of the third annual review of the White Paper. Perhaps that review could encapsulate some of the answers that Members are seeking today about the coal industry and the future energy mix.

This has been an extremely interesting debate. It has perhaps been overdue. It has raised a number of big questions that are often kept out of the mainstream debate about energy. I hope very much that the Minister can respond fully and take these matters forward.

10.37 am

Mr. Laurence Robertson (Tewkesbury) (Con): I, too, congratulate the hon. Member for Wansbeck (Mr. Murphy) on securing this debate. As the hon. Member for Hazel Grove (Mr. Stunell) said, it is a timely one, because we stand at a crossroads in terms of energy supplies.

From the research I have had done, the world will, according to the International Energy Agency, need almost 60 per cent. more energy in 2030 than it does now. The hon. Member for Wansbeck, and, indeed other right hon. and hon. Members, have explained why that is the case. China and India, which I think contain about a third of the world's population, are expanding at a rapid rate of knots and will create an energy need. Much as I would like to think it were the case, it is rather ambitious to expect that energy saving will counter the growing demand. The world will require far more energy. That is the case at a time when our coal industry is under environmental pressures. They largely result from directives from the European Union, but they also come partly from Kyoto and from the fact that we take a very responsible attitude to climate change.

The coal industry is under environmental pressure, and our nuclear industry is in question, because although it currently provides about 22 per cent. of our electricity, that will be reduced to 2 per cent. in only 20 years' time. Given the nature of the nuclear industry, if we do not start planning now for life extensions or for new build, it will die. There is no question about that. We are in danger of losing scientists to companies abroad, because a number of new nuclear reactors are being built worldwide—or there are plans to build them. I think that 23 countries are planning to expand their civil nuclear capabilities. We are in danger of losing scientists to the rest of the world. On 6 May, the next Government, regardless of which party wins the election, will have to look carefully at the future of the nuclear industry.

[Mr. Laurence Robertson]

Our country's gas supplies are starting to decline. I do not want to be alarmist, but we will probably become net importers of gas next year, or, maybe, the year after that. We last discussed energy in this Chamber on 19 January. That debate focused on the future of gas, and the Minister was extremely candid, for which I pay tribute to him. He said that if there is high demand for gas in the coming winter or the winter after that, our gas supplies could be rather tight. I do not particularly blame the Minister, but that that is the case is a disgrace in a country with an economy as large as ours, because we do not need to be in that situation. We must give a lot of thought to our energy policy.

I entirely agree with the comments of a number of Members, including the right hon. Member for Cunninghame, North (Mr. Wilson), about the need for a balanced energy supply in future. I say with some trepidation that one reason is that we have in the past been over-reliant on a single primary source of energy; the coal industry had too much control over our energy supplies. I say that as someone whose father was a miner, and I am unreservedly sorry that things have worked out as they have for the coal industry, but it is important that we learn lessons from the past, and I do not want our country to be over-reliant again on any one source of energy. The way things are going, with environmental challenges to our coal industry, our country's dwindling gas supplies and the possible withering of our nuclear industry, we could find ourselves in the situation described by the right hon. Gentleman, with gas supplying 70 per cent. or more of our electricity production and a large proportion of it being imported.

As the hon. Member for Hazel Grove said, there is nothing wrong with importing gas from Norway, and the negotiations for securing its gas supplies are at an advanced stage, but Norway will supply only a small part of our future gas import needs. Gas will have to come from further afield. It is possible that the gas supply that we get from Russia or Qatar, or one or two other places, such as Algeria, might not be interrupted because of political instability in those countries or terrorist activity, and I sincerely hope that that is the case. However, if I were energy Minister and we were over-dependent on gas supplies from certain areas of the world, I would not be too confident that I could guarantee to the people of this country that the lights would not go out. Such supplies might never be interrupted, but the Government have to be realistic. We must provide greater assurances. We should not depend too much on any single source of energy when it comes from such countries and from far away.

If our country and the world in general were to become too dependent on gas, there would also be an economic danger. We could well see the development of a gas equivalent of the Organisation of Petroleum Exporting Countries, and I would not want to speculate about what effect that might have on the price of gas. We must bear that in mind.

That brings us back to the question of what our country's policies should be. There must be a debate on the future of the nuclear industry. I pay tribute to those Labour Members who are being open and honest about their views on that. It was a tragedy in the past that the Conservative party was seen as anti-coal and the Labour party as pro-coal, and that the Labour party was seen as anti-nuclear and the Conservative party as pro-nuclear. I hope that we can consign such divisions to history, as they are not helpful. The provision of energy supplies should not be a party political issue, and I pay tribute to those Members of all parties who say that we need a clear policy on new build and on the life extension of existing nuclear plants.

What about the rest of our policy? There are opportunities at least to preserve what is left of our coal industry. When we talk about that industry, we should divide it into two sections: the mining industry and the generation of electricity from coal, because they are slightly different things. As the hon. Member for Hazel Grove said, we import more than 50 per cent. of the coal that we burn. There are good reasons for that; it is low in sulphur content, which helps us meet our environmental requirements. However, we must look to the future and explore possibilities for providing clean coal technology. I hope that we can achieve that, although it is not entirely clear how we can do so without writing cheques for massive sums, and I am not going to say that the Government should write cheques for sums that are too large for any section of the industry.

The creation of a free market in energy has led to a fall in energy prices. Paradoxically, that has created a problem in attracting investment, which we must address. I hope that we can move towards clean coal technology at least as quickly as the Government have tried to move towards wind power. That industry has been given £117 million to develop offshore wind farms, the supply of energy from which will be intermittent and unreliable.

The great thing about coal is that it has been a very good back-stop—I do not want that to sound derogatory. The nuclear industry is a base load supplier of electricity, but coal is far more flexible, and it has provided a very cheap source of electricity. If I were to look ahead and see the continuing decline of the coal industry, I would be sad. I accept that we have to address our environmental challenges, but I would be unhappy if the coal industry were to decline in the way that it has done. Members have quoted figures on that, and I will not repeat them, but it was only 1990 when coal provided about 66 per cent. of our electricity generation, and the figure has fallen to below 30 per cent. I think that it has fallen recently for the reasons that we have given, but the Minister will correct my figures if they are wrong. It is obvious that the trend is downward, regardless of whether the correct current figure is 28 per cent. or 32 per cent. We must question whether we want to allow that trend to continue.

I again congratulate the hon. Member for Wansbeck on securing the debate and on introducing it in such a passionate and caring way, and I pay tribute to all Members who have contributed.

10.48 am

The Minister for Energy and E-Commerce (Mr. Mike O'Brien): It is a pleasure to respond to this debate. I congratulate my hon. Friend the Member for Wansbeck (Mr. Murphy) on securing it, and I thank all the Members who have participated. There have been some excellent contributions. My right hon. Friend the

Member for Cunninghame, North (Mr. Wilson) is well known for his deep commitment to the debate on energy. My hon. Friend the Member for Sherwood (Paddy Tipping) has a deep knowledge of the mining industry. My hon. Friends the Members for Midlothian (David Hamilton), for Selby (Mr. Grogan), and for Bassetlaw (John Mann) have all lobbied me and made sure that coal industry issues are at the forefront of the Government's considerations; in some cases, they have been to see the Prime Minister to raise particular issues.

The hon. Member for Tewkesbury (Mr. Robertson) made an interesting contribution and set out his case very well. As he comes from the Conservative party, which destroyed the mining industry, he speaks with limited credibility. However, he made some comments to which I should draw attention. One was about the gas supply—yes, it has been tight this year; we became a net importer in December. Although the figures will vary from month to month during the coming year, it is likely that we will in future import more gas than we export. In terms of overall energy, the situation may change during the course of next year, because we are still exporting oil.

The hon. Member for Hazel Grove (Mr. Stunell) spoke for the Liberal Democrats, who have the valiant record of having done nothing for the coal industry for a very long time. His admission that the Liberal Democrats have not a policy, but a direction, was fascinating. I should be interested to read the book on the direction that they propose, given that they do not have a policy. I am not entirely sure about the distinction, but it was interesting none the less to hear of it.

Mr. Stunell: Will the Minister give way?

Mr. O'Brien: I will, if the hon. Gentleman really must intervene, although there is limited time.

Mr. Stunell: I shall give the Minister a copy of the book when he leaves the Chamber.

Mr. O'Brien: That is very kind. I shall read it with the deep interest with which I read all Liberal Democrat party documents.

I share the belief of my hon. Friend the Member for Wansbeck in the continuing importance of the coal industry. It is essential that we maintain a coal industry. The Government's view is that it is enormously important to our energy future, and I want that industry to have a long-term future. Of course, I might well say that, given that there is a profitable, good, deep mine in my constituency. When I was first selected for Parliament, there were four mines there, but under a previous Government, three went: my area knew the impact of the closure of those pits.

Last night, I was at a meeting in a mining area in my constituency. The adjoining village lost its pit, and there was a devastating impact on the local community. Many relationships were fractured in Keresley End, where Coventry colliery closed, and we have seen problems with drugs and all sorts of social difficulties. Therefore, the damage done when pits such as Ellington close, and with what has happened in Selby, seems to be a lot better than what happened in my constituency. I not only feel, but understand the problems faced by mining communities when pits close.

Our energy future must come from the security established by diversity of supply. That diversity will guarantee our long-term future and it must come from gas, oil, nuclear sources, wind power, solar power, hydrogen power, but also—importantly—the coal industry. As my right hon. Friend the Member for Cunninghame, North said, China, the United States and other countries are ensuring that they develop their coal industries for the future. We need to be sure that we do that in this country, too. Carbon sequestration and clean coal technology are the key. I shall come back to those issues in the next few minutes.

My hon. Friend the Member for Wansbeck raised Ellington colliery and the 370 jobs being lost there. The Prime Minister met MPs to discuss that, and so did I. I also met Gerry Spindler, the chief executive of UK Coal, and asked him to allow the pumping of the pit to establish whether it could be saved. Gerry Spindler and UK Coal took the view that they would not do that. The Prime Minister made the same request, but the industry is privatised and companies can make their own judgments on such matters, as UK Coal did.

If the pit had been pumped, the mines inspectorate could have looked at it, decided on the level of risk and made an informed judgment about the risk of reopening it. UK Coal did not want to carry out that pumping operation, nor give that opportunity to the mines inspectorate. Clearly, the company would have to take responsibility for miners' safety if it wanted to reopen a pit. Our view was that a report from a mines inspector on the level of risk in the pit would have been helpful to some extent in determining the judgment. UK Coal did not share that view.

Mr. Denis Murphy: I have never doubted the Minister's commitment to the coal industry, nor his role in trying to secure a future for Ellington colliery. However, the industry has reached a critical point. Each individual colliery left is a stand-alone unit. What prevents UK Coal from continuing to close the industry down, knocking mines over like a pack of dominoes? That is the very reason for this debate.

Mr. O'Brien: UK Coal has given us reassurances that it plans to invest in the region of £150 million in the coal industry between 2004 and 2007. The Government, too, are investing substantial amounts in coal aid for the industry, and we plan to continue to do so. Coal investment aid to the tune of £57.5 million has already been allocated, and there is more money in the kitty; it is a limited amount at the moment, but there will be ongoing discussions with the Treasury about the future of that investment.

My hon. Friend referred to what looks like an e-mail that he received, which states:

"Mr. O'Brien said that under current working practices, he would find it difficult to go to the Treasury to ask for more money."

[Mr. O'Brien]

That—to use a word that I understand Mr. Speaker has allowed in the House—is crap. I did not say such a thing.

Mr. Deputy Speaker: Order. The Minister might rephrase that.

Mr. O'Brien: Very well, Mr. Deputy Speaker. That allegation is unfounded. There was some discussion about working practices in particular pits, and I made it clear that that was a matter for negotiation between the trade union and the employers, not one for me to raise in that way.

The Government intend to continue to support the coal industry. We want pits to develop in future. As we have discussed, there were reviews of Welbeck and Harworth. Following discussions between the unions and management, the industry has begun to address some of those issues, and some pits have been able to remain open. We want such pits to have a long-term future. Coal investment aid is important, and we want to ensure that it can continue.

As far as the industry is concerned, we are committed to investing in the long term through developing research into carbon sequestration and clean coal technology. We are already putting substantial funding into that. If we can continue to develop such technologies, we believe that they will provide the sort of carbon-free, long-term future that the coal industry wants.

We want the coal industry to continue to provide a substantial amount of our electricity needs. Coal-fired power stations are better able to respond more rapidly—certainly more rapidly than gas-fired plants—to fluctuations in electricity demand. We need to ensure that we keep that capacity.

There are only seconds left; so I shall conclude by reaffirming that the Government firmly believe that there should be a continuing role for coal as part of a varied and balanced energy mix. They are working to ensure that the UK coal industry is given appropriate support to maintain access to reserves and to protect—indeed, create—mining jobs at viable mines in the future.

Planning (Hillingdon)

10.59 am

John McDonnell (Hayes and Harlington) (Lab): By way of introduction, I should say that Adjournment debates are meant to enable individual MPs and others to outline an issue and permit time for ministerial response. I accept that today's debate may be somewhat different. The complexity of the issues involved requires me to spend some time outlining and explaining them. This is an ongoing matter—a work in progress—so the Minister will be able to say only a limited amount this morning. Instead, I suggest that she takes note of the issues, and responds more fully in separate meetings, in writing and possibly in a further debate later in the year.

Despite such facts, I believe that it was my duty to obtain this debate to place on record the matters that have so concerned me, my constituents and local councillors, so that everybody can have access to the fullest information on this important issue. I also wish to ensure that the House has a progress report on a matter that raises questions of public administration, practices and probity that go well beyond local interest and to the heart of administrative accountability in local and national Government.

I wish to explain briefly the background to the debate and the Audit Commission's inquiry into planning services in Hillingdon, to examine the conduct of that inquiry and discuss its findings, and to outline some concerns about the reaction to it from the ruling Conservative administration in the London borough of Hillingdon and from chief officers at the borough. I want also to explain the way forward that I propose should be taken to address the continuing concerns of local residents, councillors and me.

To explain the background to today's debate, in 2002, the Government introduced a planning delivery grant system to improve the performance of local planning departments. An additional grant was awarded to planning authorities as an incentive if they met Government targets for turnaround time from the receipt of a planning application to the date of the dispatch of the decision to the planning applicant. The proposal was generally supported across the House, and both the Government and Opposition parties felt that that was a way to improve overall performance centrally and ensure an accurate record of how that performance changed over time.

The London borough of Hillingdon, in which my constituency is located, received a planning delivery grant in 2002 in reward for its significant improvement in planning performance. Given the widespread local criticism of the performance of Hillingdon's planning departments over the years, that came as a surprise—to say the least—to some local councillors, and residents, and also to me, based on anecdotal evidence from my constituency surgery and consultations with local community organisations and constituents. The Audit Commission designated Hillingdon's planning department as scoring the lowest possible measure for performance and, overall, the authority has been consistently scored as weak.

The contradictory information provoked one local councillor, Councillor Janet Duncan, who is in the Public Gallery today and is a retired assistant director of

planning, to delve more deeply into detail of the planning department's records in order to understand why there should be such a discrepancy between local perceptions of the planning department's performance and the high standards claimed by Hillingdon council's planning department as part of its submission for a planning delivery grant.

Councillor Duncan's attempt to inquire into the matter, remarkably, met intense hostility and even abuse at meetings from leading councillors in the Conservative administration. The council is hung, with a Conservative administration supported by the Liberal Democrats. There was and continues to be a disgraceful campaign of personal vilification against Councillor Duncan, led by leading members of the council: the leader of the council and the lead cabinet member for planning. It was even apparent in our local newspaper over the past few weeks.

In addition to the campaign at council level, Councillor Duncan was denied access to information by officers, refused attendance at key meetings with officials to discuss her concerns and faced with a concerted campaign of obfuscation and delay on access to information. To her credit, she persisted and, with great skill, she discovered the following points.

First, the council had claimed performance target achievements, and therefore Government grant awards, based on the use of a target date contrary to the guidelines and regulations set out by the Government. The claim was based on the date that the decision was made, rather than when it was dispatched to the applicant. Secondly, an internal memorandum showed that the use of the incorrect target date, contrary to the Government's requirements, was known to the management team of the council's planning department. That memorandum was also copied to the head of planning services. Thirdly, planning reports had been physically altered, often very crudely, to change the dates, enabling targets to be met and grants to be gained. Fourthly, the staff were aware of the problems and were so concerned that they had raised them at their union meeting.

Our impression of the planning department during that period is of a department permeated by a climate of fear, intimidation and bullying, particularly of junior staff. In my view, that prevented whistleblowers from coming forward. Indeed, no whistleblowing procedures were put in place in the local authority.

I want to explain the level of involvement of Members and Ministers. Once Councillor Duncan's inquiries revealed evidence of potential malpractice, she approached me and, in autumn 2003, I lodged the information with the relevant Minister in the Office of the Deputy Prime Minister, the Minister for Housing and Planning. The Minister rightly took the matter seriously—I commend him for that—and tried professionally and expeditiously to address it in the way that he thought most appropriate. He therefore passed the information to the Audit Commission, which was asked to undertake an urgent investigation.

The Minister had already appointed consultants on two occasions to try to examine the performance of the London borough of Hillingdon and to improve its planning department's procedures and performance overall. By June 2004, I was increasingly concerned at the lack of progress in the pursuit of the Audit Commission's investigation undertaken by the local district auditor. Neither I nor Councillor Duncan had heard anything or received any report on the activities of the district auditor.

Consequently, I secured an Adjournment debate on 9 June 2004, in which I outlined the concerns and questioned the Minister on the progress of the district auditor's inquiry. I raised further concerns that evidence, particularly computer-based evidence, was at risk and being destroyed. I expressed my worries about the appropriateness of the district auditor's inquiries and, I have to say without any form of arrogance, it seems almost prophetic that I questioned whether the district auditor would have the skills and abilities to investigate such matters and bring such an investigation to a conclusion. I suggested that a more independent investigation might be required, certainly into the administration of the department, and that the police should be involved.

On 8 July 2004, when I was led to understand that the district auditor had drawn his investigation to a conclusion and was drafting his final report, I raised in business questions my anxiety that the district auditor had not approached me or Councillor Duncan for interview, nor even the full range of council officers involved in the process. Indeed, my understanding was that no local residents who had raised their concerns had been interviewed. As a result, the district auditor did not complete his report, but eventually wrote to Councillor Duncan and me and agreed a meeting at which we were at long last able to directly explain our concerns and hand over further evidence.

I now turn to the district auditor's report, which was eventually submitted to the borough on 31 January 2005, more than 12 months and leading on for 14 since I raised the matter with the Minister, who had properly and in a timely manner submitted the evidence to the district auditor. Although the chief executive of the London borough of Hillingdon had given an assurance to the district auditor that the report would be published on an open cabinet agenda, the report was withheld from the first cabinet meeting after publication and withheld from the Labour group councillors and the public for more than 10 days. In the meantime, the local press were briefed. They were told that the district auditor had given the council a clean bill of health, the investigation had found only minor administrative failures and that no one apart from a few junior officers was to blame. That was pure spin, distortion and, in many instances, a downright lie.

What is the reality of the report? Far from giving the council a clean bill of health, the district auditors confirmed the facts. They confirmed the facts exposed by Councillor Janet Duncan's own investigations.

First, did the council misreport its development control performance by reference to the wrong date, contrary to Government procedures? Yes. I shall quote directly from the district auditor:

> "The council has misreported its development control performance over a number of years by reference to the date of decision, rather than the date of despatch of decision."

We discover from the brief sampling—not the full investigation—that more than one in 10 planning applications were using the wrong system, contrary to Government guidelines that were known and issued at the time.

[John McDonnell]

Secondly, did that misreporting have an effect on the council's overall performance records? Yes it did. It had a significant impact on the actual performance achieved by the council. Again, I shall quote the district auditor:

"Indeed, it is a far more significant matter, in terms of its impact on reported performance, than any of the matters originally referred to us."

The facts of the matter are extraordinary.

Thirdly, did the council receive grant from the Government based on misreported performance? Yes. Let me refer to the auditor again:

"The Council received £320,000 planning delivery grant for 2003/2004 from the ODPM, in part reflecting improvements to its development control performance that had been calculated to the date of decision, rather than the date of despatch of decision."

Thanks to the beneficence of this Government, and I am grateful to the Ministers involved, they have not demanded that that grant be paid back. Otherwise, my constituents would have had to pay for that through their local council taxes—paying for the abuse of the system by the council itself and council officers.

Fourthly, were reports tampered with and dates on reports changed? Yes. In more than one in six planning application reports, the district auditor discovered and confirmed that reports had been "manually adjusted". That is the district auditor's euphemism for tampering, crossing out, backdating crudely and overriding dates—in many ways what in common parlance would be described as forgery.

The district auditor determined from a limited sample that in more than one in 25 of those cases the detailed application processing papers were regarded as definitely suspicious. That is a district auditor who I believe has erred on the side of caution and in favour of the local authority, but even in those figures he identified real suspicions.

Fifthly, were senior officers in the planning department aware that the date of decision and not dispatch was being used contrary to Government guidelines? Yes. The e-mail from the planning department's management team was produced confirming that. From the district auditor's report one would expect that, having found all the major factual allegations correct and proven, he would conclude that it was a serious matter warranting action, and that it would behove him to ensure further independent investigation was enabled and promptly undertaken. From my experience in local government, I would expect the district auditor to see the matter through from investigation to report to full independent investigation and implementation of a view of improvements in procedures. Otherwise, how can my constituents gain or regain any confidence in the administration of the planning process in my area?

Bizarrely, the district auditor, having found out the facts of the matter, stops. It is as though he withdraws from the role as the engine of further investigation and reform. He also draws some extraordinary conclusions that no reasonable person could possibly arrive at.

First, I shall review his investigation process. From the outset, I was concerned about the lack of skills and competence of the district auditor to pursue the matter. That was exacerbated when we found out that the inquiry was to be ended early without myself or Councillor Duncan being interviewed. However, I now discover that the auditor definitely did not interview all relevant staff, particularly those staff with their names attached to planning reports, and particularly junior staff. In addition he did not even bother to interview the local resident upon whom we submitted an affidavit confirming that he had discovered that the date of his planning application had been tampered with and had reported it to the head of planning services at Hillingdon.

The district auditor, we now discover, had not implemented any whistleblowing procedures to enable vulnerable staff or planning applicants to produce evidence in confidence and security. Even when it was pointed out that staff had raised their concerns at their union meeting, the district auditor did not even contact the trade union or its representatives to clarify the matter.

Secondly, the district auditor relied heavily on evidence being collected and analysed by the London borough of Hillingdon planning department itself—the very organisation being investigated was providing him with the materials upon which he was to base his conclusions. For example, whereas the council was reporting the percentage of reports using the wrong date as 0.6 per cent., when he checked the department's information and verified it with a small sample, he discovered that it rose to 11.2 per cent. The numbered tampered with rose from the council's claim of 9.9 per cent. to 17.4 per cent. when the district auditor undertook further investigation. The auditor then naively suggested that that was not deliberate but may have been just the result of pressure of work.

I have previously given to the Minister examples where dates have been scrubbed out, rubbed out and new dates crudely inserted above them and signed off by a number of officers. That is not overwork; that is tampering with information upon which legal matters are determined. Even the auditor is critical of how, instead of instigating an independent review, the council had the audacity to appoint the head of planning services to investigate her own planning department. In addition, he criticised the limited scope of those internal investigations.

Thirdly, the final conclusion of the district auditor exposes the inadequacies of that route—that whole mechanism for addressing what I believe to be a deliberate and organised attempt to manipulate the planning system in Hillingdon for the benefit of the ruling council administration and senior officers. Having discovered that the wrong procedures were used, that the council officers had been fully advised of the right dates and procedures, that there had been tampering with and adjustment of official documents and that that was suspicious, he concluded that nobody was to blame. Despite all the evidence of tampering and forgery, no one is to blame, because he cannot find what he describes as conclusive evidence to nail any individual officer or group of individuals. Even the council had to admit in its own investigation that it had been led to believe that the objective of tampering had been to try to gain additional Government grant.

The district auditor seeks to downgrade the matter, saying that no extra grant was achieved. That is not right: extra grant was achieved in the first year and we did not lose it because the Government were good enough not to demand it back. The auditor argues that nobody gained individually. Quite the contrary: senior officers have been complimented on their performance by leading local councillors. No doubt, their careers will be enhanced and they will receive the associated pay rewards that follow.

What next? Is the district auditor to see the matter through to any conclusion? No. He recommends that the council organise an independent investigation into the forged dates and tampering. The leader of the local council responded in our local paper, saying that he and the borough solicitor will undertake that investigation. Where is the independence in that?

The scrutiny committee on the planning environment seeks to set up a sub-committee perhaps to examine the report. It is understood that the leading Conservative administration will seek to block that at the whips committee next week. The district auditor reports that, as a minimum, there should be an investigation into the officers who are responsible for significant manual adjustments—forgeries. To date, not a single member of staff has been disciplined, and I predict that none will be. If anybody is, he will just receive a slap on the wrist and the issue will be allowed to die quietly. That is the Hillingdon way under its present administration.

In conclusion, many in my community feel betrayed by their local council. Now, they feel let down by the district auditor too, believing that the body that is responsible for ensuring probity and efficiency in the delivery of local services has not undertaken its work thoroughly. I will not fail them. Too much evidence of fraudulent behaviour has come to light during the investigation—and that is in addition to the dire failure of planning services in my community. Planning enforcement is almost non-existent; there is no pro-active planning; the staffing levels in the department are poor; and we have planners who go to site meetings without even knowing where the sites are. The disregard of the wishes of local people goes on apace. The selling-off of community assets; the disregard of covenants on individual pieces of land; the distribution of grants and the award of contracts—all have a whiff about them if they are associated with the London borough of Hillingdon.

Today, I am calling for a fully independent public inquiry into the London borough of Hillingdon as a planning authority. I am launching a petition, which I shall urge local residents, businesses and community organisations to sign, calling upon the council to do its duty and to convene an independent inquiry. That will bring the matter back to the attention of the council, the community and, if necessary, Parliament.

If the administration of the London borough of Hillingdon has nothing to hide, why should it refuse to support such a call? If the councillors are so confident of the probity of their administration, I ask them to open up the books. In the London borough of Hillingdon, there is an endemic culture of connivance and a belligerent refusal to be accountable. That has resulted in a grotesque failure to deliver the services that my community needs and deserves. The administration is tainted and contaminated at the highest levels, and it is my role to expose that, in order to ensure that my constituents are better served by their council.

11.22 am

The Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (Yvette Cooper): I congratulate my hon. Friend the Member for Hayes and Harlington (John McDonnell) on securing the debate and on using it to raise an issue that he has been pursuing for some time. He set out clearly some of the problems facing Hillingdon and raised many of the problems that were pointed out in the Audit Commission report on Hillingdon. He has been instrumental in pushing forward the district auditor's inquiries in meetings with my right hon. Friend the Minister for Housing and Planning in late January 2003 and early 2004, and promoted the subject in a debate in Westminster Hall last year.

As my hon. Friend knows, the Audit Commission conducted a thorough investigation and concluded that for some years Hillingdon had incorrectly based the reporting of its development control performance on the date of making, rather than the date of issue, of decisions on planning applications. It concluded that that did not appear to have been done deliberately with the motive of enhancing reported performance, although it did have that effect. The Audit Commission's analysis showed that the difference in reported performance in a particular category could affect as many as 50 per cent. of the decisions in that category. It also found some manual amendment of decision dates, which improved performance figures by 2 to 4 per cent. I understand that the council is investigating that further.

John McDonnell: I find it extraordinary that the district auditor's report concluded, without further investigation and on the basis of information provided by the local authority with limited sampling and so on, that nothing was done deliberately. Even within the council, there was one officer who might have ensured some independence within the authority. Its statement says that

"there are grounds for suspecting that there were adjustments to the dates certain applications were signed off and this had the intention of having the determination of these cases meeting Government set targets".

and yet there is to be no further investigation of that matter, other than an internal one.

Yvette Cooper: My hon. Friend makes important points, particularly on the manual amendments. I will come back to that.

As part of its investigation, the Audit Commission sought to verify that the council had put in place procedures to secure proper recording of performance. It identified some errors and indicated that the council has taken steps to prevent their recurrence. The report also enumerates a wide range of checks—

John McDonnell: Let me make this explicit and put it on the record: the council's actions were taken only after Councillor Janet Duncan had raised the matters, not just with the council, but with the Government

[John McDonnell]

office for London. When the discussions between the Government office for London and the council took place, she was excluded from the meetings. So only when one councillor undertook a whistleblowing exercise were the matters addressed.

Yvette Cooper: My hon. Friend will understand that I am not able to comment on the detail of individual councillor's roles or on their participation in particular meetings. The council has certainly instigated changes in response to the Audit Commission report and the problems that it identified.

Our consultants have also indicated that there might still be concerns as to whether the improved performance can be maintained, because they think that the council has not addressed all the issues that might put performance at risk. Senior officials from the ODPM met the council's chief executive in February to put the issue to him, and dialogue is continuing with the borough about what still needs to be done.

John McDonnell: In the past, reports published by the ODPM on the planning performance of the London borough of Hillingdon have been denied to councillors for a considerable number of weeks, if not months. Therefore, there is no transparency in Hillingdon. I urge the ODPM to take a more active role in ensuring that discussions between the Department and the council are made open and transparent, and that all reports are provided to all councillors. That has not been the case until now. In fact, obtaining information from the London borough of Hillingdon at member level is like drawing teeth.

Yvette Cooper: I am keen to ensure that there is appropriate transparency of discussions, so I shall happily discuss the matter further with my hon. Friend to ensure that the right level of transparency is implemented in practice.

It is important that when allegations are made that touch on the propriety of the council's conduct, appropriate investigations are undertaken so that the situation can, as far as possible, be put right. As I said, the council continues to investigate certain aspects of the misreporting. The auditor will also need to see that the authority is taking effective follow-up action, and if the auditor has reason to be concerned that the action is not effective, it is open to the auditor to carry out further inquiries.

My hon. Friend has asked for further investigation into these matters. I am happy to consider his points and to talk to him about them, because he raises important details and issues for consideration.

John McDonnell: The key issue is that the district auditor has specifically recommended that there should be an independent investigation, but that is not being pursued by the local authority. We will not restore confidence in planning in the London borough of Hillingdon until we have an open, transparent and independent public investigation.

Yvette Cooper: I recognise the import of the points raised. Obviously, internal investigations are continuing with the council and the auditor will want to see that the authority is taking effective follow-up action, but I will have further discussions with my hon. Friend.

To reduce the risk of similar problems occurring in future, the ODPM has collaborated with the Audit Commission in preparing new and clearer guidance to auditors about the checks that they should make and the things that they should look out for in auditing the arrangements for recording planning performance. In due course, we will consult on a draft prescribed application form for all local planning authorities. That will make it clear how the beginning and end of the time taken to handle a planning application must be recorded.

11.30 am

Sitting suspended until Two o'clock.

EU Structural Funds (Wales)

2 pm

Mr. Simon Thomas (Ceredigion) (PC): I am delighted to have the opportunity to open this debate and to see the Minister for Trade and Investment in his place. I look forward to his reply. The issue is of great importance to Wales—as well as to one or two other objective 1 areas—and goes to the heart of the Government's regional policy and its future.

I start by referring to the debate and the vote in the House on Monday. The Government proposed that the House note and approve their approach to structural funds at the European level. The motion made it clear that the Government sought to put a ceiling on the EU budget, at 1 per cent. of gross value added—GVA—and bring structural funds from Europe back to the Treasury. That is a perfectly legitimate position—I understand it and I know where the Government are coming from. However, I shall argue against it, because many issues need to be taken account of.

Although I am delighted to see the hon. Members for North-West Norfolk (Mr. Bellingham), for Brecon and Radnorshire (Mr. Williams) and for St. Ives (Andrew George), I was disappointed that neither the Conservatives nor the Liberal Democrats joined us on Monday by supporting our amendment to the Government's motion. I understand that the Conservatives might have particular concerns about the size of the EU budget, but only a week ago the Liberal Democrats put a motion to the National Assembly for Wales proposing that the Assembly

"believes that Wales's best interests would be served by proactive campaigning by the Welsh Assembly Government to ensure support for the European Commission's structural funds post-2006 proposals".

The Liberal Democrats could not have been more unequivocal in the Assembly, but they certainly can be equivocal here in Westminster, where they sat on the fence and did not vote on Monday.

Mr. Roger Williams (Brecon and Radnorshire) (LD): The hon. Gentleman will understand that the amendment to the Government's motion also had the effect of putting in jeopardy the British rebate. Because of that, we could not vote for it and abstained.

Mr. Thomas: That is an interesting position and means that the Liberal Democrats could not think up an amendment to take their policy into account.

The hon. Gentleman's point also underlines a problem that I shall address later. How do we tackle the EU budget without facing up to the British rebate? I hope that when the hon. Gentleman has heard what I have to say about what the rebate and structural funds bring to Wales, it might be clearer to him why he should support our position. Indeed, the hon. Member for St. Ives had a debate in the House a few months ago—it was at the end of the day and he had a lot of time, as I remember—when he said positive things about structural funds. One cannot positively campaign for structural funds to be retained by the EU without addressing the implications of that for Government spending, the rebate and so forth.

We have had our say on that, however, so let us look to the future. Let us consider how we can ensure that opportunities for my constituency and west Wales and the valleys continue to flow from EU structural funds. If the Government get their way in their twin-pronged attack on structural funds—they want to limit the budget and repatriate the funds to the Treasury—what undertaking will they give today and in future to ensure that Wales and the objective 1 areas in England do not lose out? I accept that we have heard warm words from the Government, but we have not yet received any such undertakings.

Perhaps the Minister will say, "Trust the Government—we will deliver." Many of us have difficulty trusting the Government these days, over many issues. Many hon. Members, on both sides of the House, have shown that in recent votes. In particular, the Government are not to be trusted on regional policy and they need to underpin their commitment to regional economic policy for several reasons.

The eligibility of Wales for objective 1 funding is not a badge of pride, but a badge of failure—the failure of UK-wide regional policy over many years and by many Governments. Westminster and Whitehall have got us into that state, so some of us have little faith that future Governments will get us out of it.

UK regional policy is appalling. We have the worst regional inequality in the European Union, with the possible exception of the islands of Greece, which, again, is not a badge of pride. There has been a failure to develop any worthwhile regional economic or fiscal measures, such as the ability to vary corporation tax in objective 1 areas or the ability to levy local business taxes, income tax or variations of that. We have still not dealt with the post-industrial legacy of unemployment, long-term sickness and incapacity benefit claimants, which is particularly serious in the south Wales valleys.

With such a history of failure, we have deep suspicions as to whether the Treasury or the Under-Secretary of State for Wales will be able to deliver an equivalent programme of investment over the forthcoming objective 1 period, which we know the Commission is proposing.

Andrew George (St. Ives) (LD): I am pleased that the hon. Gentleman has moved on from pre-election froth about the badly worded amendment that was put to the House on Monday. To get to the substance of the issue, would he agree that we are not just talking about suspicions? It is a matter of fact that the Commission would be able to offer objective 1 regions a seven-year programme, plus another two years of funding, which the Government cannot possibly match. That is a fundamental reason why objective 1 regions such as Wales, and Cornwall and the Scilly Isles must campaign for the continuation of the programme.

Mr. Thomas: The hon. Gentleman is right, although of course I do not accept his description of our amendment, which I thought was perfectly respectable for Wales and Cornwall. He is right about forthcoming regional programmes: the objective 1 programme—or the convergence programme, as it is likely to be called—will be a six-year programme. There will also be transitional funding after that, depending on how well the areas receiving the funding do.

[Mr. Thomas]

With the best will in the world, Governments now work only on two or three-year cycles. I appreciate that this Government have moved to a three-year fiscal cycle, but any Government can at most give only an outline commitment for three years.

Andrew George: Or for one Parliament.

Mr. Thomas: Indeed—if there is an election, things change again. It is essential that our communities have direct access to those EU structural funds without having to go through Whitehall—or even, to a certain extent, through the Assembly or whatever. That is why the Cornish convention supports Plaid Cymru's position, and I look forward to hearing what the hon. Gentleman has to say about that.

That argument is also why the Wales TUC opposed the Government's proposals in its submission to their consultation at the end of 2003. The Wales TUC said that Wales needed the long-term investment and that it did not have confidence in the proposed investment policy. It is something for the Wales TUC to say that about a Labour Government.

Let us consider the current legacy. We could be asked, "Why are you making all this fuss?". It might be argued that objective 1 has worked—that west Wales and the valleys have come out of their unfortunate position and are perhaps not even eligible for objective 1 any more. Regrettably, however, that is not the case. On 28 January EUROSTAT published new statistics on GVA per head in the EU regions. West Wales and the valleys continue to be listed among those below the 75 per cent. threshold of eligibility for objective 1, with GDP per head currently estimated at 73.82 per cent. of the EU average—Cornwall is at 70 per cent., as the hon. Gentleman might know. The figure for west Wales and the valleys is 67.35 per cent. of the pre-EU enlargement average, but it is still low enough to qualify for objective 1 funding.

We have the opportunity. If the structural funds continue and the Government are part of that, west Wales and the valleys are poised to take further advantage of objective 1. With a figure of 53 per cent. of the EU average, Anglesey is the worst area, so I am pleased that the hon. Member for Ynys Môn (Albert Owen) is here for this debate—he was not present on Monday. It is vital for Anglesey and constituencies such as mine that we continue objective 1 funding.

Albert Owen (Ynys Môn) (Lab): I thank the hon. Gentleman for raising the issue of GDP in parts of Wales, but does he not accept that the figures that he quoted are for the early stages of the programme up to 2002? The recent figures from the Office for National Statistics reveal a considerable increase, showing that objective 1 and major projects are working in areas such as Ynys Môn.

Mr. Thomas: Anglesey has been in decline, it must be said. The figures to which I referred are the latest European statistics from the member states, and the hon. Gentleman must bear it in mind that eligibility for further objective 1 funding is based on those figures, not the most recent ONS figures. He surely does not want to deprive west Wales and the valleys of eligibility for objective 1. I hope that he will now support the fact the Commission is prepared to use the figures that show eligibility and that he will not seek to create an artificial situation that would mean that we would not be eligible.

Albert Owen: Has not the hon. Gentleman's party been putting the argument in the media over the past few days that if we do not act by July, the new figures will, by December, prove exactly what I said—that there has been considerable improvement in the GDP of west Wales and the valleys, including in my constituency?

Mr. Thomas: The hon. Gentleman cannot say that. *[Interruption.]* If the hon. Gentleman will allow me to continue. If we do not act by July, the UK will take up the EU presidency and will therefore be in a position to dictate the terms. He has to decide whether he is for or against structural funds for Anglesey. If he is for structural funds for Anglesey, he will support the campaign. If he is against them and believes that the Treasury will deliver a similar sum of money, he can by all means line up with the Treasury. However, people in Anglesey know that the structural funds are delivering to them. *[Interruption.]* If he wants to know about the money delivered to Anglesey and about the jobs created, I can tell him. Some 2,080 jobs have been created in Anglesey by objective 1. Those are the jobs that he wants to put down the pan, by supporting his Government's position on objective 1.

We have heard enough about the matter from the hon. Gentleman, who finds himself on somewhat weak and shaky ground. The choice that I described is the real choice we face.

The Government are leading a campaign in Europe—and will strengthen it after taking up the EU presidency in June—to cut the budget to 1 per cent. of average EU national income. That would mean a severe cut in all policy areas, including in objective 1 areas.

Let us turn from one end of Wales—it was interesting to have the Labour party's Anglesey policy illuminated—to the other, to the south Wales coalfields. A recent report from Sheffield Hallam university, which many hon. Members have no doubt seen and which was published on the 20th anniversary of the end of the coal dispute, found that south Wales continues to suffer most from the lack of jobs that resulted from the closure of the coal industry. Some 20,000 mining jobs went in that period.

I accept that that was not this Government's responsibility, but we need to ask what has been done since to bring those post-industrial areas up to a state of competitiveness, so that they can take advantage of what the Government say they want to come from the Lisbon agenda, for example, and so that the working population can become trained, fit and active.

The story in south Wales is very sad. Out of all the former coal areas, Wales has made the slowest progress out of depression and unemployment towards a more active and vital work force. Only about 22 per cent. of the old coalfield jobs have been replaced, whereas in some areas, such as Yorkshire, the figure is 100 per cent. The Government might say that means that regional policy has worked for Yorkshire. However, one thing is

for certain: UK regional policy following the miners' strike and the closure of the pits has not worked for south Wales.

The Sheffield Hallam report also points to around 100,000 former miners who count as the hidden unemployed. They are the people claiming incapacity benefit who come to our surgeries. We know that the Government also have plans for incapacity benefit.

The interesting thing about the report is that Professor Stephen Fothergill of Sheffield Hallam university estimated that it would take a further 10 to 15 years for full economic recovery. Curiously, 10 to 15 years is exactly the time scale of another objective 1 period and another set of transitional funds. The prescription and the analysis have been made and there is a possible solution: continuing to support objective 1 for south Wales.

Mr. Wayne David (Caerphilly) (Lab) *rose—*

Mr. Thomas: I give way to the hon. Member for Caerphilly (Mr. David), because I know that he is going to praise the previous Plaid Cymru administration in Caerphilly for the £27 million of objective 1 funding brought into Caerphilly, which he mentioned in *The Western Mail* this morning.

Mr. David: I am delighted that the hon. Gentleman has taken the trouble to read my excellent article in *The Western Mail.*

Mr. Thomas: I did not say that it was excellent.

Mr. David: I am sure that good sense will be reflected later in his speech.

The hon. Gentleman mentioned Professor Stephen Fothergill. In fairness to the professor, he said that his analysis is unsurprising because it has been difficult to attract inward investment into the south Wales valleys because of issues of topography.

Mr. Thomas: I accept that point. I have no problem whatever with that analysis, but, even so, how do we attract inward investment and encourage indigenous start-ups in the valleys when there is such poor infrastructure there?

The hon. Gentleman will know that many of the infrastructure improvements in the valleys, including the railway lines to Caerphilly and from Taffs Well up to Pontypridd and on to my home town of Aberdare, have been made with objective 1 money. Does he want such investment to continue for areas such as Caerphilly, or does he trust a UK Government of whatever political colour, as there is a general election coming up, and we could have change—I am sure that the hon. Member for North-West Norfolk will want to make his pitch for that later—maintaining that for 10 or 15 years? I do not think so.

I should hope that the hon. Member for Caerphilly, as a former MEP, recognises the huge strengths that we can gain from being locked into a European-wide regional policy that has some of the best features of dealing with regional disparity, and some of the best socialist features of delivering aid from the richest areas in Europe to the most deprived. I advocate that policy in the UK and the European Union; it can deliver for Caerphilly and Ceredigion, and I hope that the hon. Gentleman will support it, because some of the alternatives rely on Government policies such as state aids.

Let us consider what has happened with state aids from the UK. Unfortunately, they have gone down in the UK by 22.5 per cent. It is sad that the latest figures on state aids that I was able to obtain show that they were higher in the period from 1996 to 1998, which was the transition period from a Conservative to a Labour Administration, than under this Administration. State aid in manufacturing, in particular, is way below in the UK, at half the European average. *[Interruption.]* As my hon. Friend the Member for East Carmarthen and Dinefwr (Adam Price) says from a sedentary position, "More Tory than the Tories."

The Government's use of state aid has been extremely slow and has not matched the EU average, which is the equivalent of €534 per person compared to the UK average of €261 per person. We are way behind in regional spending using state aid rules.

What if we follow the Government's policy and it transpires that we are not part of EU structural funds and we renationalise those funds to the Treasury? The new EU Commissioner for Competition, Neelie Kroes, said, when interviewed by the *Financial Times* on 26 January, that even regions below the 75 per cent. figure, such as Wales and Cornwall, should not be eligible for Government state aid if they are in member states that are not relatively poor.

The Commission seems to be saying, "If structural funds are available, you can make use of them, because you can come straight to us, but if your Government want to stop structural funds being made available, we will carefully scrutinise how state aids are used within your member state." I understand that that is political posturing from the EU Commission, but there is a lesson there for the Government about the price that they may have to pay to get this handbag rebate that they seem to have inherited from Maggie Thatcher and that they seem to think is so crucial.

Let us consider what the EU Commission proposes and what the Government are saying no to. The Commission has a set of proposals for regional cohesion policy from 2007 to 2013, which should start at the beginning of 2007. It proposes to modify objective 1 to highlight its economic convergence aspect in line with the Lisbon agenda, so it may well become known as the convergence objective.

Regions will still be eligible, however, if their GDP per head is less than 75 per cent. of the average for the enlarged EU—I have already pointed out that that still applies to west Wales and the valleys—and is calculated on the figures for the three years prior to adopting the regulation. That brings us back to our earlier point of debate: if we adopt the regulation now, we will have the necessary figures to qualify. I do not want to lose that opportunity because of the Government's delay. Newly published EU statistics show that west Wales and the valleys and Cornwall would be included, but Merseyside and south Yorkshire would not. Those two objective areas would no longer qualify.

Of course, all that is subject to member states' agreement, but the proposals would apply to west Wales and the valleys because the EU proposes that half the

[Mr. Thomas]

cohesion funds should be spent in the EU 15, and half in the new 10 accession countries. Of the half to be spent in EU 15, 78 per cent. would go to the convergence fund. How much that would mean for Wales depends on how many areas in the EU 15 and in the nomenclature of units for territorial statistics—NUTS—proposals come below the 75 per cent. threshold.

There are 1.8 million people in the west Wales and the valleys area, and we should expect a continuation of funding of at least £2 billion. If one considers that many areas in the EU 15 will come above the 75 per cent. average, one sees that there is a little less jam to go around, but it does not have to be spread as thinly because there is less area to cover. The opportunities for Wales will still be considerable. Perhaps the Government can even tell us what those opportunities are. Who knows? The Minister may have the figures to say what the EU structural funds would mean for west Wales and the valleys; I would certainly like to hear that the Government at least know what they are going to throw away, because that reflects what they will then have to commit from the Treasury.

We should also remember that such sums must be additional to current Government spending. That is another problem that both the TUC and I want to raise. How can we be sure about the clarity of additionality? It is one thing for the Treasury to say, "We will spend the same as you would have got under objective 1 for the next two or three years," but another altogether for it to follow that through in the spending round in the public expenditure survey, and to ensure that that happens. We know that it is extremely difficult. It is difficult with all Governments; we have to be clear about that, but there is no doubt that there is more clarity with EU structural funds. Did not we in Wales recently have to use the Freedom of Information Act 2000 in relation to what the National Assembly for Wales identified as an additionality need—£451 million per year—and to establish the fact, as we said all along when the Treasury gave an extra £200-odd million as a Barnett-plus formula, that it was not meeting the full additionality?

This is an important opportunity to obtain significant and continuing investment in west Wales and the valleys, to bring in match funding from the private and public sectors, and to ensure that such funding is in addition to current Government spending. However, we must ensure that those opportunities are not preserved in the Treasury model; to use the word "model" is a little extreme, because there is no clarity about where it adds up from.

Albert Owen: The hon. Gentleman talked about additionality and the differential between what the Assembly asked for and what was given in Barnett-plus. Does he agree that no project has suffered, and that there are no shortfalls in any of the priorities in the spending measures that the Assembly uses for funding in west Wales and the valleys? *[Interruption.]*

Mr. Thomas: My hon. Friend the Member for East Carmarthen and Dinefwr refers to the film fund for Wales—a particular example—but the bigger picture is more important. The hon. Gentleman says that objective 1 projects have not suffered because of the lack of clarity and additionality, and I agree with him in a sense, but that brings us to the question of where the money came from. It came from other parts of the National Assembly budget. Therefore, we must ask not which objective 1 projects—

Albert Owen: The answer is—

Mr. Thomas: No, no. The answer to the question is that no objective 1 projects suffered, but the Welsh Assembly spending budget suffered, so it was health, education and transport that suffered—*[Interruption.]* It was not—*[Interruption.]* The hon. Member for Ynys Môn can have this argument across the Chamber all he likes, but perhaps he should seek to catch your eye to make his points more appropriately, Mr. Olner.

Mr. Bill Olner (in the Chair): There is a little too much noise coming from sedentary interventions.

Mr. Thomas: Thank you, Mr. Olner. The point that I was trying to make to the hon. Gentleman, although he does not want to listen to it, is that although objective 1 projects may not have suffered, because that money was taken from the National Assembly budget, other projects did suffer. The waiting lists are testament to the lack of long-term investment in the health service in Wales. The hon. Gentleman can chew the cud over that when he gives his speech.

Mr. Bill Olner (in the Chair): Order. As far as I am aware, no EU structural funds go to the national health service in Wales, so the hon. Gentleman is straying a fair bit away from the debate.

Mr. Thomas: Thank you, Mr. Olner. My hon. Friend the Member for East Carmarthen and Dinefwr has pointed out how structural funds could be used for investment in the health service in Wales, but I leave that for another day. My point is that the use of additional match funding from elsewhere in the budget meant that there was an effect on public services.

I move to the final aspect of structural funds. We have talked about objective 1, which is obviously of great importance in my constituency and in those of, not all hon. Members present, but one or two at least. The final aspect is the future of agricultural funding affecting Wales. A European agricultural fund for rural development has been proposed as part of the structural funds project and is being discussed in the European Parliament. Following common agricultural policy reform, that is now the major focus of policy reform for funding. It is certainly of great importance to my constituency.

The fund will determine what European funding is available for rural areas from 2007 onwards, so the next decision is important for how that is shaped in Wales and the shape of the programme throughout the UK. The UK has historically received a low allocation; today the House of Lords has produced a report which shows Ireland's allocation of that particular funding shooting up, and the UK lagging well behind. We are told that we will get money from the rebate, and that that will help us if the Government get their way.

Currently, the rebate is about £3.4 billion. We want a commitment from the Government to spend the equivalent of objective 1 in west Wales and the valleys

and elsewhere in Wales on these policies. I admit that if they make that commitment, some of my argument dies. We look forward to receiving a commitment, not to spend money, but a commitment in facts and figures that is put into the Treasury forward planning.

The Government will have to consider both objective 1 and European funding. I am particularly concerned about less favoured area status, which affects all our constituencies. Some 80 per cent. of Wales has less favoured area status. The proposal being made—because of a European audit on the fund, which has found some problems in other countries, not the UK—is that socio-economic factors should be taken out of less favoured area status. That would be disastrous for Wales and its farming and rural areas. Although that is not objective 1, it is part of structural funds, and I hope that the Minister will consider that in detail.

I conclude by asking some questions. Will the Government fight to keep less favoured area status for Wales? Will they fight for socio-economic factors to be taken into account so that we can continue to access rural structural funds from Wales on the basis of the impact and support of our farming based on social and economic factors as well as geographic terrain?

Will the Government fight for objective 1 or convergence funds for west Wales and the valleys? That is almost a rhetorical question, because they have already said that they will not do that, in which case what binding guarantees will they now make for ongoing funding that will be transparent and additional to usual Treasury funding for west Wales and the valleys?

What will the Government do to fight for other structural funds in Wales? There is a plethora of other structural funds that I have not mentioned in any detail, which are available under other objectives. If the Government do not seek to make those structural funds available to Wales and seek instead to do that through the UK Treasury, what binding guarantees of ongoing funding will they give?

We find it difficult to accept promises from a Government who have come before Parliament several times with promises in a manifesto and overturned those promises. We are seeking more than mere words here today. We are seeking real, binding commitments to ensure that the most poor areas in the whole of the United Kingdom from Anglesey to Ceredigion down to the south Wales valleys are kept in line for significant regional assistance and aid. Whether it comes from Europe or the UK Treasury, it must be transparent, available and accessible to those communities. That is the purpose of the debate, and that is what I hope Members will support.

2.30 pm

Mr. Wayne David (Caerphilly) (Lab): May I begin by congratulating the hon. Member for Ceredigion (Mr. Thomas) on securing the debate? It is an extremely important issue, which should be considered fairly and honestly, and it is complex, so it must be approached in a reasonable manner. He did so in part, but only in part, I am afraid.

I begin by pointing out where we are at the moment. West Wales and the valleys have objective 1 status, which was secured by the British Government in 1999 at the Berlin summit. West Wales and the valleys receive the largest tranche of European money of any objective 1 area in the United Kingdom: some £1:5 billion. In real terms that is £3.2 billion because there is match funding, partly from central Government through Barnett plus, and also from the voluntary and private sectors.

In contrast to what happened with structural funds under the Conservative Government, it is absolutely clear that all the money available is being drawn down from Brussels and put to good effect. It really is being put to good effect because the latest figures show that some 2,325 projects in west Wales and the valleys are either taking place or about to take place because of that funding.

The hon. Gentleman referred to some EUROSTAT figures that have been submitted and, yes, they are accurate, but the important thing to stress is that they are out of date. They do not illustrate just how well the Welsh economy, and in particular the objective 1 part of it, is doing.

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): Whether or not what the hon. Gentleman is saying is accurate, does he accept that those figures will be used for determination in July?

Mr. David: I do not think that those figures will be used in determination in July because there is a lot of debate still to be had, and I will come on to that in a moment. The hon. Gentleman is just looking at one set of figures dealing with a particular moment of time.

If we look at the most up-to-date situation in Wales, what do we see in the objective 1 area? That part of Wales has the fastest growth rate in the whole of the United Kingdom, and we have seen 84,000 jobs created or safeguarded because of objective 1 funding. If we consider gross value added per head in west Wales and the valleys, we find an increase of 17 per cent. from 1997. What is weird is that there appears to be a determined effort to talk Wales down all the time and say that things are terrible and awful. The reality in Wales is quite different, and the people of Wales know that.

The objective 1 programme is a success, but I would argue that it has been particularly successful since the mid-term review. That review accurately identified a number of weaknesses in the early part of the programme, and I hope that hon. Members accept that. There was too much bureaucracy and partnership in the structural fund programme, to the extent that things were becoming ossified in part. That has been put right by the Welsh Assembly Government, to their credit, and we now have a far more streamlined and effective programme.

The crucial question is, from the financial perspective, what happens during the next funding period. Another crucial question following from that is where continuing support for west Wales and the valleys should come from. Should it come via Brussels or from central Government in London? That is a critical question because the British Government have made a commitment to ensure that that extra funding continues, so that the excellent work of the objective 1 programme will continue whatever happens. The critical question is whether it is better to have money from Brussels or from London.

[Mr. David]

On the basis of my experience, it is better to have a more streamlined system, with money coming directly from the Treasury and London. I give three reasons for that. First, from a British Government perspective—Wales is part of Britain, let us not forget that—and a UK financial perspective, it makes sense to ensure that we have in place a better system for regional funding. For every extra £1.60 that the British Government would have to give to Brussels under the Commission's proposals, only £1 would come back. In other words, we would be short-changed, and the money would not necessarily go to some of the most disadvantaged parts of the European Union. Under the present Commission proposals, some of that money would go to some of the most prosperous states. The British argument has it, quite sensibly, that it is better for the richer members of the European Union to ensure that they have the correct support in their own nation states to help their less prosperous regions. That makes a great deal of common sense.

There is also the issue of the rebate, and the size of the British Government's contribution to the EU budget. If hon. Members wish to go into the general election arguing for a big increase in the size of the EU budget, a big increase in the size of Britain's contribution and an end to the British rebate, I can tell them that ordinary people in Wales and elsewhere, who will have to pay more into the EU budget, will take a pretty dim view of that argument.

Mr. Simon Thomas: The hon. Gentleman has to accept that if we were to go into an election with such a policy, we would be supported by the TUC and all the Welsh local authorities, which are Labour-run.

Mr. David: There are certain qualifications that have to be added to that. It is a very complex issue and everyone is keen to make sure that we get the best possible deal, whether it is from Brussels or the British Government. That is the overriding message from local authorities and trade unions.

Mr. Thomas: I thank the hon. Gentleman for giving way again. Accepting that it is a complex issue, and accepting that the core issue is the one that both he and I identified—the best way to do it—will he stop reducing the question to a simplistic argument about which treasury pays what and address the important issue of the best way to get the best deal for west Wales and the valleys?

Mr. David: Absolutely. We are at one on that, and I hope that as the debate continues everyone will accept that we are talking about what is best for Wales. We are trying not to score cheap party political points, but to look at the facts and come to a conclusion about what is best for our country. I hope that the hon. Gentleman will do that, and accept that my party is trying to do it as well.

Much has been said about the European Commission's proposals. I would say that it is very easy for the Commission to make any sort of proposals; it is not talking about its own money, but member states' contribution. The Commission can pluck any figure it wishes from the sky, and at the end of the day the Council of Ministers will make a decision about the size of the EU budget.

The issue of trust has been raised. It is important to recognise the cold, hard facts of historical experience. We have had objective 2 and 3 funding in the past under the Conservative Administration, but prior to 1997 much European money simply stayed in Brussels. It was not drawn down; it was not claimed. That was because there was not match funding. It does not really matter at the end of the day how much money is allocated in Brussels if we do not have a sympathetic Government in London to ensure that match funding is provided. That is why it is absolutely essential that a Labour Government continue in power to ensure that the structural funds work. That is objective fact, and history proves that what I am saying is absolutely correct.

I would like to make a couple of points about why there is much to be said for the Government's case. First, much has been said about the difficulties that have been experienced with the objective 1 programme, especially during its early days. Those were certainly referred to in the debate in the House the other day. What we really require is a programme that complements what the Welsh Assembly Government are doing, not a programme that is tagged on.

One of the difficulties for the Welsh Assembly Government has been prioritising, first under the single programme document, and then under the objective 1 programme. That is because of Brussels rules. One of the great issues in south Wales is improving the transport structure: we need more roads to open up the upper parts of the valleys. Hardly any money under the objective 1 programme is devoted to that. Why? The Welsh Assembly Government want to do it, and the British Government are quite happy for it to happen, but the European Commission at the start of the programme said that transport and roads are not its priority. Therefore, objective 1 areas have suffered in practical terms because of diktats from Brussels. If the European principle of subsidiarity were applied, the Welsh Assembly Government would be able to use extra money coming from London according to their own democratically agreed priorities. That would be a huge step forward.

Adam Price (East Carmarthen and Dinefwr) (PC): How is it that the Republic of Ireland was able to access European funding precisely to invest in light rail, buses and general transport infrastructure, including the building of regional airports?

Mr. David: The hon. Gentleman makes a very good point, but that money in Ireland came from the cohesion fund, not the objective 1 programme, and the rules of the cohesion fund are fundamentally different. They are specifically designed to help the development of infrastructure; objective 1 funding is not. Looking to the future, we want the greatest flexibility for the Welsh Assembly Government to use money from whatever source in the best possible way. What the Government are proposing would not short-change Wales; it would ensure that it had resources to spend as it knew best, and for that reason there is a lot to commend in the Government's proposals.

In conclusion, the issue is, as we have said, vital and complex. We need to recognise that everyone in Wales is concerned about getting the best possible deal for Wales, but I would appeal to the Plaid Cymru Members not to make cheap party political points on the issue: it is far too serious. Let us have a reasonable, constructive and sensible debate on the best way forward. If we do that, I am quite confident that Members will agree that there is much to be said for the Government's proposals.

Mr. Bill Olner (in the Chair): Before I call the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) as the Plaid Cymru spokesman, I just point out that I intend to give the Minister 20 minutes to sum up on this very important debate. I take it that the Opposition spokespeople will bear that in mind when making their contributions.

2.42 pm

Mr. Elfyn Llwyd (Meirionnydd Nant Conwy) (PC): I intend to be very brief, as I believe that my hon. Friend the Member for Ceredigion (Mr. Thomas) has dealt with every cogent point already during the debate. I congratulate him on securing time for this very important debate, which has been rather badly attended by Labour Back Benchers—only two of them are here—which perhaps shows the interest they take in the subject, or perhaps, being loyalists, they do not want to agree with people who are talking a bit of common sense.

Albert Owen: How childish.

Mr. Llwyd: It may be childish, but the hon. Gentleman can make his points in due course. He is no stranger to childishness himself.

On Monday we had a similar debate. We tabled an amendment and my hon. Friend the Member for East Carmarthen and Dinefwr (Adam Price) spoke very well on these points. The bottom line is this: Labour Members were crowing, unbridled in their delight, when objective 1 was grasped and taken to Wales in 1999. At the Berlin summit, we were told, the Prime Minister spent all night arguing and I have no doubt that he spoke the truth every single time he argued. Labour Members said, "We have the panacea". Yes, a huge amount of money was coming in, and by and large it has done a lot of good work. That is common ground between us all; it has to be. What is not, however, is what will happen if this proposed cut is made. What will happen to Wales? We will lose any cohesion policy, research and development money and objective 1 money.

Mr. David: No one is talking about cuts. Those are a figment of the hon. Gentleman's imagination. As we will hear from the Minister, we are talking about a continuation of the objective 1 programme, but this time the money will come directly from London rather than Brussels. Who is talking about cuts?

Mr. Llwyd: With respect, objective 1 is a Brussels programme. It cannot come from the Treasury. That is something else. The Government have been far wide of what we thought objective 1 was. The hon. Gentleman seems to want to laugh about the issue. We have been suffering from under-investment at the rate of about £401 million per year in cover from the public expenditure survey and additional matched funding. That is a fact. We have been saying it for years, and it was eventually confirmed. The late Professor Phil Williams put it on the map in the Assembly.

Adam Price: Despite what the hon. Member for Caerphilly said, it is a fact that the Commission is proposing a huge increase in spending on EU regional policy and the UK Government are proposing a cut.

Mr. Llwyd: I accept that position. If it is nonsense, or just wrong, would the Minister like to intervene to tell us that we are wide of the mark?

The Minister for Trade and Investment (Mr. Douglas Alexander): I am happy to take the opportunity to deal with that point. The most significant point that has just been made is the explicit acknowledgment of the huge increase in spending envisaged with the budgetary uplift by the European Commission's proposals. I will address that in my remarks.

Mr. Llwyd: We look forward to hearing exactly what the Minister means by that when he sums up the debate.

Mr. Simon Thomas: I am sorry to cut across my hon. Friend, but I want to take him back to what the hon. Member for Caerphilly (Mr. David) said. I have no doubt that the hon. Gentleman is absolutely committed to what he said. I think that he is wrong-headed, but I accept his good faith. He cannot say whether there will be a cut, because, unless the Minister gives one today, we do not have a guarantee about the sum that would be available under any Treasury policy. As Treasury policy is not necessarily linked to match funding or additionality, we do not know whether additional resources will be available. Those are questions to which we must have answers before we can give a response to the proposal that the hon. Member for Caerphilly asked us to support. Without the facts, we cannot support that proposal.

Mr. Llwyd: The point, surely, is that funding is guaranteed for six years under EU rules, whereas it cannot be guaranteed for that long under Treasury rules—it can be guaranteed for three years or, possibly, for the length of a Parliament. However sincerely given, the promise is not bankable in European terms, which is another problem.

The other thing that concerns me is that if the scheme is going to be replaced—repatriated—by a Treasury scheme, then, considering past performance, I sincerely believe that there will be cuts. I also believe that the scheme will be at risk of being politicised and subject to the priorities of Government. I have no doubt that areas of Wales will suffer further because of those political priorities. I also have no doubt that it will, in due course, create more social exclusion in Wales, whether in the south Wales valleys or in the more rural areas. I am extremely concerned about that. None of us wants it to happen; we are sounding the alarm. As I said, we sounded the alarm that the PES cover and additional funding were insufficient. Under the Freedom of Information Act 2000, we have been proved right.

Albert Owen: The hon. Gentleman talked about alarms. His party also gave a number of false alarms. It said that we would not secure objective 1 funding and that no additional Barnett money would be forthcoming.

I return to what my hon. Friend the Member for Caerphilly (Mr. David) said about playing politics. In the *Official Report*, the hon. Member for East Carmarthen and Dinefwr (Adam Price) said that the

"issue is of... importance... before the general election."—[*Official Report*, 7 March 2005; Vol. 431, c. 1327.]

Surely he is raising alarms before an election.

Mr. Llwyd: My hon. Friend is raising alarms because the matter needs to be decided shortly. That is the point. It is the leader of the party of which the hon. Member for Ynys Môn (Albert Owen) is a member who is deciding when to hold a general election. The work has been ongoing for months. It has not been brought out of the woodwork because we may be approaching a general election. It is important because of the EU timetable.

Adam Price: My point, which I think the hon. Member for Ynys Môn will cede, was that there was an opportunity for us to debate this vital matter, which will have a major impact on all our communities, on the Floor of the House before the general election. What is wrong with that point?

Mr. Llwyd: I came here with a pinched nerve, but, because I have jumped up and down so many times, it seems to have gone. At least some good has come from the debate.

In case anyone gets the impression that we are just whinging or being alarmist, I will make a few points. I for one am not proud that GDP remains what it is in Wales. We have argued about the EUROSTAT figures. The important point is that we accept those figures, and they are the figures that will be used for a decision in the coming months. That is an important point. The hon. Member for Caerphilly (Mr. David) mentioned the thousands of jobs that had been created by objective 1 in west Wales and the valleys. I do not suppose that that takes into account the thousands of jobs being done away with by his Government, who are closing down benefits offices and creating further social exclusion. I do not know the exact areas that we are talking about. If employment were such a priority, there would have been some read-across from those cuts.

We are not prepared to leave matters to the vagaries of any promise that might be forthcoming from the Treasury. I do not impugn the sincerity or honesty of the hon. Gentleman, but Treasury mandarins are people who are faceless and who do not always stick to a given set of rules. They are masters of their universe. We are unhappy about that. At least when we flushed out what was happening under the Conservative Government—money was coming to London and stopping there—our party leader Dafydd Wigley went to Brussels. I have no doubt that the hon. Gentleman would have supported what Dafydd Wigley said. The money was getting stuck in the Treasury in London. That is why I do not trust any bankable agreement from the Treasury. It is not worth the paper that it is written on. That is my concern.

The European Union was given clearly defined objectives. After three years of faltering, due to the Welsh Assembly Government, things in Wales eventually began to move. That did not happen soon enough; hence the position that we are in. Labour was, of course, then in coalition with the Liberal Democrats. We want to press for a further tranche of money to come direct from Europe. That money would not be subject to political interference. It would not be diverted because of spending that should, in any event, have been core spending.

Mr. Simon Thomas: Such as a war.

Mr. Llwyd: That has also happened.

My grave concern, and that of my hon. Friends, is that we push the case as hard as we can. With respect to the hon. Member for Caerphilly, I cannot understand why he does not join us in campaigning on the issue. Why has he set his face against doing so? He told us how much Wales has benefited from objective 1. He will undoubtedly wish those benefits to continue, but he seems to be completely happy for the Treasury to promise that those substantial amounts will come through directly in regional policy. Regional policy in Wales has, unfortunately, been lacking for decades. That is why we are in this awful hole.

Earlier, we referred to the loss of coal-mining jobs. I appreciate that that is nothing to do with the Labour party. However, the infrastructure is gone. Many people suddenly found that they were not employable. We are still suffering because of those particular circumstances. We are suffering decades of sickness because of the hangover caused by heavy industries.

Mr. Bill Olner (in the Chair): Order. I remind the hon. Gentleman that I want to give other spokesmen a chance to contribute to the debate. He wants the Minister to answer some of his questions, so will he be brief?

Mr. Llwyd: I accept that. I will draw my comments to a close.

This debate is timely. I hope that the fact that it has not been well attended by Labour Members is not an indication that they have given up. They should not give up, but should continue to fight, as we shall.

2.55 pm

Mr. Roger Williams (Brecon and Radnorshire) (LD): I, too, congratulate the hon. Member for Ceredigion (Mr. Thomas) on obtaining the debate. It is vital that we take the opportunity to discuss regional funding and support for Wales and, indeed, other peripheral parts of the United Kingdom in good time, so that we have some influence on the discussions and decisions made about those important issues.

Historically, the more distant parts of the United Kingdom have suffered because the market has not functioned as well in those regions as it has in the south-eastern areas of both the UK and Wales. For a long time, the people who lived there have survived on lower incomes, had a poorer quality of life and have not had the opportunity to take part in the thriving economies that have sometimes occurred in other parts of the UK.

It was not until we obtained structural funds from the EU that we had the certainty of a continuation of support for a number of years. That enabled people to put together a considered programme rather than one-off and ad hoc projects that various Governments of various persuasions sometimes dished out for the poorer areas of the United Kingdom.

I return to objective 5b funding for rural areas. That was particularly effective in dealing with our systems. Although objective 1 funding did not come to the area of Wales that I represent, and we were concerned about that, we were happy that west Wales and the valleys benefited from it. Some of us would have said that Powys should have been included in the objective 1 area. If some of the statistical criteria had been considered more closely, I think that Powys would have qualified, on the basis that its GDP was below the 75 per cent. figure. For some peculiar technical reason, the European Union said that there could be only two NUTS areas in Wales. Including Powys would have meant three NUTS areas and that was apparently unacceptable to whoever was setting up the rules. I felt that, in a way, the competition to achieve objective 1 status was slightly belittling to Wales, in the sense that areas had to portray themselves as a poor and unsuccessful part of the United Kingdom. At one time, I compared it to an ugly competition. We had to parade up and down in front of people and say how unsuccessful we had been in the economy and that we were in desperate need of support.

Mr. Simon Thomas: The hon. Gentleman can, at least, reflect that he lost the ugly competition.

Mr. Williams: I will not take that as a personal comment. I do not know whether the hon. Gentleman and I were in the competition at the same time.

Mr. Thomas: Unfortunately, I won.

Mr. Williams: Be that as it may, Wales and, certainly, west Wales and the valleys have benefited from objective 1. That is obvious from all the statistics and criteria. Indeed, one can see that structural funding has been very successful in other nations in the EU—for example, in Ireland. Even the Irish would say, however, that it is not just structural funds that have contributed to the success of their economy. They also look to investment in education and in training. Although structural funds can contribute to that, we need to put more money into education and training as well as to looking for regional support via structural funds.

The hon. Member for Caerphilly (Mr. David) said that money from Brussels was no different to money from London. Yes, £1 from Brussels is the same as £1 from London. However, what is important are the conditions that are attached to that flow of money. Everybody involved in the programme committees that were set up for the introduction of objective 1 were very frustrated by the bureaucratic requirements that had to be put in place—there had to be equal men and women, and equal representatives from the public, private and voluntary sectors—and it seemed that setting up the committees was more important than delivering the programmes. Some of that has been addressed, and I know, having talked to people in the private sector, that they feel more involved than at the beginning of the process.

Having said that, the questions are: what are the Government going to do, and what commitments will they make on the issues? Although we can judge what the benefits and disadvantages of money coming from London or Europe will be, we need to know what the level of funding will be, and what commitments the Government can make. The issue that has been mentioned many times by hon. Members speaking for Plaid Cymru is that, whereas the objective and structural funds can be guaranteed over seven years and two years' transition in future, it seems highly unlikely that the Government are going to give any commitment at all above and beyond a three-year period or a Parliament.

There is also the question of match funding. I can go back a long time to when the Conservative party was in power, and some applications for European funding and support were not accompanied by additional funds—the additionality that should be required. The British Government were taken to task a number of times for that. Commissioner Bruce Millan sorted that out, and I am sure that he did a good job in ensuring that European support was never allowed to be given without such additionality.

All in all, Liberal Democrats believe that structural funding would be the best way to address the problems of Wales and other peripheral areas such as Cornwall and the Isles of Scilly. My colleagues in the Welsh Assembly say that not only should local government in Wales support the issue, but the Assembly should too. We see more benefits flowing from support and commitment over a long period of time coming from Europe, rather than the relatively short-term commitments that the Government can make, whatever they may be. For that reason, we support the maintenance of structural funds, either objective 1 or the cohesion fund.

3.3 pm

Mr. Henry Bellingham (North-West Norfolk) (Con): I should like to congratulate the hon. Member for Ceredigion (Mr. Thomas) on securing the debate, and on the way in which he proposed it, ably supported by his party leader, the hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd). I have always admired Plaid Cymru for their gutsiness in taking on this Government and standing up for rural communities in Wales, and how they have often made common cause with other rural MPs in supporting countryside issues. They have, on a number of occasions, been supportive of some of the campaigns that I have run, and I congratulate them on that. The hon. Member for Ceredigion was quite right when he said that the matter goes to the heart of regional policy.

The Opposition support the Government when they say that they are keen to see a reduction in the maximum size of the EU budget from 1.24 per cent. of gross EU income to 1 per cent. We support that because we agree with the Governments of France, Germany, Sweden, the Netherlands and Austria, who wrote to Romano Prodi in December 2003, making the point that a 1 per cent. limit would still allow for annual increases in the EU budget above the growth rates of national budgets in most member states. That is a key point.

[Mr. Henry Bellingham]

One should also bear it in mind—perhaps the Minister will comment on this—that there has been substantial fraud in the EU budget system. The hon. Member for Crewe and Nantwich (Mrs. Dunwoody) recently highlighted the fact that for nine successive years—this will be the 10th year—the European Court of Auditors has refused to sign off the EU accounts. A lot of money is washing around, having gone missing.

We also support what the Government have said about the Lisbon agenda, although we should like a clearer and more focused policy on aid. On structural funds, we understand where the Government are coming from. We are concerned about the amount of bureaucracy and the lack of clear focus in how some of the funds are managed. I shall come to some of the points made by Plaid Cymru and the Liberal Democrats, but we feel that national control over those funds would enable us to target them better, at the areas that need them most.

I repeat what my MEP colleague, Philip Bradbourne, said in the European Parliament recently:

"It is no surprise to me that the funds have yet again not been signed off.

With ten years of dodgy accounts, including €5.3 billion going unused into Commission coffers from the Regional Aid Budget in one year, devolving grant aid back to Member States seems the only viable solution to an ongoing problem.

This would allow British Ministers to properly determine where and how this money is spent."

I sympathise in many ways with the hon. Member for Ceredigion, because our instinct is to support the idea of Her Majesty's Government having more control. I take on board his points, and I hope that the Minister will clarify exactly what the Government's position is, and perhaps give us some comfort that if the funds are repatriated, the same amount of money will be spent. One of the most pertinent and telling points that the hon. Gentleman made was that the Government currently have a much shorter time scale. Normally, we are talking about funding for a three-year fiscal period, possibly one Parliament, and a maximum of four years, as Parliaments tend to develop. If there is a much closer result in six or seven weeks' time, there could be another election two or three years after that. Let us not speculate too far, but the bottom line is that the EU can take a longer-term view and deliver more stability and commitment over a longer period. Can the Minister comment on that? That is the main argument against the Government's position, which is to some extent supported by my party.

I take on board the points that the hon. Gentleman made, supported by his party leader, regarding the problems that Wales faces. The former mining valleys in south Wales have not had the opportunities or the momentum to regenerate and deliver new jobs in the same way as places such as south Yorkshire, Nottinghamshire and Derbyshire have done. Those of us who attend the main Chamber regularly often hear the hon. Member for Bolsover (Mr. Skinner) boasting about the number of extra jobs being created outside the coal industry and the amount of regeneration that has taken place in his constituency. That has not happened in the Welsh valleys, and there is obviously a good reason for that. If the Minister knows what that reason is, will he comment on it?

I have some sympathy with the hon. Gentleman when he talks about some areas of Wales being left behind. In Norfolk—not far from my constituency, and in that of the hon. Member for Great Yarmouth (Mr. Wright)—there are some of the poorest wards in the country, where, without EU funding, there would be really serious problems. I must declare an interest because my constituency has received objective 5b status funding that has made a significant difference. The Minister must satisfy the Plaid Cymru Members that the Government can deliver the money and make up any deficit.

I shall make one final point so that the Minister will have 20 minutes in which to wind up. One of the key points that goes to the nub of the subject is the rebate. I listened to what the Chancellor said the other day: he said that the rebate is fully justified. He made that clear in Berlin when the last EU budget was fixed, and that continues to be the British position. There have been worrying reports that the Government have secured a deal with EU leaders to postpone negotiations on the rebate until after the general election. Is that the case? The relationship between the repatriation of structural funds and the debate is absolutely crucial. I hope that the Minister will be able to answer that point, and the other points that have been ably and succinctly put by the hon. Member for Ceredigion and his colleague.

3.10 pm

The Minister for Trade and Investment (Mr. Douglas Alexander): I congratulate the hon. Member for Ceredigion (Mr. Thomas) on securing the debate. I am genuinely grateful for the opportunity to explain the Government's proposals for future EU structural and cohesion policy after 2006. It has been an interesting and often passionate debate, and I pay tribute to my hon. Friend the Member for Caerphilly (Mr. David), who added some important perspective to the hon. Gentleman's remarks, both on the strengthening of the Welsh economy in recent years and the reality of the proposals under discussion.

The hon. Member for Meirionnydd Nant Conwy (Mr. Llwyd) made a characteristically understated speech, if I may say so, some of which I shall endeavour to respond to. I shall be happy to address the points that he raised. The hon. Member for Brecon and Radnorshire (Mr. Williams) wisely acknowledged, as he put it, that £1 from London is worth as much as £1 from Brussels, and he went on to acknowledge the streamlining of European funds that has taken place in recent years.

I am grateful for the support of the hon. Member for North-West Norfolk (Mr. Bellingham) for our approach to the Lisbon agenda. On the specific issue of the rebate, with which he concluded, it will be no surprise that I can assure him that the position remains as stated by the Chancellor of the Exchequer, and that work continues on the rebate and the wider issue of the financial perspective. As the hon. Gentleman will appreciate, other parties are privy to those discussions.

I assure the House that the Government are committed to a strong regional policy that is at the heart of our efforts to achieve high and stable levels of growth and employment, ensuring that economic prosperity reaches every part of the United Kingdom. We have

significantly increased spending on regional policy across the UK, focusing resources on drivers of productivity such as skills, infrastructure, enterprise and new technology.

As a consequence of devolution in Wales, the Welsh Assembly Government are driving forward their programme for regional development, and are currently driving forward the "Winning Wales" strategy to provide an over-arching framework for Wales's continued regeneration. The Welsh Assembly Government are providing significant match funding for Wales's current structural fund programmes. As we have heard, Wales has benefited from a unique funding arrangement with the UK Government, "Barnett Plus", to support the programmes. In the spending reviews of 2002 and 2004, the Welsh Assembly Government were allocated an extra £106 million for 2005–06, an extra £128 million for 2006–07 and an extra £147 million for 2007–08, in addition to the block grant under the Barnett formula in order to provide match funding for its objective 1 programmes.

I accept that the structural funds have played an important role in supporting valuable initiatives in recent years in Wales and other parts of the United Kingdom. However, domestic spending—national programmes and co-financing for structural funds projects—plays an increasingly important role in regional development. I would add to that a personal perspective from my constituency: there should be recognition that although real expertise has developed, not least within local government, and a capacity to deal with Brussels, that expertise all too often reflects a mindset that developed during the time of the previous Government, when many of us looked to Brussels hoping for regional support when Whitehall and Westminster were providing very little such support.

There is an opportunity now, not least given the significant uplift in regional expenditure being made by this Government, to develop our thinking on regional funding. It is essential to understand that three quarters of public spending on regional development in the UK already comes from domestic sources, and we must recognise that in any scenario that proportion is set to increase in the near future. The enlargement of the European Union and the entry of 10 poorer countries means that EU regional funding will, inevitably and rightly, shift to the new member states, and the richer countries such as the UK will increasingly depend on national resources to fund their regional development. This new situation calls for a fundamental reappraisal of the EU's regional policy. We are determined to push for effective reform of the structural and cohesion funds that delivers a good result for the UK and its nations and regions, as well as for the other member states and the EU as a whole.

On timing, the current regulations governing the structural and cohesion funds will expire at the end of 2006. Negotiations on the future of the structural and cohesion funds began in September 2004 and are continuing under the Luxembourg presidency.

Let me set out the Government's objectives for structural funds reform. The UK has five main objectives for reform of the funds, which were set out by the Secretary of State for Trade and Industry in two statements to Parliament in September and December 2003. First, we want to develop an EU regional policy that fully supports, and adds value to, the ambitious devolution, decentralisation and regional development agenda already being pursued domestically. Secondly, we wish to ensure that the structural funds actively support the EU's agenda, set at Lisbon, Gothenburg and elsewhere, for higher productivity, employment and sustainable development. Thirdly, we wish to concentrate the EU's necessarily limited financial and administrative resources on the poorest member states, which are most in need of assistance. Fourthly, we want to develop simpler and more flexible implementation and monitoring arrangements for structural funds programmes, which are proportionate to the amount of funding available. Finally, we are determined to secure a fair budgetary deal for the UK taxpayer and a total EU budget of no more than 1 per cent. of EU gross national income.

The Government have put forward detailed reform proposals as a means of securing those objectives. We have proposed that richer member states should, in future, fund regional programmes from domestic sources, and that the EU's limited resources should be focused on the poorest member states, where EU intervention is likely to have the greatest impact and value. That would introduce genuine EU solidarity and help to ensure that the enlargement of the EU to 25 members is recognised as a success. However, for clarification, I want to point out that the Government are not advocating that regional policy should be renationalised in the richer member states. On the contrary, we believe that there should continue to be EU-wide co-ordination of regional policy in all member states, so that we continue to work towards shared goals across the Union.

Mr. Simon Thomas: I would be interested to hear the Minister elaborate on that point. He said that one of the Government's objectives was to give support to the poorest European states. We understand the thinking behind that, but that member state-led approach can ignore the real regional disparities that exist even in richer member states. Germany springs to mind as an example. West Wales and the valleys is poorer than Slovenia, yet his proposals would divert funds to Slovenia but not necessarily to west Wales and valleys. He needs to say a little more about what European perspective can be brought to bear to ensure that member states do not get away with not delivering internal regional equality. If he does not do that, people will lose faith in the European ideal.

Mr. Alexander: I have some sympathy with the hon. Gentleman's analysis, but no sympathy with his prescription. Of course it is a factual reality that there can be regions even in richer member states that continue to suffer deprivation and poverty. That is why, for example, the UK has such an active regional policy, which we have pursued with such vigour over recent years.

On the relationship between the role of member states and the role of the EU, let me offer a few more words by way of clarification. We have put forward proposals for an EU framework for regional policy whereby all member states would agree to a set of high-level, outcome-focused objectives for regional policy, which support the achievement of the Lisbon and Gothenburg

[Mr. Alexander]

agendas. According to our approach, member states would continue to share best practice and monitor progress through a process of peer review.

At the same time, however, we remain fully aware of the challenges faced by regions in the UK, particularly those with current objective 1 status—as we have been discussing—and we are determined to support their continued economic development. It is for that reason that we have made an unprecedented guarantee—if our reform proposals are accepted—to increase domestic funding for regional policy in the UK. If our proposals are accepted, we have undertaken to increase the domestic funding for regional policy by the amount that our regions would have received under a no-reform scenario in an enlarged EU. Of course, such a guarantee would not be possible if there was a major expansion in the structural funds budget. As was pointed out, any expansion would inevitably come at a cost to the UK taxpayer, leaving less money for national spending. That is why it is in all our interests to secure a fair budgetary deal for the UK as a whole.

The Government set out their detailed methodology for applying the guarantee in their written statement to Parliament on 11 December 2003. If our reform proposals were accepted, we would increase the domestic resources available for regional policy by the amount that our regions would have received under the current arrangements for allocating structural funds, were they applied under a no-reform scenario to an EU of 25 member states. In order to calculate the value of the guarantee, it will be necessary to know data such as the gross domestic product and employment statistics for the whole EU for the most recent three years available prior to the start of the next programme period in 2007. It is unlikely that the most recent data will be for 2001 to 2003. That information will not be available until the end of 2005.

The Commission's proposals for reform of the funds have set much of the context for the debate. The proposals were set out in its third cohesion report in February 2004 and in a package of draft structural and cohesion funds regulations for the next European Community financial perspective, published in July 2004. The Commission proposes to focus the expanded budget on three new priorities: a convergence objective, which, like the current objective 1, would be allocated to regions with a GDP below 75 per cent. of the EU average; a regional competitiveness and employment objective, to foster competitiveness and support labour market programmes in richer regions; and a European territorial co-operation objective, which would replace the current Interreg initiative to promote transnational and cross-border co-operation projects.

The Government have welcomed aspects of the Commission's approach, including its proposals, on the Lisbon and Gothenburg agendas, to strengthen the strategic focus of EU regional policy. However, we have serious concerns regarding aspects of the Commission's approach. First, it is dependent on an unaffordable expansion of the EU budget. The Commission is advocating a major—indeed, 33 per cent.—real-terms increase in the structural funds budget from €257 billion in the current cycle to €374 billion for the next EU financial perspective. Its proposals would require a significant increase in the contributions made by member states to the EU budget at a time when Governments are required to demonstrate budget discipline.

Secondly, the Commission's proposals fail to focus the EU's limited resources on its key priority of the economic development of the poorest member states. As was acknowledged, its proposals would lead to a 50:50 split of funding between old and new members and to the continued, wasteful recycling of resources between net contributors to the EU budget. Thirdly, the Commission's proposals do not go far enough to simplify the bureaucratic arrangements for implementing programmes or to give member states, their nations and their regions greater flexibility to deliver programmes that genuinely reflect local needs.

What would be the impact for Wales? It has been suggested today that the Commission's expansionist budgetary proposals may hold some attractions for some Welsh stakeholders. However, as I hope to explain, the Commission's proposals would offer a poor deal for Wales and no security for our poorer Welsh regions. By contrast, the Government's approach offers a genuine guarantee of continued funding for Wales and a fair deal for Welsh taxpayers.

First, it is important to understand that the Commission's proposals in no way constitute a credible offer of funding for the UK's regions. Net contributors to the EU budget, such as France, Germany, Austria, Sweden and the Netherlands, are firmly opposed to the Commission's budgetary proposals and share the Government's determination to maintain a total EU budget of 1 per cent. of EU gross national income. The Commission's proposals simply promise money from a pot that does not exist and which will not be agreed by member states.

Secondly, it is essential to remember that the UK is a net contributor to the EU budget and that all receipts from the EU will come at a cost to the UK taxpayer. This is not free money. We currently contribute about €1.60 for each euro that we receive. In order to continue to receive substantial structural fund receipts following enlargement, the UK will inevitably have to make much greater contributions to the EU budget, leaving less money available for domestic spending on regional policy in Wales and across the whole the UK.

As a result, increased contributions to the EU budget would reduce the amount of money that Wales receives in the form of a block grant under Barnett for regional spending and other domestic spending. In contrast with the Commission's proposals, the Government's guarantee represents a firm commitment, if our approach to reform is adopted, to increase resources for regional policy in the UK for the whole of the next structural funds cycle. We therefore believe that the guarantee offers far more certainty for Welsh regions than the Commission's unrealistic and unsustainable proposals.

The structural funds currently constitute only a small fraction of total expenditure on regional policy in the richer member states. Structural funds account for only one quarter of expenditure on regional policy in the UK and will, under any reform scenario, represent an even smaller fraction of total expenditure in the future. It is therefore far more important for the Welsh regions that

the Government should achieve a fair budgetary deal for the UK, based on a disciplined and sustainable EU budget, than that continued structural funds receipts should be secured in the next financial perspective on the basis of a budget that we do not regard as being a credible way forward.

Mr. Simon Thomas: Does the Minister not see that, for many people in Wales, the difficulty with his proposals is that he has set out an approach that does not inform the people in west Wales and the valleys how much money they can expect from the Treasury until at least the end of 2005, if not later? The suspicion must be that the Government are hanging on for favourable statistics before they can make their promise and commitment. In the meantime, there are proposals on the board from the Commission. He has described them as unrealistic, but they are supported by other member states. Can he not see the difficulty that his Government will be in this year in trying to advocate a policy that he cannot put a figure to? Until a figure is available, people will be deeply suspicious of what the Government are setting out to achieve.

Mr. Alexander: The hon. Gentleman raises a number of points; let me endeavour to answer them. First, on the timing in relation to the Government's position, as I sought to reflect in my remarks, the terms of the guarantee were offered in a written statement to Parliament on 11 December 2003. In that sense, it does not strengthen his argument to suggest that we are doing things on the basis of figures that may emerge in due course. On the substantive point that he raises, I would have more sympathy were the Commission in a position to give the exact cash figure that, under its proposals, would be achieved in Wales, or any other area that presently qualifies for funding, on the basis of the future financial perspective. However, nobody is in a position to give such an undertaking on the basis of negotiations that are presently under way. Simultaneous negotiations are taking place both on structural funds and support for them, and on the wider issue of the financial perspective.

It diminishes rather than enhances the hon. Gentleman's argument to suggest that somehow the British Treasury is at odds with the EU. It raises the question of whether there is a political motive for questioning the commitment of the British Government and at the same time upholding the integrity of the EU. That is a debate that I have had on many occasions with Scottish nationalists. It seems curious to be determined to prove the efficacy and success of a wider political union, but unwilling to accept the important contribution that the British Union makes to the livelihood and well-being of people in Wales.

I conclude by underlining again the Government's commitment to tackle persistent regional disparities in the UK. We accept that poverty still scars Wales, Scotland and other regions and nations in the UK. Perhaps the difference between the Welsh nationalists and the Government is that they still regard the English border as what is scarring Wales, whereas we see the challenge of addressing issues such as child and pensioner poverty. We are convinced that our reform proposals would ensure the best deal for the UK's nations and regions, while setting EU regional policy on a sustainable footing and ensuring genuine solidarity between member states.

Farming (Lewes)

3.28 pm

Norman Baker (Lewes) (LD): I am pleased to have the opportunity to raise a matter that is important for my constituency. Mine is a rural constituency that stretches from the coast up to the borders of Haywards Heath and Uckfield, and it covers a wide area. The number of farmers may be relatively small compared with the rest of the population, but what they do is important—beyond their numbers—in social, environmental and economic terms. In fact, according to the Library, they comprise 6.3 per cent. of my constituents, including spouses and partners.

There is uncertainty among local farmers about what the future holds for farming generally and for them in particular. That is not simply driven by the faster speed of life and the changes that are coming to the common agricultural policy. It is also about what strategic role the Government have in mind for farmers and farming in the 10, 20, 30 and 40-year scenario. Is it the Government's view that there should be a move towards self-sufficiency in food production or, at the other extreme, do they think that it does not matter whether we produce food, because world trade will take care of us? What is their view on that strategic matter?

For what it is worth, my view is that, in this uncertain world, we do not know where we will be in 20, let alone in 50, years' time. It would therefore be prudent for us to be more self-sufficient in food and energy than we currently are, in order to ensure that we are able to cope with potentially unstable geopolitical situations in the longer term. I am interested to hear the Minister's comments on that. We certainly do not want farmland to be transformed into housing estates and golf courses in such a way that any withdrawal of agricultural land cannot be undone in the future.

As for what the Government and the European Union are doing, I welcome the move towards a single farm payment. That is a sensible innovation, and I hope that it will be useful for farmers and for the environment. However, it is important to make the point that, for that system to work, there needs to be prompt payment to farmers. The Minister will be aware that there have been complaints over the years—indeed, I have written to him myself on some occasions—about the performance of the Rural Payments Agency.

If we are to get ownership of the single farm payment from the farming community, it is important that there are prompt payments. That means that payments should be made in December, rather than in January or February as is currently suggested. Will the Minister consider an arrangement for the historic element of the single payment scheme to be paid as an advance payment? Have the Government examined that and is he able to say something positive on it?

I also welcome the environmental stewardship scheme, which, again, is useful in providing both some sort of continuity for farmers and continuity of income. The only criticism I have is that the paperwork, particularly for the entry-level scheme, seems to be enormous. I spoke to some farmers this morning and they told me that they were concerned that they had to fill out lots of forms in order to qualify. In their view, that was a deterrent, although they will probably go along with the scheme. Of course, the Minister must be rigorous, to ensure that there is no fraud and to ensure that all the necessary points are covered. However, there is always a balance between proper rigorous control and not overburdening people with paperwork. I hope that he will bear that in mind as the scheme unfolds.

I want to discuss another important point. To prepare myself for this debate, I spoke to a range of farmers in my constituency. It is strange how many of them came up with the same points. That suggests that the points that I am making today are of general concern in my constituency and, perhaps, beyond.

One such point, which the Minister will be familiar with, is the uneven relationship that exists between the farming community—the suppliers—and the purchasers of their goods, particularly the supermarkets. That uneven relationship means that while the price paid to farmers for their produce has stagnated or fallen, supermarket profits have rocketed. For example, he will know that the price of a litre of milk in my part of the world was about 25p a litre in 1996 and it is now down at about 18.9p a litre—and that represents a marginal increase in the past year or so. That price is way below the price of almost 10 years ago. That is clearly not an economic situation that can be sustained indefinitely.

Let us consider the finished cattle prices situation. The Minister might know that in 1993, there was an average price of 128p a kilogram, which decreased to 90p a kilogram in 2002. As for the relationship between the suppliers and the supermarkets, there is, in my view at least, a damning statistic. In terms of finished cattle prices—the farm-gate prices—in 1988, 67 per cent. of the retail price was related to the producer. That percentage had dropped to 47 per cent. in 2003, which meant a further squeeze on producers and more profits for the supermarkets.

Of course, no one is against profits. We all adhere to a capitalist society these days. However, it is worth pointing out that Tesco is scheduled to make £2 billion this year and it will make a profit of some £115,000 in the time taken by this short half-hour debate. In other words, it will probably make more profit in five minutes than some of my farmers will make in an entire year. That is a rather uneven relationship—one that the Government ought to correct.

The Minister will be aware that the Office of Fair Trading has been involved in this matter and that it concluded the last time it considered the matter in a rather peculiar manner that, although there was a problem, the OFT was going to do nothing about it. It has now done some further work, as he will know. Perhaps he will enlighten me on that in his response. Part of the work involved obtaining information from supermarkets by conducting a focused compliance audit of each of the four supermarkets, dealing with suppliers.

I welcome that approach, because clearly no one will complain directly about the supermarkets—not because there is not a problem, but because they are frightened of being squeezed out if they do so. They think that they will be picked on if they make a complaint. It is therefore important that an independent rigorous way of analysing the trade between supermarkets and suppliers exists, to pick up what most people think is going on, which is that supermarkets are exploiting their suppliers, particularly the farmers. I hope that the

Minister will be able to say something positive about that. I wonder whether he has considered the idea of either a food trade inspector in the OFT, which my party supports, or a buyers' charter, which the National Farmers Union has put forward as an alternative.

The consequence of the uneven relationship is that some farmers wonder why they are in the business at all. They look at the money that they are earning and what they are paying their employees; they see that they are not able to provide money for reinvestment and they do not feel that they are getting a fair wage. One tenant farmer said to me this morning that he may as well hand back his land to the landowner. That is a sad state of affairs.

We want our tenant farmers to survive and we want a diversity of farmers in this country, rather than a decreasing number of ever-bigger farmers. That is the way to help social cohesion as well as to provide diversity in the agricultural sector. Does the Minister agree that we should not necessarily welcome the move towards fewer and fewer farms and fewer and fewer owners?

As for local matters, which follow on from that point, we must try to protect the local infrastructure, so far as we can, and we must also ensure that it is expanded wherever possible. There used to be a number of abattoirs in my constituency, but they have all closed. It is a long way to go to the abattoir in Guildford or the one in Broad Oak from my constituency. The ones in Wivelsfield and Ringmer have closed.

Consequently, animals are now being taken further to slaughter, which is bad, for animal welfare reasons. It is bad for the farmer for economic reasons and bad for the environment generally because it causes extra lorry journeys. The closure of small abattoirs and the need to travel further to have animals slaughtered has no benefit. What are the Government doing to encourage smaller abattoirs to open to serve local needs? The situation in this country is vastly different from that in France, where there tends to be an abattoir in each local area. Farmers are far more connected in that way to their local market.

The Minister will know the controversy that there has been over the possible closure of Hailsham market, which is a cattle market that serves my constituents, although it is based in the constituency of the hon. Member for Wealden (Charles Hendry). That market has had a sword hanging over its head. It is important that it survives, for the same reasons that I think local abattoirs should survive.

Local suppliers are important in other ways as well. A farmers' market takes place on the first Saturday of the month in the pedestrianised precinct in Lewes. It is tremendously popular and hugely successful. People like to have local markets and they like to buy local produce. They support such efforts in vast numbers and they are disappointed when they go to their supermarkets and find that they can buy one or two varieties of apples only, as opposed to the vast number of varieties that there used to be when there were greengrocer shops. Some of the varieties have come from France and elsewhere. Why is it not possible for supermarkets to have far more local produce? Why do none of the supermarkets in my constituency have a Sussex food counter? What is the Minister doing to encourage the retail trade to buy more products locally and to support local producers far more than it has done?

One consequence of not supporting local producers is that supermarkets ratchet up huge amounts of lorry miles transporting food hither and thither across the world. The supermarkets in our country alone accrue 670 million miles in lorry movements every day; that is the equivalent of two return trips to the moon. That statistic comes from data from the supermarkets themselves; I secured the information from them, and it is included in a report on supermarkets that is on my website. That is a gigantic amount of travel; it is unsustainable in environmental terms, as well as being undermining of local supply and produce.

It would be helpful if the country-of-origin labelling rules were tighter, so that people who want to buy British food can do so. Will the Minister look into that? Can things that are imported and then packaged in this country properly be described as British? I understand that that sometimes happens.

All the farmers I spoke to raised the matter of tuberculosis in cattle. It is a serious issue, particularly in my constituency and the Sussex area. One farmer who wanted to be identified—his name is Paul Collinson—tells me that he has a closed pedigree herd, but there are always TB cases in it so he cannot sell his pedigree cattle, expect to the Minister's Department. Testing takes two days, which slows matters down, as well as having a cost. He says that the Department no longer tests badgers, as it used to do some years ago. He also questions what the policy should be on the removal of roadside badgers. He tells me that the Ministry of Agriculture, Fisheries and Food—as the Minister's Department was then known—had a policy of removing such badgers until 1991, but that now, in Sussex at least, that is left to the farmers themselves to deal with, which is an extra cost to them. I do not know whether that is true, but perhaps the Minister can enlighten me.

There seems to be a proven link between TB in badgers and TB in cattle—I should point out at this point that I am my party's animal welfare spokesman. Does the Minister accept that that link is now established? We have been testing for a long time—we have had the Krebs report and other investigations—but nothing much seems to happen. What are the Government going to do to deal with TB in cattle? There are three possible ways forward: either the Minister must find a proper vaccine for cattle, which is my preferred solution if it can be achieved, or he must introduce a badger cull, which the farmers believe is necessary—although many people would be uncomfortable with that—or he must introduce compensation payments to recognise the fact that the Government are not solving the problem and that farmers are significantly out of pocket. Please will the Minister tell us what is the Government's policy on TB in cattle, with particular reference to my constituency, as my farmers would welcome hearing that?

I turn to a few small environmental matters that affect farmers. The Minister will be aware that new regulations will be introduced to deal with farm waste. As an environmentalist, I support the idea of ensuring that we deal with our waste properly, but can the Minister assure me that he has thought through the consequences of the regulations in relation to farm plastics? Will he

[Norman Baker]

ensure that there is a system in place to deal with farm plastics, including a national collection system, before the regulations come into force? We do not want a repeat of the fallen stock fiasco, which occurred when regulations and a system were in place. Will those regulations be in place? Will the National Farmers Union and others be properly consulted about them?

There are two further small environmental matters. Biomass has the potential to provide an income for farmers, particularly on set-aside land. I welcome that, and we should offer further encouragement to farmers to go down that road where that is appropriate. However, some of my farmers feel that the Government are not doing enough to promote that. What more will the Government do to promote the take-up of biomass on set-aside land?

Lastly, the Minister will be aware of an issue I raised in respect of the Clean Neighbourhoods and Environment Bill. Fly-tipping on farmland—and, indeed, on private land generally—is a significant problem. In a letter of 3 March, the Minister's colleague, the Minister for the Environment and Agri-environment said:

"The current defence of not knowingly caused or permitted will remain to protect innocent victims of fly tipping."

That is true up to a point, but there is still a requirement to remove the material, and I fail to see why farmers should pick up the bill for something that they have not done.

This has been a run-around-the-houses speech, but these are important matters for the farmers in my constituency. I look forward to hearing the Minister's reply.

3.45 pm

The Minister for Rural Affairs and Local Environmental Quality (Alun Michael): I welcome this opportunity to respond to what the hon. Member for Lewes (Norman Baker) referred to as a run-around-the-houses speech. I congratulate him not only on securing this debate, but on managing to pack in a whole series of questions, each of which would justify a short Adjournment debate on its own. In the last few minutes alone, he referred to biomass and fly-tipping. We have had exchanges on those issues, and I understand that they are important, but the hon. Gentleman has covered so many topics that I doubt that I can do justice to them all. All I can say is that I will write to him after this debate to deal with any topics that I do not have time to address now.

The hon. Gentleman began by asking a large strategic question about the future of farming. He related that to farmers in his constituency, but in order to answer it one has to look at the wider picture, as, indeed, he invited me to do. The Government's view is that our farmers need to be sustainable in terms of their income and viability for the future and need to be entrepreneurial in order to achieve that. The Government want to support farmers to act effectively as businesses, as many of them already do, instead of looking backwards to the period of subsidy, which led to a dependence culture, rather than an entrepreneurial one.

I am sure that the hon. Gentleman agrees with the steps that we have taken to work with the industry through the strategy for sustainable food and farming. This year is a year of massive change for the farming industry. It is the first year of applications for the new single payment scheme, to which the hon. Gentleman referred. The new environmental stewardship scheme will also be introduced, as will the whole farm approach, later in the year. Those are three vital building blocks as we move towards creating a sustainable future for farming and for food industries. In 2002—which is not that long ago, although it sometimes feels like long ago—we set out our vision for the long-term development of the industry. The theme of reconnection runs through that vision; reconnecting farming with the enhancement and protection of the environment, and reconnecting farmers with both their markets and the needs of society through higher animal health and welfare standards and higher food safety standards. It is an approach that has sustainability and sustainable development at its core.

I recognise that change is accompanied by challenges as well as opportunities. Not all farmers will find that transition easy; some farmers will have to change from their traditional approach, or make choices about whether they want to continue in farming. The hon. Gentleman is right to highlight that. However, although some farmers will find it difficult to adapt, creating a market-focused and environmentally and socially responsible industry—which does things that the public want and that bring public benefit, but which is also market-orientated in terms of producing what the consumer wants—will offer great rewards for farming and society alike. We must not lose sight of the long-term outcomes that we seek to deliver.

3.49 pm

Sitting suspended for a Division in the House.

4.2 pm

On resuming—

Alun Michael: I was explaining how change is both challenging and beneficial to the farming industry. It is worth underlining the fact that the groundbreaking deal that we secured on the reform of the common agricultural policy removed the link between production and subsidy for the first time. That decoupling is integral to the vision of reconnection that I referred to earlier and will help to deliver an increase in returns from farming.

Economists from the Department for Environment, Food and Rural Affairs estimate that on average farm incomes could rise by about £100 million relative to what would have happened in the absence of a single payment scheme. That represents about 3 per cent. of total income from farming in 2003. Many small farms are also very competitive and are being developed by farmers as effective businesses.

The hon. Gentleman's suggestion that we should not simply sit back and allow farms to increase in size is understandable, but an increase in size is one way to achieve efficiency and sustainability in parts of the farming industry, although there are alternatives. Diversification is one, and increasing returns to the farm as the primary producer is another.

I would cite two examples in Sussex. The first is the Sussex Downs Conservation Board, which is working with a number of farmers to produce south downs lamb as part of a range of locally branded products being developed under the south downs landscape enhancement initiative. The project aims to boost the sale of local products and help sustain the south downs habitat, so there is an economic benefit to the farmers and an environmental benefit to the area. We have helped that through the rural enterprise scheme.

The second example is the Sussex producers consortium, a group of livestock producers working together to process and market their meat and meat products. They have taken a 50 per cent. share in a meat pie making company, ensuring that they get a better share of the retail price and enabling local produce to be sold locally. Those are two examples, and there are many other ways in which farmers can ensure that they get a better return for their work.

The hon. Member for Lewes welcomed the development of the single payment and referred to the welcome received by the high level stewardship scheme in the last week or two. He asked about prompt payment. It appeared to me that he was talking about early, rather than prompt, payment. The Rural Payments Agency was engaged in a considerable period of change when it was given the task of implementing the CAP reforms. It faces a challenging time, but neither it nor we have underestimated that challenge and we are confident that the RPA will deliver.

It must be pointed out that the payment window for the single payment scheme is from 1 December 2005 to 30 June 2006. That means that a payment on 28 June would not be a late payment. However, that is not what we are aiming for. We are aiming for payment as early as possible within the window, but we need to be realistic. The agency will aim to make as many payments as possible as early as practicable within the time scale. That remains the case. Payments are likely to be made from February 2006 onwards, well within the payment window. In response to the hon. Gentleman's question, we have asked officials to investigate the options for interim payments, and they are due to report back to me shortly.

The benefit is that as a result of the changes it should be possible to make payments in future years even earlier in the payment window and to give greater certainty to farmers as to when they should expect those payments, because this is the year of transition and great challenge. We have a transitional year in which we want to help farmers to as great an extent as we can, and are investigating ways to do so. We will announce the outcomes of our deliberations as soon as we can. We are working closely with the industry and the representative bodies on those issues.

The hon. Gentleman also referred to concern about the power of supermarkets. We share that concern. The issue is what one can do to make sure that we achieve a fair outcome without damaging competitiveness. That is why we were keen to encourage the Office of Fair Trading to undertake its review of the operation of the supermarkets' code.

The hon. Gentleman was right to say that the outcome of the review was disappointing in that it did not point to specific actions. However, that is why the OFT commissioned a focused audit of supermarkets' dealings with suppliers following the review. That is due to be published in the next few weeks, and we should consider its findings and recommendations carefully. I have no doubt that Members such as the hon. Gentleman, who represent seats with a considerable farming element, will want to look at those recommendations and debate them with Ministers as soon as the report becomes available.

It is also worth pointing out that for the most recent months where figures are available, the price of milk is 19.12p per litre. Despite fears about what would happen, the average farm gate price—18.56p per litre—was actually higher in 2004 than 2003. That was the highest since 2001. The University of Manchester report, "Economics of Milk Production, England and Wales; 2002/03", found that 60 per cent. of milk produced in the UK was produced at a profit, but that that production was by 40 per cent. of dairy farmers. Clearly, there is a huge disparity in the costs of production and profitability. Figures going back further than the past few years show that over a longer period the issues of profitability in the milk industry form a pattern that requires close scrutiny.

The hon. Gentleman referred specifically to TB. Bovine TB is one of the most difficult animal health problems facing Government and the farming industry in Great Britain. We are committed to finding the best way to combat the disease, backed by available evidence and taking account of all interested parties, including the taxpayer. Some 5.7 per cent. of herds were affected by TB restrictions at some time during 2004 and 2003.

The number of new incidents in 2004 was slightly up on 2003; 3,313 compared with 3,220. Those are the provisional figures that we have. Several key measures are being introduced, including the emphasis on keeping areas clean and reducing TB in hot spot areas, the new surveillance measures announced last autumn, and the work with the farmer-chaired stakeholder group to finalise a detailed proposal to implement pre-movement testing of cattle. Those proposals will be subject to further consultation.

It is worth remembering that in 2003–04 we spent more than £15 million on research, covering among other things the transmission of bovine TB within and between species. Research included the randomised badger culling trial, improved diagnosis and vaccine development. I know that the hon. Gentleman has asked in the past about the possibility of vaccine development as a means of dealing with the issue.

A limited road traffic accident survey is being conducted in seven counties of England. They are the lower-incidence-comparative counties of Cornwall, Devon, Gloucestershire, Herefordshire, Worcestershire, Shropshire and Dorset. Farmers outside those areas can submit badger carcases for private post mortem at the Veterinary Laboratories Agency, but that involves a cost. The fact is that dealing with bovine TB is far from easy, and the trouble is that some outcomes of the work done in Northern Ireland have been presented in some parts of the media as if they provide an instant solution. I think the hon. Gentleman will be aware that they do not. There were considerable reservations about some of the conclusions that the industry jumped on.

[Alun Michael]

One point I would make to the hon. Gentleman is that the sorts of examples I gave earlier about how the farming industry is making itself competitive nationally, and locally, by getting a more effective return for the farmer, require the industry to take the lead. The purpose of government is to work alongside and support the industry to become more effective and competitive, but the ownership of becoming truly competitive and effective must lie with the industry. Many farmers are demonstrating what can be done to change and become successful.

We are committed to supporting the farming industry through the current period of change in order to leave it well equipped to succeed in the future. In particular, we will launch a business advice service aimed at getting farmers to grips with the business implications of CAP reform. That will complement existing technical advice on issues such as cross-compliance, pollution minimisation, and conservation. Such headings indicate the sort of adjustments with which farmers have to cope.

We are also supporting bodies such as the Food Chain Centre, English Farming and Food Partnerships and the dairy, red meat and cereals industries forums to help the farming industry improve its own competitiveness. The methods for that must be collaboration, co-operation, benchmarking, and the sharing of best practice, as well as the identification of solutions to sector-specific issues.

The hon. Gentleman referred to fly-tipping on farmland as one of his specific queries. Again, there is a considerable amount of detail, so I repeat my offer to write to him about some of the issues I have been unable to cover in full during this short debate. The Government are committed to tackling the problem of illegally deposited waste or fly-tipping. It is a huge antisocial problem, affecting local authorities, the Environment Agency, other organisations, landowners and farmers.

The hon. Gentleman referred to the key component of the Clean Neighbourhoods and Environment Bill, which is with the House of Lords. I hope that its provisions will assist the Environment Agency, local authorities and victims of fly-tipping, including farmers, and reduce that nuisance.

Cost-effective Buildings

4.15 pm

Dan Norris (Wansdyke) (Lab): The title of this debate will be a mystery to many of those people who do not live in or near my constituency; however, the debate has come about is because of the bitter experience of council tax payers in the north-east Somerset part of my constituency. It has been a sad and sorry tale. I am referring to the Bath spa project, a new, modern and exciting development that has tragically gone wrong. It is at least three years overdue and at least three times over budget, costing about £35 million when it should have cost £13 million. About £5 million of additional costs will take the project up to £40 million, and there is still no opening date.

Although I know that the Minister is well briefed about the matter, perhaps I can explain to him a little bit about the history of the project. It was announced in 1997 that the Millennium Commission had agreed to pay about £7 million towards the project. Latterly it gave about an extra £1 million, giving it a total of about £8 million. It was announced also that the local council, Bath and North East Somerset council, would contribute about £3 million, and that a private operator would make an additional contribution of about £2 million to make a project total of about £13 million.

Through no one's fault, the project got off to a bad start. Excavations at the site were protracted. Bath has historical importance, and it is important to ensure that when new buildings are constructed, one knows what historical damage one is doing. That was a necessary delay and was compounded by nature, as mallards were nesting on the site and had to be left there before construction work could start.

The start was hopeful, but sadly progress was slow. In 2000 a key decision was made about the financing of the project. It is often referred to as the time when councillors signed a blank cheque and effectively underwrote whatever costs might accrue on the project, simply because they had had little success in securing other funding. That is regrettable and should have rung the alarm bell that they were likely to get into deep water. If private initiative examines a project and realises it cannot make money, that should be a clear indication to a local authority, whose job it is to provide cost-effective local services rather than dabble in the market and risk council tax payers' money.

With the benefit of hindsight, 2000 was a bad year. There was a hung council, and all the Liberal Democrat councillors, except those with a pecuniary interest, supported the project, and about half the Labour councillors supported the underwriting of the project. About half the Tory councillors supported the project, although that is denied by Conservative councillors. However, Councillors Bailey, Dewey, Hawkins, Kew and Organ are on record as having voted for the project, so perhaps they can write to tell me if they disagree.

The year 2001 was another bad one, with very little progress. It was significant because it was the year in which the Bath spa project was intended to open. The opening date came and went, and it turned out to be the first of six opening dates that have not been achieved. The council so lacks confidence that it is not prepared to say whether the project will open this year.

Then came 2003, which turned out to be yet another bad year. The three tenors gave a terrific concert, which was very well received by local people but, sadly, it was not possible for them to open the spa as planned. The four pools were filled with water, so everything looked fine from the outside when the media were allowed in to see the three tenors walking around the premises. However, most of that water came not from the thermal springs that make Bath famous but from the mains supply, because there was difficulty in obtaining sufficient water. Questions have been raised about the contamination of some of the spa's sources, but it is hoped that those can be resolved.

Then, significantly, peeling paint was spotted in the pools. At that time, it was expected that it would cost some £500,000 to correct. That might have been a subtle issue in the general scale of things, but council tax payers started to become very angry when they realised that, in order for them to enjoy the wonderful spectacle of the three tenors at the Bath spa project, cobblestones had been laid to make the area look attractive on the outside, although it was known that, only weeks later, they would have to be dug up at the cost of many tens of thousands of pounds. There is dubious benefit from the project to my constituents, who live in the part of Bath and north-east Somerset that is outside the city—in fact, many of them live closer to Bristol than to Bath—so the requirement on them to contribute to the project via their council tax had never been received with great joy. When they saw expenditure such as that on the cobblestones, they questioned the wisdom of the project, and asked whether there was sufficient skill and talent to manage it. It was being overseen by the council.

Then we arrived in 2004. That was a truly appalling year, a year that my constituents are unlikely to forget when it comes to the saga of the Bath spa. It turned out that a special paint was required for the pools and a special surface was also needed, so the previous estimate of £500,000 was incorrect. It was estimated that that would cost between £3.4 million and £4.3 million. That is a huge sum of money for paint for four small pools. In addition, it was decided that because the surface had to be scraped away and blasted off back to the concrete for the new surface to be applied, the original concrete steps were no longer adequate and what was needed to allow people to enter and exit the pools were stainless steel steps costing £500,000. In addition, the council announced that it had overlooked £300,000 in architect fees. The public were, understandably, very concerned. In fact, they were mystified.

Can the Minister shed any light on the saga of the huge cost of the paint? How was it not foreseen at the start of the project that such expensive paint would be needed? Why was the cost not factored in at the outset? The total that is to be spent on painting four small pools is something like the cost of a small primary school; we know how much more wanted and valued a school would be. The figure defied the belief of my constituents.

Now we are in 2005, and that started badly. The per-head cost, that is the extra cost over and above the original amount for every man, woman and child in the district, including people in my constituency and that of the hon. Member for Bath (Mr. Foster), turned out to be £116. To put that into context, it is nearly seven times the £17 per head that the millennium dome cost every man, woman and child. It is a stupendous figure, and one that has sent shock waves around my constituency and elsewhere in the area. The project is infamous not just among my constituents but across south-west England and beyond. Indeed, I have read reports from America about the farcical circumstances that surround it. The total cost has escalated from £13 million to about £40 million with hidden costs, and I suspect that it will be higher by the time the project is completed.

I should tell my hon. Friend the Minister that his intervention last month, when he visited the spa, was very timely and much appreciated. So far, I have not mentioned the fact that the project has been cloaked in tremendous secrecy. As soon as things started to go wrong in 2003 and 2004, media access to the project and to information about it was conspicuous by its absence, as was co-operation with representatives of the media who wanted to go inside and see what all that council tax payers' money was being spent on. That is why the Minister's visit was so valuable. He was able to call the bluff of the various parties. The construction company, Mowlem, said that it was happy for the media to attend, and claimed that Bath and North East Somerset council was causing the difficulty in terms of access. The council said the exact opposite—that it was happy for the media to attend, but the construction company had failed to let them in. A Shakespearian situation was set up. The Minister, having obtained unconditional access and agreement from Mowlem that he could attend and bring with him whomever he wanted, invited, through me, all the media.

Mr. Don Foster (Bath) (LD): Will the hon. Gentleman give way?

Dan Norris: I shall not give way now, but might do so if the hon. Gentleman tries again slightly later.

There was disagreement about who was responsible for the access—or the lack of it—by the media. I have here a letter from BANES' lawyers, Veale Wasbrough, dated 24 January 2005, writing to the solicitors who represent the construction company Mowlem; effectively, it is a letter from the council to the construction company. I shall not read it all, but the key paragraph says:

> "No statement or comment must be made to the press or in public with regard to the Project Works without the prior written consent of the Council."

I shall leave it for them to carry on arguing, but I know who my money is on as the cause of the difficulty about access.

The Minister came, the bluff was called and the media were allowed in. That was important and made a difference; huge public pressure developed as a consequence of people's knowing about the huge delays, and about the fact that all that money had been spent on the project, yet years on it was still a building site. Within about three days—on the Thursday following the Monday of the visit—the council and the construction company were having face-to-face meetings lasting for hours, whereas in the previous 12 months they had had hardly any face-to-face meetings at all. That was very helpful, and I thank the Minister for his important intervention. Without it, we

[Dan Norris]

would still be sitting there without media access and, I suspect, without discussion of the offer made by the construction company to complete the project in six months.

Mr. Foster: Will the hon. Gentleman give way?

Dan Norris: I want to push on. I shall give way to the hon. Gentleman if I can.

I must thank the Minister also for his frankness in discussing the competence of the council. The story is rather like that of the emperor's new clothes. The Minister came, saw and stated what everyone in my area really knew; the council had been incompetent in its handling of the project. That was confirmed, if confirmation were needed, by a television poll on BBC's "Points West" regional news programme on the evening of the Minister's visit. More than 1,200 telephone calls were received in about 20 minutes. Bath and North East Somerset council was backed by 11 per cent. of those who rang in—people who thought that the project had been handled in the right way—and 55 per cent. of callers wanted the construction company's offer to finish the project within six months to be accepted. However, amazingly, 33 per cent. were so fed up with the incompetence of BANES that they wanted the project to be abandoned, and no more money to be wasted on it. They had lost faith that it would ever be completed.

The whole affair has been a case study in how not to manage a building project and how to alienate council tax payers. Some years ago, would you believe, a council employee admitted on ITV West that the project was a loss leader. That was later denied, but was none the less said on camera. When I was in a live interview with the council leader on national breakfast TV, he just lost his temper; clearly he is not used to being criticised or asked questions about the project. I suggest strongly that he surround himself with people who do not just say yes all the time.

A year ago, I believe that the Minister set up a confidential meeting between the three parties; the council, the construction company and the architects. Unfortunately, that confidential meeting was undermined by the fact that it was leaked to the media by councillors from Bath and North East Somerset council. That was terribly unhelpful. Litigation has been rife in this matter; all the parties have been sending legal letters left, right and centre. As I understand it, only last year that council had to pay legal bills of £500,000. There is a lot more of that to come, I am sad to say.

In many respects, the council has been irresponsible in how it has dealt with the project. It produced a brochure that described what it was like to be in the spa, as if the spa had been open, and left us all with egg on our faces when people arrived from the USA, for example, only to find that it was not open. Motorway signs near the project still point to the spa, even though it has not been completed.

Mr. Bill Olner (in the Chair): Order. I remind the hon. Gentleman that this is a time-limited debate of only half an hour. I am sure that he wants the Minister to be given sufficient time to respond.

Dan Norris: Thank you, Mr. Olner; I shall respect that.

I say in conclusion that modern methods of construction should mean cost-effective buildings for council tax payers; buildings that bring pride, not ridicule. The problem with incompetent councils is that they are often way out of their depth and cannot deal with such things. I hope that Bath and North East Somerset council will stick to basics in future. The Millennium Commission needs to think about how and when it gives such large sums of money to organisations that are not up to scratch when it comes to fulfilling their commitments. The district auditor needs to be clear about how council tax payers can best be guaranteed to get value for money. The whole Bath spa fiasco has brought humiliation and damage to our area; it is like a "Carry On" film, but I am afraid that no one in my constituency is laughing.

4.32 pm

The Parliamentary Under-Secretary of State for Trade and Industry (Nigel Griffiths): I congratulate my hon. Friend the Member for Wansdyke (Dan Norris) on securing this debate on behalf of his constituents; the council tax payers, every man, woman and child of whom, I understand, is paying an estimated £116 for this absolute fiasco.

I should like to praise my hon. Friend. At times during the nine years of this fiasco, it must have seemed to him that he was a lone voice, speaking up and stating quite proper concerns on behalf of council tax payers. I am pleased that the vast majority of people in his and neighbouring constituencies now endorse what he is doing.

As the Minister with responsibility for construction, I like to get out of the Department of Trade and Industry once a week, if I can, and visit manufacturers, business groups and construction projects. Construction makes a great contribution to the UK economy. It is worth more than £225 billion a year, more than 8 per cent. of our GDP, and employs more than 2 million people in many of our leading companies and small businesses.

British architects are hailed around the world for their bold and gracious designs. British construction companies work in more than 100 countries. I have seen the work of Sir Nicholas Grimshaw, the architect of the Bath spa, on the fabulous Eden project; he is an architect of world renown. The contractor, Mowlem, also has an international reputation, with vast experience of bringing in projects on time and on budget. Both Sir Nicholas and Mowlem work with clients who are highly professional and highly competent, and who adopt modern methods of construction, consult our construction flagship body Constructing Excellence, examine the benefits of build off-site and look at best practice wherever that is found in the world. Such clients have achieved higher quality and better standards than ever before. They have reduced waste, cut deaths and are, I hope, achieving the target that I am setting of zero tolerance for any deaths in this great sector.

The best clients attain such a record. Sadly, neither Sir Nicholas nor Mowlem have found such a client in Bath and North West Somerset council—not at the inception of this ill-fated project, nor at the humiliating

appearance of the three tenors at the so-called opening in 2003, nor at the building site that is the Bath spa, which I visited a month ago.

My hon. Friend the Member for Wansdyke would not have called this debate if it were not that, as far as his constituents are concerned, there is no opening date, nor end in sight for this project. In any traditional JCT contract, the construction costs represent about 85 per cent. of the project and the consultants on-costs about 15 per cent. In the Bath spa project, the client—the council—forced down the construction costs to £11 million, less than 50 per cent. of the consultant's on-costs. To achieve that, it insisted on reducing the quality of certain items. The most staggering example was a £200,000 reduction in spending on paint. There is a highly specialised type of paint that makes baths watertight. The paint—Kartoxon paint—is used by pool contractors all over Europe. It was deemed too expensive and was substituted by a concrete that was merely painted with a cosmetic paint, in spite, I understand, of there being no track record of similar usage on any similar project anywhere else.

Half a decade later, when everyone accepts that Kartoxon is the solution to the Bath spa problem, the cost of rectifying that false economy of £200,000 has risen to more than £4 million. If that were the only failing of the client, Bath and North West Somerset council, it would be put down to inexperience or incompetence; costly, but no more than that. Sadly, it appears to have been only the tip of an iceberg of incompetence.

A year ago, aware that the Government have very limited powers to intervene in such cases, I contacted, in confidence, the three main parties involved. I invited the chief executive of Bath and North West Somerset council, Sir Nicholas Grimshaw from Grimshaw's and Sir John Gains from Mowlem to meet me in the Department of Trade and Industry, away from any blaze of publicity, to discuss my solution to their seemingly intractable problem. It was a simple proposal; that the client—the council—should instruct that the work be completed, and that the other two parties should agree to abide by any arbitration or court finding.

I was operating, in strict confidence, on the principle that the work that had stalled and been delayed for years should proceed, and that no party sitting around that table should undertake any face-saving in public. Although I secured the agreement of all parties that the meeting would be kept confidential to ensure that no one faced any accusations of backing down, the chief executive of the council told his leader, councillor Paul Crossley, about it, and he told a local newspaper. In effect, that sabotaged my attempts to resolve the issue, even before we were able to sit around the table. Sadly, I am told that there is a pattern of those councillors shooting their mouths off in public and jeopardising progress at almost every stage of the project, while costs have shot through the roof.

We have a deadlock with the council, but there is also a problem of facing facts. I am pleased to say that my visit resulted in a round-table meeting with Mowlem in the same week. During that meeting, the company followed up on an offer that it had already put in draft and in writing to the council. I hoped sincerely that progress would be made. However, the council is delusional. At the time that the council chief executive was writing to me that access to the media was entirely a matter for Mowlem and that the contractor, not the council, was blocking access, the council was sending—not in confidence—the letter from its solicitors to Mowlem that my hon. Friend passed me at the beginning of the debate, stating almost precisely the opposite. The letter censures Mowlem for briefing the press on a number of occasions.

As Mowlem made clear to me, in I think, the presence of all those present on the day of my visit, it was happy for the media to visit the spa. It is now clear to me that the council were not happy about that. The reasons are also clear; we are nine years into the project, £14 million, £15 million or £16 million has been spent and the bill is estimated by the council at in excess of £20 million, with estimates rising to £35 million. I have seen the figure put at £39.5 million, and I would be surprised if it stopped there. From those escalating figures, it is clear that the council has little or no intention of coming clean with the public on its handling of the case.

Mr. Foster: I genuinely believe that the Minister has misunderstood, or been misinformed on, a number of points. I draw attention to the fact that he has got the name of the council wrong. It is Bath and North East—not north west—Somerset council. He keeps referring to his visit as "the visit of the Construction Minister". Will he confirm the letter from his private secretary that I have seen, which says that, when he came to Bath in February, he did not come as the Construction Minister but in a private capacity?

Nigel Griffiths: I am the Construction Minister and I am addressing the debate as such. In checking the record, I am surprised that the hon. Gentleman has not sought an Adjournment debate on the issue. I am surprised that the excellent briefing I received from my civil servants shows that he has not sought an Adjournment debate before. To their knowledge, he has not asked any Department to help the council in trying to resolve the mess. We have a lot of expertise in the area. The sad fact that I conclude is that the most incompetent council in the country also has the weakest Member of Parliament. The problem is a council that is indecisive and a Member of Parliament who, because that council is run by his Liberal Democrat colleagues, will not stand up against them. We see many Members of Parliament having to do that in tough local situations in which we know that a council of the same political party is getting things wrong.

Mr. Foster *rose—*

Nigel Griffiths: I am happy to give way to the hon. Gentleman, because what we and the people of Bath want is an apology from him for the Liberal Democrats' handling of the matter.

Mr. Foster: The Minister is making the debate personal. I know that my time to intervene on him is brief, but I point out yet again that he has got so many of his facts wrong. He ought, at least, to know that, as his hon. Friend the hon. Member for Wansdyke pointed

[Mr. Foster]

out, Bath and North-East Somerset council is a balanced council and is not run by the Liberal Democrats.

Nigel Griffiths: I am afraid that the defence of, "It's not me, guv" is not good enough. It is not an excuse that my constituents would accept. I am sure that the hon. Gentleman's constituents would not accept it either. I have given him the chance to join us in criticising, if not condemning, the shambolic handling of the affair by his Liberal Democrat colleagues. I have thick piles of press cuttings. In them, I see not one word of criticism directed at his council colleagues on the issue. In the meantime, of course, the costs are escalating horrendously.

I understand that the council has in front of it a possible solution to the issue. The hon. Gentleman has written to me saying that he does not accept that that is a solution. The possible solution is a design-and-build completion to the project that would cap the spending at £26 million. I was hoping that the hon. Gentleman might, in his intervention, give me a progress report about the months since I went to Bath on exactly how far they are down the road in agreeing that settlement. The important thing is, of course, that a settlement must not prejudice what the people of Bath get at the end of the day. At the moment, that is, as far as I can see, the only solution on the table.

Mr. Foster *rose—*

Nigel Griffiths: I am happy to give way to the hon. Gentleman if he will endorse that solution.

It being fifteen minutes to Five o'clock, the motion for the Adjournment of the sitting lapsed, without Question put.

Westminster Hall

Thursday 10 March 2005

[MR. DAVID CHIDGEY *in the Chair*]

Working, Caring and Life Balance

Motion made, and Question proposed, That the sitting be now adjourned.—*[Vernon Coaker.]*

2.30 pm

Mr. David Chidgey (in the Chair): Before the debate starts, I advise colleagues that we are expecting votes in the Chamber this afternoon, probably at about 4.30 pm. I am not yet aware how many votes there will be, but I propose to suspend the sitting when the Division bell first rings until 10 minutes after the last vote is called in the debate on the Irish issue.

The Deputy Minister for Women and Equality (Jacqui Smith): It is a pleasure to open today's debate, not least because it links in with international women's day and is therefore an appropriate topic for discussion. The inspirations for international women's day were the efforts of female American garment workers who staged protests against inhuman working conditions on 8 March 1857, and the women who in 1908 marched through New York demanding shorter working hours, better pay, the right to vote and an end to child labour. Although we have come a long way on many of those issues, women in the United Kingdom still have concerns about equal pay and working hours, particularly the balance between paid working hours and the even more precious, although unpaid, hours that we spend outside work caring for our families.

The challenge now is to ensure that women have real choices in their lives: the choice to be able to balance the demands of their family and their career; the choice to aim for challenging and fulfilling jobs if they wish rather than having to settle for lower-paid, lower-skilled jobs when they are capable of so much more; the choice of affordable quality child care, available when they need it most at times that fit in with their working patterns; and choice on who takes time out to care for children, because joint maternity leave and flexible working patterns allow us to share care between partners.

By giving women choice, we are also giving employers the choice of a wider spectrum of talent, skills and experience to employ, retain and develop to the full potential. At a time of intense global competition, with technological change and consumer demands in the private sector and the need to develop flexible, high-quality public services, we must make the most of everyone's talents. We need to do more to break down barriers in the labour market. By 2010, there will be an additional 2 million jobs in the UK economy, 80 per cent. of which will be filled by women. The UK will need to draw on all available sources of untapped economic potential to continue to grow and prosper.

Women's experiences in the workplace have changed over time. In the days of the first marches for women's rights in the mid-19th century, 30 to 40 per cent. of women were in employment, but half of them worked in domestic service, and most of the rest worked in horrendous conditions providing a flexible, cheap and adaptive work force for factories and sweatshops. Invention then played its part and, in the late 19th century, the typewriter gave women a new skill and a job outside the home. Then, during the first and second world wars, women working in factories as part of the war effort found themselves a place as active members of society.

The 1960s and 1970s heralded a new age in the fight for equality. However, the struggle was long and uphill. For example, up to the early 1970s, even in civil service departments, such as the Foreign and Commonwealth Office, women had to resign on marriage. Throughout the 1980s and 1990s, more women went out to work but, throughout the United Kingdom, mothers had to make stark choices: return to work early and miss out on arguably the most important first year of a child's life or stay at home with the children, but then face the difficult task of trying to re-enter the labour market at a later stage.

Maternity leave and pay were limited. Part-time employment opportunities were rare or available only in low-skilled, low-paid occupations. There were no benefits for fathers or adoptive parents and the term "flexible working patterns"—never mind the practice—was practically unheard of. That meant that, for many women, caring responsibilities rested firmly at their door impacting on their career progression, their pension rights and their pay.

What has changed? I am proud that, since 1997, the Government have introduced the biggest ever package of measures to balance work and family life. We are nearly doubling maternity pay and extending maternity leave. We are giving fathers paternity leave for the first time; we understand the important role that they play in the raising of their children. We are giving both parents of young or disabled children the right to request flexible working arrangements.

Julie Morgan (Cardiff, North) (Lab): I support strongly what my right hon. Friend the Minister is saying about the benefits that have been introduced. Recently, the Equal Opportunities Commission in Wales carried out research among small and medium-sized businesses. It showed that those businesses have great difficulty in managing pregnancy and maternity leave in the workplace. The majority of businesses in Wales are small. Does my right hon. Friend have any comments to make about how small businesses can be helped to manage those rightly earned benefits that parents now have in the workplace?

Jacqui Smith: My hon. Friend makes an important point. As we develop new provisions, we need to—as we did with the flexible working provisions—work alongside employers to make sure that, while we make change, we do so in a way that respects the burdens that may be placed on them.

My hon. Friend referred to the EOC's inquiry into pregnancy discrimination. However, we can do more to make sure not only that mothers understand their rights during pregnancy, but that employers understand their responsibilities. As we suggested in the working families

[Jacqui Smith]

consultation document to which I shall refer later, we could open up better routes for employers to communicate with mothers even during their maternity leave and perhaps gain more certainty about when people will return from maternity leave. That would be an important way in which to help employers to cope with what undoubtedly will be some disruption in their businesses. Employees must clearly understand, too, that, unless we can maintain decent working conditions and give women the opportunity to return to work after having children, that will disbenefit both mothers and businesses. There is a variety of ways in which we can make sure that the worries rightly raised by my hon. Friend are dealt with.

I have emphasised that the way in which we have introduced flexible working legislation is not only about helping families to find solutions that fit their individual needs, but giving parents and employers the tools with which to work together to find solutions that will benefit all concerned. By all accounts, such a development was long overdue. In the first year of the legislation, nearly 1 million parents have changed their working hours in agreement with their employers to suit their family needs. That legislation has driven even further cultural change and change in practice, with seven out of 10 employers being willing to consider requests from employees for flexible working arrangements.

Ms Karen Buck (Regent's Park and Kensington, North) (Lab): Can my right hon. Friend explain the gender breakdown of the 1 million parents who are seeking flexible working arrangements? She may be aware of the research undertaken by the Fawcett Society, which shows that, unless we move further and faster towards encouraging fathers to take full advantage of such provisions, we may inadvertently end up trapping women even further in the double bind of combining employment and caring responsibilities. She has mentioned fathers, but could she say a little more about what we might be able to do ensure that it is not just women who have to carry the burden of the dual role?

Jacqui Smith: I shall come back to fathers later. Of the nearly 1 million parents who have gained from the first year of flexible legislation, the vast majority are mothers. It is often not fully understood that this right is open to both mothers and fathers. We need to do more to ensure that fathers are given support to enable them to take responsibility for caring. I agree with my hon. Friend that that is an important way in which we need to make progress.

I was going to touch on the benefits not just for families and children but for business from the ability to work more flexibly. If parents can remain in the work force, companies and businesses clearly benefit. They benefit from retaining key skills and experience. The company reduces its turnover. Absenteeism and recruitment costs are down too. The work force are more committed and contented, which in turn increases productivity. In the long run, more profitable companies mean a healthier economy and greater prosperity for us all.

There are more women in work today than ever before. More than 1 million women have found work since 1997. With 14 million now working in Britain, we have one of the highest female employment rates in the world, but we have also had to take action to ensure that work pays. Women are the biggest beneficiaries of the national minimum wage. They number around 1 million, and they will see it increase this October from £4.85 to more than £5.

Some 5.9 million families and low-income households are benefiting from the tax credits introduced in April 2003. Any family with children with an income of less than £58,000 will be eligible for some support. The lone parent employment rate stands at a record high: nearly 1 million and up nine percentage points since 1997, with 277,000 more in work than in 1997. We are committed to helping even more lone parents move into jobs through accessible tailored employment advice and the opportunity to gain skills.

Women are increasingly successful in business and in starting up their own businesses. There are now more women starting a business or becoming self-employed than ever before. There is more that we can do here too. That is why we have brought together successful women entrepreneurs to advise the Government on how we can reach our target of ensuring that one in five businesses is owned and run by women.

I was pleased on Tuesday to be able to host a reception at Lancaster house for women who had set up in business, those who support them and those who contribute to the national women's enterprise panel. It was—I hope that this is not an unparliamentary term—an extremely "buzzy" event. There was a lot of excitement and interest, and the commitment and enthusiasm that one finds from women who have started up and those who want to take that step into enterprise.

Despite the progress, there is still more that we need to do. Why is what has happened already not enough? It is not enough because we want to give every child the best start in life and to give parents and carers even more choice about how to balance their work and family life. It is not enough because we want to respond proactively to the changing work patterns and ensure that parents, particularly mothers, can meet their children's needs without sacrificing their future pay, pensions and career prospects. It is not enough because we have to acknowledge our changing demographics and accept that as people live longer, caring responsibilities change. In some families, mothers or fathers have to care for children at one end of the scale and for elderly or infirm relatives at the other. Broadening the criteria for flexible working could allow women and men with wider caring responsibilities the additional flexibility that they need.

That is why, last week, we launched our "Work and Families: Choice and Flexibility" consultation document. Our commitments outlined in that document will help us to deliver our vision for families, ensure that all children have the best start in life, respond to changing patterns of employment, and give parents more choice about how to balance work and family responsibilities. We want to hear first-hand from employers, employees, parents and carers on how we can get the detail right for the benefit of everyone.

Ms Meg Munn (Sheffield, Heeley) (Lab/Co-op): Does my right hon. Friend not agree that the issue is important for everyone, because any of us could at some time find that a close relative is in need of care or assistance, through an unforeseen illness, accident or the like? These policies will provide help for everybody, not just those traditionally seen as carers—that is, women of a certain age with younger children—but, potentially, the whole population.

Jacqui Smith: My hon. Friend is absolutely right. The policies recognise that, increasingly, the ability to work flexibly and to have time off in emergencies is of significance, and not just to those with young children, but more broadly across society. That is how we ought to address the ideal of how we need to organise our working and our lives outside work.

At the heart of the progress that we need to make, according to the consultation document, is the fact that we do not want to force women to return to work because of financial constraints before they choose to do so. That is not good for them, their families or their children. We want maternity pay increased to nine months in the first instance, and to cover the whole 12-month period by the end of the next Parliament, but we also want to give families the choice to decide how care is best shared.

My hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) was right to emphasise the position of fathers, not only because of the care that they want to contribute, but because of the important message that that sends about caring being something that both genders do; it is not solely the responsibility of mothers. Fathers have told us that they want to play a greater role in bringing up their children, including during that crucial first year of a child's life. That is why we propose to make some of the extended maternity pay transferable to the father.

As I mentioned earlier, as a priority, we would like to extend the right to flexible working to those caring for elderly or sick relatives and older children. We estimate that there are around 5.3 million carers of working age, 3.5 million of whom both work full or part time and provide some form of unpaid care. Many carers struggle to balance their work and caring responsibilities, and often have to give up work altogether. Once that happens, many remain out of work for several years, and that makes it much harder for them to return to work later. Progress in that area would build on the action already taken through the national carers strategy, which was developed in 1999 with carers and the organisations that represent them.

The Government are committed to ensuring that good quality affordable and accessible child care is available to give those parents who wish to work, train or learn the opportunity to do so with the confidence that their children are being cared for in a safe and stimulating environment. It is clear that parents place their children first and want to be reassured that the provision that they are receiving is of the highest possible quality.

By 2010, if our plans go through, all families with children aged up to 14 who need it will have a child care place available for their children from 8 am to 6 pm all year round. That is not because many parents will want their children to be in child care from 8 am to 6 pm, but it is important that we develop more flexibility. On top of the 1.2 million extra child care places that have been created, we need to give flexibility to those whose children are in school, for example, for whom a bit of care before or after school can make a significant difference to whether and how they are able to work.

Sandra Gidley (Romsey) (LD): This child care place from 8 am to 6 pm would have been useful when I was a working parent, but I am still unclear who will provide it. Are the teachers expected to provide some sort of supervision? This often happens on school premises. I have spoken to head teachers who are concerned about that and say that there needs to be some overall supervision. Is the plan to increase the number of child-carers in some other way? Will the Minister elaborate on how this will be achieved?

Jacqui Smith: I am sure that the hon. Lady has examples in her constituency, as I do in mine, of sensible partnerships between a school and child care providers—possibly publicly funded, and sometimes privately funded—using school facilities. This provision is not about extending the teaching day, but is about using the facilities that are often in schools in partnership with other child care providers to ensure that those opportunities exist in, or close to, schools or are offered by schools working together to provide them.

There will need to be further investment—if that is what the hon. Lady is pressing me on. We have been willing to put considerable investment into child care and are committed to further investment, as the Chancellor made clear in the pre-Budget report, to ensure that we can develop not only the places, but the flexibility that is available to parents.

I hope that all the measures will allow women the opportunity to choose to work, if they wish to, but there is a lot more work to be done to ensure that women get a fair deal once they get to work, which is why we set up the Women and Work Commission, under the chairmanship of Baroness Prosser of Battersea. The causes of the pay gap—which is at the heart of the work of the commission—are not simple and it is essential that we understand how to crack them.

The commission's work on the pay gap and the reasons why women fall into it are important. Women particularly fall into low-paid occupations. The commission produced its interim report this week and acknowledged the Government's commitment to gender equality and the high-profile debate on child care and work-life balance issues, but it lays down some challenges for us, too. One issue identified in the report is that the pay gap is often affected by the sectors in which women work, which are predominantly the five Cs—cleaning, catering, caring, cashiering and clerical work. The commission plans to consider the reasons behind that occupational segregation—not that those jobs are not important—so that we move away from women being concentrated in a small number of lower-paid occupations.

The commission will consider in more detail the reasons behind occupational segregation—why men and women do different jobs—female access to so-called

[Jacqui Smith]

male jobs and what happens to women in those jobs. I look forward to the commission's final report and the conclusions of the Select Committee on Trade and Industry, to which I gave evidence earlier this week, which is carrying out an investigation into the link between occupational segregation and the pay gap. We welcome sound ideas on how the persistent issue of the gender pay gap can be tackled once and for all.

This debate gives us an important opportunity to consider what more we need to do to give every child the best start.

Sandra Osborne (Ayr) (Lab): I welcome the Minister's comments on dealing with the pay gap, but does she share my surprise about the number of women in Great Britain who are still sacked for being pregnant and is she aware of the campaign by the Equal Opportunities Commission, which has published research showing that 30,000 working women are sacked, made redundant or leave their jobs every year due to pregnancy discrimination? What are her views on that and what can the Government do about it?

Jacqui Smith: I am aware of that research and I am pleased that the Equal Opportunities Commission has focused some of its attention on pregnancy discrimination. Two undesirable elements are at work here. First, in some cases there is outright discrimination against pregnant women—that is clearly discrimination under sex discrimination legislation. Secondly, there is sometimes a lack of understanding both by women of their rights during pregnancy and by employers of their responsibilities; that links in with the point made by my hon. Friend the Member for Cardiff, North (Julie Morgan). We welcome the EOC's interim report, and we have responded to some of the recommendations. I look forward to the publication of the final report, and especially to its recommendations on what more we can do to address these issues, and the unacceptable discrimination against pregnant women that has been identified by my hon. Friend the Member for Ayr (Sandra Osborne). We will look carefully at recommendations on those issues.

I would now like now to draw my remarks to a conclusion.

Mr. David Drew (Stroud) (Lab/Co-op) *rose—*

Jacqui Smith: I thought I might invite another intervention by saying that.

Mr. Drew: I missed the first couple of minutes of my right hon. Friend's speech, and I apologise for that. Would she care to say something about the voluntary sector, which we commend? Those who work in it—men, as well as women—who are not volunteers but who are paid for their work are often among those who are most discriminated against, in that people assume that they can work longer hours for less money and that they can make up for whatever time needs to be made up through their own volunteering. Does my right hon. Friend agree that, as the voluntary sector grows, we must pay attention to that issue?

Jacqui Smith: My hon. Friend is right that the voluntary sector makes a massive contribution—sometimes, of course, it makes it in areas such as child care and caring for others—and that both those who do paid work and those who do voluntary work within the sector make a massive contribution. We must address how we, as the Government, and how the public sector in general can provide not only better support but more coherence in our relationship with the voluntary sector, and thereby perhaps enable it to have more certainty of funding and greater ability to pay decent wages. That has been part of the work that has been developed through the compact initiative, as well as through a variety of other areas of work that the Government have done in looking at the important contribution made by the voluntary sector.

I was drawing my speech to a conclusion. I was saying that I hope that we will be able to consider in this debate how we can give every child the best start in life. How can we better support mothers and fathers, and give them real choices about how they balance their work and family life? How can we thereby support businesses by broadening the talent pool that is available, and by offering a wider choice of skills and experience? How, at the foundation of all of these endeavours, can we strive to create a future where everyone has the opportunity to maximise their potential?

2.58 pm

Ms Meg Munn (Sheffield, Heeley) (Lab/Co-op): I am delighted to have an opportunity to participate in this important debate, which is in the same week as international women's day.

I welcome the Government's goal of providing 12 months' paid maternity leave by the end of the next Parliament, and in particular the proposals for a law to enable mothers to transfer part of their maternity leave and pay to fathers. That will help to give children the best start in life by providing parents with a choice about who wants or needs to be the main person looking after their new baby. It will also allow mothers to return to work earlier if that is required or what they wish to do. It also responds to the call by many fathers for them to be assisted to stay at home and care for their children in a way that is not generally possible.

This is a modern law that meets altered family patterns and gives greater equality to parents in the extremely important first months of their new child's life. More and more fathers want to play a greater role in those early years than their fathers were able to play. That can be enormously beneficial to the child. My right hon. Friend the Minister referred to the Department of Trade and Industry consultation document. It stated that when

"fathers play a greater role in bringing up children, this can lead to strong, positive educational effects later on in the child's life".

Last summer, I visited Denmark on holiday and was delighted to meet up with an old work colleague. He had married a Danish woman some years ago. They settled in Copenhagen and had three children. As everyone knows, the level of support for families in Denmark is higher than in this country and has been for many years—as are its tax levels, which he was less encouraging about. However, he particularly prized the ability that he and his wife had to spread the available

maternity leave between them. They could choose the arrangement that made sense to them in their circumstances. He was just about to go on four months' leave following the birth of their latest child.

The introduction in December 1999 of the entitlement to 13 weeks' parental leave per child—albeit unpaid—was an important move towards giving fathers the opportunity to spend time with their children while they are young. That was further strengthened in 2003, when the Government introduced two weeks' paid paternity leave. However, family patterns are changing and in no area of life could it be more important to give parents a real choice about how they manage all the family's needs: the need physically to care for a child; the need to earn a living; and, importantly, the need for both parents to form an emotional bond with their child and to take an active part in their child's life, particularly in those important early years.

The Union of Shop, Distributive and Allied Workers recently launched a campaign on supporting parents and carers. It is concerned that many new mums are being driven back to work too early because they cannot afford to take their full statutory maternity leave. It undertook a national survey and found that 78 per cent. of new mothers would have liked more time off with their new babies, but they went back to work an average six weeks before their statutory maternity pay ran out.

Ms Buck: Does my hon. Friend agree that polling evidence conducted by other organisations confirms that parents rank the need for flexible working entitlements when their children are in their teenage years very highly? I am sure that that applies in relation to other groups, too. It is right that we lay the foundations in early years. However, does she agree that one of our most important next stages is to support families whose children are in that difficult transition period of entering secondary school?

Ms Munn: My hon. Friend rightly spots that I have concentrated so far on the early years, and I shall continue to do so. However, the years that she mentions are important and an equivalent of a Sure Start for teenagers has been suggested. It would recognise the difficult challenges that families face at that time and examine how we can support parents in dealing with them. I said that any of us might need to work flexibly because of various caring reasons, be they family, illness, or age and disability as our parents or partners get older. The flexibility argument is important throughout.

According to the USDAW survey, a number of mothers felt that they needed to go back to work for financial reasons. Two thirds of those who went back early did so because they could not afford to stay off. The union found that the average cost of taking 12 months off was £7,000—a sum that is beyond the means of many workers. That does not just apply to mothers: fathers face the same economic dilemma. Every father who was surveyed wanted more paid paternity leave. They simply could not afford to take extra unpaid to leave to spend time with the newborn child. The ability for parents to share parental leave between themselves will offer many fathers more opportunities to spend time with their children.

Of course, businesses, particularly small ones, as my hon. Friend the Member for Cardiff, North (Julie Morgan) noted, need to consider the effects on them of any changes to those rights. Many sectors of our economy rely on female workers—USDAW points directly to the retail sector—but with businesses getting at least 92 per cent. of the cost of statutory maternity pay from the Government, and with small businesses receiving more, cost should not be a major concern.

Research by the Equal Opportunities Commission shows that on average only 3 per cent. of any work force will be on maternity leave during a year. Last year, as my hon. Friend the Member for Ayr (Sandra Osborne) said, the commission reported that 30,000 women a year lose their jobs because of pregnancy. Women who are properly supported before and during maternity leave feel motivated to go back to work and to stay with the same employer, so there are benefits to businesses in well managed maternity leave. Retaining highly trained employees of both sexes is important in business, especially in today's economic climate, in which getting well trained staff is not always easy.

Again, we can look to the Scandinavian countries. We know that the provision of child care matters, but a child-friendly society also needs parent-friendly workplaces. There is evidence to show that family-friendly companies are more productive and economically successful. For example, Finland has achieved the enviable goal of becoming one of the most productive economies in the European Union, with high levels of female participation in the work force and the EU's highest birth rate. We spend a lot of time discussing the problem of pensions and how we will support an ageing population. We have a declining birth rate, and there is evidence to suggest that that is not a matter of choice for many families, but a matter of practicalities. By making it easier for families to manage work and home life, more will be able to choose to have the number of children that they want.

The key to many successful businesses is flexibility. Businesses that recognise that their staff have lives outside work are more likely to retain them. However, the issue is not just about economic success either for individual companies or for the country as a whole. Children are the future of communities. Britain is known for having a long-hours culture and for being a society that is not friendly to children. The proposals are an important step in changing that culture and our society. Recognising the individuality of families, work patterns, ages of children and existing support from extended family members, it is obvious that choice has to be central to supporting families in work. They are a key building block of our society, and a thriving economy enables not only families to have a good standard of living, but our society to afford the excellent public services on which we rely.

I welcome the publication of the DTI's consultation paper, aptly called "Choice and Flexibility", and I look forward to the aims becoming a reality for all families in Britain.

3.8 pm

Julie Morgan (Cardiff, North) (Lab): This important debate takes place in the week of international women's day and very soon after mother's day. In Wales, we also

[Julie Morgan]

have St. David's day on 1 March, so in my mind the three are mixed up together and symbolised by a daffodil. I do not know why, but that is how I see it. This is a week in which we traditionally consider issues relating to women and all aspects of their lives, and this debate concentrates on the important subject of working, caring and how we cope with doing everything while juggling different tasks, as women have to do every day of their lives.

Before I cover that in depth, I want briefly to say how much the Government's policies since 1997 have improved the situation for women, not only in terms of work and the work-life balance, but in the many areas that affect women's lives. I want to mention in particular the huge steps that we have made on domestic violence, which has a big impact on all women's lives. On 8 March—international women's day—I was pleased to take part in an international video conference with other women MPs. We spoke to African women MPs about their experience of domestic violence, and it was a thrilling occasion. We found that we had so much in common. The issues were the same, and the same is true of balancing our lives, work and caring duties. Those are international issues, and it is good to consider what happens in other countries, particularly the Scandinavian countries, as my hon. Friend the Member for Sheffield, Heeley (Ms Munn) said. Those themes are being addressed all over the world.

When I was a councillor, I used to work closely with women and children and tried to expand child care in my ward. I tried to do all that I could to help with the balance of care for mothers and children in particular. I always thought of a carer as a mother of small children, as I think my right hon. Friend the Minister mentioned. The Government have done an enormous amount to help mothers of small children. Many of the benefits have been mentioned, such as increased maternity pay and leave, and the right to choose flexible working. That is not enough, as I think we would all acknowledge, but we have taken tremendous steps. My own two daughters, who both have small children, returned to work after benefiting from the extra maternity pay and leave, but they also felt that it was too soon to go back.

Ms Buck: I do not know whether my hon. Friend has had a chance to see the reports in today's newspapers of a survey carried out by *New Woman* magazine, which implies that the younger generation of women are more fearful of a future in which they have to combine work and child rearing than were those of us who went through that in the not-too-distant past. Does she agree that one of the tasks that we face is to do more to make life easier for the next generation and that we must also convey the message that there has been a great deal of change in the delivery of child care, maternity provision and so on? There is an alarming lack of awareness of some of the rights and entitlements that exist.

Julie Morgan: I have not seen those reports, but my hon. Friend is right because mothers, particularly young mothers, think that the improved provision has always been in place. They do not recognise the huge leap forward that we have made since 1997. It is our job to make them realise how far we have gone and how far we plan to go. We know from what the Minister said that the Government plan to extend maternity leave and to do an awful lot more for people in that position. Increasing awareness is important.

Until fairly recently, I always regarded a carer as a mother of small children. I had not taken on board the problem of caring for elderly parents, but sometimes things suddenly become real and personal. That can happen overnight, as I think my hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) said. Five years ago, my situation changed literally over the course of one night, and I shall talk about my experiences to illustrate the difficulties and opportunities that such an occurrence can mean for us in our working lives.

My mother had a massive stroke, which left her profoundly disabled. She was unable to walk or do anything for herself, so I became a carer overnight. The change in my mother was profound, because she went from being an elderly but still very active individual to someone who was totally dependent on others. She was unable to do anything without relying on our support. We in turn have had to rely on the wonderful support provided by the national health service. A tremendous number of queries have been raised about the NHS, but the support that we have received has been fantastic.

We also had to rely on the caring and voluntary bodies, which my hon. Friend the Member for Stroud (Mr. Drew) mentioned. We have been very dependent on carers. I support what he said about carers in the voluntary sector. They need more recognition, as do the caring professions. By "caring", I mean the huge body of people, usually women, who come into people's homes and give individual personal care in a loving and responsible way that cannot be matched. That is my experience, so I strongly support what he said. Their pay is low. They need to be recognised and to get more money.

I was in my first term as an MP when my mother had her stroke and I could not contemplate giving up at that stage. I also knew that my mother would not have wanted me to because, throughout her life, she had always been a great fighter for the underprivileged. She had set up a school for Gypsy Traveller children and had taught children with learning difficulties. I knew that she would want to support me and would want my work as an MP to continue. Therefore, for five years I, like many other millions of carers in the UK, have been faced with the tremendous difficulty of juggling a demanding job with the need to ensure that my mother is cared for and that the rest of the family cope with the situation that I leave behind at home.

When I am in Westminster, I depend on a team of people—carers, family and friends—and I am in constant touch with them. I know that women in jobs are often in that situation. They are carrying out their job, but thinking about what is happening at home, and make quick phone calls home to see that everything is okay. That call used to be to ask, "Have the children gone to school?", but now, in my case, it is to ask, "Has the carer arrived on time?" or something similar.

We get used to dealing with working while our lives are on different levels. That is the reality and a huge stress for many millions of people in the UK. I often feel

that I am in two places at once: I am in Westminster, but also at home managing what is going on there. I know that that is a common experience. The carers can phone me any time they want to, day or night, and I have had to go home in the middle of the night twice to cope with situations that they could not cope with. I suppose that I am lucky to be in this job, where there is some understanding of what we have to cope with as individuals and some flexibility that enables me not to have to be bound to a nine-to-five job in the way that many people are.

Carers, particularly those who care for elderly people, often have broken nights. When I am at home, I have to get up many times in the night to deal with my mother. People do that when they have small children—we automatically do it when we have small children, but we know that that will come to an end. However, the strain that carers of elderly people experience in having to get up so many times in a night must be recognised. There should be more help available for carers in the nights as well as in the days.

Mrs. Eleanor Laing (Epping Forest) (Con): I appreciate the points that the hon. Lady makes, and she makes them well and from important personal experience. I have had a similar experience. Her point is important and often not recognised. There is an enormous emotional difference between being the carer of a small child who is happy, healthy, loving and lovable and who will grow up, and being the carer of an elderly parent whom the carer also loves, but whom they see degenerating before their eyes. The latter is much more difficult than the former and it is time that we as a society recognised that and gave the help and emotional support that is due.

Julie Morgan: I could not agree more. The first period of care—caring for young children—is a time of great hope, pleasure and enjoyment, but what most of us experience in the second period of care is much more of a strain. It may have its moments of hope and enjoyment, but it is very different from the earlier period. That should be recognised.

There are other things that carers commonly experience that we need to recognise and be understanding about, in particular the need to build in extra time before they can do anything. Again, it is a bit like taking out small children—we have to pack an extra bag, put the nappies in and make sure we have this and that. Many of us will have been through that. If the person being cared for is disabled and has to be moved into a wheelchair and the carer also has to ensure that they have everything ready before they go out, that requires extra time that other people do not need. It is sometimes quite difficult for society in general to understand that carers have to build in all those extra elements.

If, for example, I leave my mother at home and go to a meeting, my whole day is planned down to the last five minutes. I know that if I am delayed for five minutes anywhere, one of my carers will be kept five minutes beyond the time that she is supposed to leave. We fail to recognise such things until we experience them ourselves, and we then realise that we have to put that mass of arrangements in place to support us in doing the job that we want to do.

My first-hand experience of being a carer has made me both more informed about what so many people experience and more determined to work on issues of equality to ensure that carers of older people get the rights that we now give to carers of small children. We need to value the contribution that carers make to society. It is estimated that they save the state £57 billion a year. Most caring goes unrecognised because people do not have additional help but just get on with it because it is their normal duty in life to do so. We must recognise the huge amount of unpaid caring and the uncomplaining nature of that care—most people just do it. The more help that we offer, and the more that we recognise the care that is taking place, the better it will be for carers.

As a result of my experiences, I especially support the new Carers (Equal Opportunities) Act 2004, introduced by my Welsh colleague, my hon. Friend the Member for Aberavon (Dr. Francis), who also has personal experience of caring. It gives carers the chance to have their opportunities for work considered. Many have to work and care at the same time, so the Act is a big step forward. I also welcome the fact that a new all-party parliamentary group on carers has been set up by my hon. Friend, and I have joined it.

I welcome the new EOC-ICM poll on parents and carers, which shows overwhelming support for improving provision for carers and for state pension rights for people not in paid work because they are carers. It also shows support for extending the right to request flexible working to all parents and carers, and I am encouraged by the Minister's comments on that subject.

Even if I was not a carer in my private life, I would still support such provisions for carers in my public life. However, being a carer means that I have a personal connection and an understanding born of experience. Support for carers will grow even more strongly when the public are more educated about what caring is and what help is available. Debates such as this one, which gives us an opportunity to explore some of the issues, are good for educating the public and ourselves on what caring is all about.

I very much welcome the debate, and I am glad that it has given me the opportunity to talk about some of my personal experiences. I have had the good fortune of having an interesting, demanding and stimulating job as well as being a carer, and I have had lots of help and support. Many other carers have not had that help and support, and their opportunities have sometimes been cut short because of the caring role. I hope that we move towards creating a society in which everyone has the opportunity to fulfil their full potential. That should be our aim, and I hope that carers will be part of that move forward.

3.23 pm

Sandra Osborne (Ayr) (Lab): I am delighted to take part in this celebration of international women's day, which we have had now for the past few years. I have celebrated the day for many years through my former involvement with Women's Aid, where I worked for 16 years. We used to have a party every year; the House of Commons has not got to that stage yet, but perhaps that will happen one of these days.

[Sandra Osborne]

My hon. Friend the Member for Cardiff, North (Julie Morgan) referred to the progress made in the field of domestic violence. I applaud the Government, and also the Scottish Executive for the progress that they have made in Scotland. There is absolutely no doubt that that progress would never have been made without the work over the years of organisations such as Women's Aid, and I try to pay tribute to that work whenever possible.

I am pleased to take part in today's debate because it allows us to recognise the tremendous progress made in supporting parents and children and in accepting that women have the right to play their part in the public as well as the private sphere, where they still bear the overwhelming responsibility for caring. I acknowledge the very important part that women now play in the work force.

I want to concentrate particularly on child care, which is central to the mechanism for making a more realistic work-life balance. My hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) referred to a report in today's paper that suggested young women were even more fearful than our generation were. All I can say is that if I had had the facilities available to my daughter today, I would have thought that I had died and gone to heaven. The situation is completely different from what it was when I brought up my first child 30 years ago, and even from what it was when I brought up my second child 21 years ago. I pay tribute to the Government for that. That is due not just to Government policy, but to social attitudes, which have changed a great deal—thank goodness—since those days.

In 1990, the Equal Opportunities Commission report, "The Key to Real Choice: an Action Plan for Childcare", stated:

"Women cannot enjoy genuine equality of opportunity unless they have access to day care facilities for their children. The complete inadequacy of current provision for both the under fives and dependent school age children is now probably one of the most important factors restricting many women's opportunities."

Good child care, as we know, benefits children and brings with it many advantages for them.

For most of my adult life, I have been involved in campaigning for affordable child care in relation to equal rights for women. I make no apologies for that, and I am very proud of what has been achieved. As I said, the situation is very different from what we had in the past. From the 1980s and 1990s to the present day, child care has been quite a political issue, partly due to the need for increasing numbers of women in the work force and, of course, partly owing to changing family patterns. As has been said, the UK lagged for many years behind other European countries in the provision of child care and in parental rights legislation.

In 1992, the European Commission made recommendations on child care in four main areas: services for children; leave arrangements for parents; making the environment, structure and organisation of work responsive to the needs of workers with children; and promoting the sharing of responsibilities for children between men and women. Very little progress was made on all that until relatively recently, although we have a long way to go in all those areas.

Those recommendations reflected a desire for equal treatment for men and women, but also wider economic concern about the need for women in the work force. Hon. Members may or may not be surprised to learn that, in the west of Scotland, females will hold up to 53 per cent. of all employee jobs by 2010. We will be not only the majority of the population, but the majority of the working population. If that is increasingly to happen, and it would appear that the trend is unlikely to go into reverse, we must ensure that women's place in the work force is fair and equal, and not on a basis of exploitation of women, as has been the case in the past, when they were totally undervalued, in both the public and private spheres. Progress can be sustained only by efforts to reconcile work and family life, and I very much welcome the measures that the Government are taking in that regard.

For far too long, women who have chosen to fulfil a different or additional role, or who, more realistically, have had to work as an economic necessity, have had to find ways to juggle all their responsibilities, including having to make some kind of child care arrangement in the absence of Government support. We need to consider the concerns associated with the inadequate child care provision that we have had for many years, as they affect individual parents and children.

I carried out some research into child care provision while I worked with Women's Aid. Like my hon. Friend the Member for Cardiff, North, I feel that we can learn a lot from the experiences of individual women and carers. I would therefore like to quote from my research into the case of a woman who came to the refuge that I worked at in Kilmarnock.

"Isabelle is 35 and has two children aged 9 and aged 5. She left her husband three and a half years ago due to physical, sexual and mental abuse, which had started on the second day of marriage and had escalated through the years. The attacks were also being witnessed by the children and they themselves were being abused. She had no family support in any real sense. When Isabelle left she went to Women's Aid who gave her refuge, space and support. She received income support, which seemed wonderful, as she had no idea whether or not she would receive anything and she frequently was given no money at all by her husband.

During the time in the refuge she had a job as a barmaid to earn money to save up for furniture for her new home. She did swaps with the other women in the refuge for child care. When she moved to her new home she advertised for a babysitter close to her flat. After a time she arranged a swap again with a neighbour who worked in a school. She watched the neighbour's four children and made their meal two evenings a week and the neighbour watched her two children in return. This arrangement was very stressful for her and the children. She also did another swap with a neighbour who she gave driving lessons to in return for babysitting. This fell through when she found the neighbour was inviting eight adults into her house while she was out, including people who had been charged with grievous bodily harm.

She then resolved to find a reliable babysitter and managed to do this, but the cost involved was prohibitive, and she could not afford it with the jobs she was doing: bar work, cleaning for an elderly woman and survey work for a magazine. She was forced to give up the jobs and this led to depression. She took in ironing to supplement her income support. She studied at home with the Open university and gave her place up at Glasgow university due to lack of child care. Isabelle wanted to work because she did not feel in control on income support, given changes at that time in Government legislation. She was also depressed at the idea of living on benefit long-term: 'If you try to earn extra money you are in fear of someone phoning the DSS.' She also feels that work 'keeps me sane'. Although she is sometimes not much better off

financially she feels better about herself and her family, especially since she has taken her children from an earning income. Her husband was an architect and earned a lot of money.

When she first started work she was paying up to half her wages to child care. This was reduced when her youngest child started school, but is still a hefty bill. Isabelle states that she could not afford to work if she did not earn her current salary and did not have her current working conditions. Isabelle believes that her current child care arrangements will fill a caring role for her children when she is not with them. They have a mother figure who was carefully chosen because of her qualities and chosen for what she could offer in place of Isabelle—secure, home-based caring.

When she took full-time work she considered the whole position including the plus and minus effect on the children. The children have responded well to the child care arrangements. They are used to their mother working, mix with other children in the same position as themselves and regard it as normal. She anticipates future problems when the children are older and child minding is not appropriate but feels she will have to work that out as it comes along.

Isabelle has strong views about the lack of affordable child-care facilities and described it as a huge obstacle for creating change in her own life or her family's. Lone parents require help in practical ways in Isabelle's view and also support, as society criticises whatever lone parents do. 'If they go out to work they are neglecting their children and this is the cause of all violence etc. in society and if they don't they are too lazy to get out there and earn a living.'"

I have concentrated on Isabelle's story because it is illustrative of many of the situations in which people have found themselves. The prohibitive cost of child care, the reliance on informal—often far from ideal—arrangements, the role of child care in alleviating poverty and creating opportunities for women to work and study, the importance of state funding to child care, the stress caused by a lack of suitable child care arrangements and the persistence of gender divisions that place an unfair burden on women all point to the central importance of child care provision on working, caring and life balance that we are debating today.

That research was undertaken in 1992. We have come a long way. Isabelle's story would be far different today from what it was then. It is incredible to think that it is only in recent years that anything even approaching a coherent national child care strategy has been developed. For many years, child care in the United Kingdom, unlike in many of our European partners, remained significant by its absence. In 1992, Germany, France, Italy, Belgium, Greece and Spain had at least 70 per cent. publicly funded child care services for children from three years of age to compulsory school age. It has taken the return of a Labour Government to make nursery places available at last, first for four-year-olds and now for three-year-olds.

For many parents, especially lone parents, the main obstacle to returning to the labour market has been the poverty trap. Despite propaganda to the contrary, and as I have illustrated by Isabelle's story, the overwhelming majority of lone parents want to reverse the trend of living on benefits and want to take part in the new deal. Lack of affordable child care is a major obstacle to doing that. Lone parents and unemployed parents, in general, are not in the position to take advantage of any growth in private sector child care and child minding services unless they receive financial support. Their absence from the labour market reduces their skills, confidence and earning potential. The benefits system in the past has not assisted such groups to return to work, and the real problems that are associated with the poverty trap were not addressed.

The tax credit system has changed the position and has been a tremendous boost in making work pay, along with the national minimum wage and increased child care and parental rights. A report by the Institute for Public Policy Research, as far back as 1991, showed that up to half all under-fives could be taken out of poverty if the provision of child care enabled their mothers to work and to improve their earnings. Many more could be taken out of poverty if those provisions were combined with reform of the tax and benefits system. Unfortunately, the Government at the time were not listening, but we can be proud of the progress that has been made under the present Government.

It is also relevant to note that changes in the benefit system to allow unemployed parents to seek a return to work without the burden of crippling child care costs save the Exchequer money through increased public revenue from income tax and national insurance contributions, as well as savings in benefits payments. It is a win-win situation all round, as long as women are fairly represented in the work force and rights are available to allow them the balance in their lives that we all deserve and to which we all have a right.

3.38 pm

Sandra Gidley (Romsey) (LD): I welcome the chance to debate these issues. It is a shame that no one told the Leader of the House that the debate was in honour of international women's day. Last week in business questions I asked why there was not such a debate on the Floor of the House, and the right hon. Gentleman seemed to have overlooked the matter, which is a little unfortunate.

It is important to acknowledge that working conditions for women have improved immeasurably and that child care provision has come a long way since the '70s. During that time, Shirley Conran tried to convince women that they could be superwoman, and there was much talk about having it all, but even then she realised that life was too short to stuff a mushroom so, clearly, we could not quite have it all. Realisation slowly dawned on women that that was not a useful role model, because it was a daunting prospect for many of them.

Shirley Conran set up the Work-Life Balance Trust, the aim of which was to raise the profile of the work-life balance concept. I clicked on the website to find out where that organisation thought it had got on that matter, and apparently those involved have taken a sabbatical because they feel that they have achieved their aim and want a break to preserve their own work-life balance, which is slightly bizarre.

This subject is higher on the agenda, but sometimes too much lip service is paid to it and not enough real work is done to address the practical problems. The work-life balance affects men and women, but all too often it is regarded as a women's issue, which is regrettable.

Miss Julie Kirkbride (Bromsgrove): Does not the attendance in the Room reflect what the hon. Lady said? We pay tribute to my hon. Friend the Member for Worthing, West (Peter Bottomley) for supporting us—*[Interruption.]*—and the hon. Member for Stroud (Mr. Drew).

Sandra Gidley: Absolutely, and I am glad that the hon. Lady noticed the hon. Member for Stroud (Mr. Drew), too.

It is difficult for women to juggle home, work, children, elderly parents and the rest of it, but that subject has, to some extent, been done to death. There are different pressures on men. The pressure to perform in the workplace and the culture of many workplaces often means that men are forced to spend time at work when they would like to spend more time with their families. We should not forget that, or forget that the image is often that carers are female. However, many carers are male.

Ms Buck: Is it not also the case that even given the choice, or a balance of working responsibilities, many men—possibly due to millennia of conditioning—have a ingrained reluctance to empty the washing machine and get to grips with the vacuum cleaner?

Mr. Drew: It is innate.

Ms Buck: It is sadly true that women have a disproportionate role in domestic responsibilities. This is not a party political point. Perhaps the hon. Lady could reflect on how we can ensure that our sons, brothers, lovers and husbands feel that playing a full role in the domestic environment may be of value and benefit to them, and is essential to a proper work-life balance for women.

Sandra Gidley: That is interesting, because my husband is an engineer, but he struggles to get to grips with the washing machine, which is not difficult. But he has to get to grips with it now, because I went on strike. The *New Woman* survey that hon. Members mentioned also showed that the amount of house care responsibilities taken on by men is the same today as it was 30 or 40 years ago. There is some way to go.

Work-life balance is a problem for society. Another factor is the materialistic nature of our society. People want a lot of things, but often lose sight of what might be really important. I acknowledge that the Government have taken some welcome steps to try to improve matters, and flexible working is one such step. It was said earlier that the take-up is much higher among women than men, by a considerable degree—about 10 per cent.—and I am interested in whether the Government have undertaken any research to find out why that may be so. I welcome the consultation on extending the right to carers, but the problem with all consultations arises if the response from the workplace is that the measures will be difficult and will create an added burden.

A couple of weeks ago, I visited some small businesses in my constituency and time after time, sadly, they mentioned the burden of trying to provide maternity leave and paying for cover. This measure will, perhaps, create another burden, but at the same time there is an acknowledgement that small businesses are often quicker and better at finding creative ways around this problem. Will the Minister comment on how the interests of the business community can be balanced with a popular move for carers?

A second work-life balance study threw up a number of tensions. It found that 95 per cent. of employees considered that people work their best when they are able to balance work and other aspects of their lives, which is hardly surprising, and 57 per cent. strongly agreed with that. Some 78 per cent. agreed that everyone should be able to balance their work and home lives in the way that they want. There are no surprises there, but 60 per cent. agreed that they should not expect to be able to change their working pattern if to do so would disrupt business. That could be interpreted as a responsible attitude, but to me such quick acceptance of excuses provides business with a ready made cop-out that is all too likely to be accepted. There is no imperative to rethink flexible ways of working.

Even more worryingly, the study found that more than a half of fathers felt that working fewer hours would be likely to have a negative impact on their job security. Working fewer hours was also regarded as having a negative impact on career prospects.

Ms Munn: I am interested in what the hon. Lady is saying. It illustrates the problem that we have with the long-hours culture in this country in which someone's contribution is so often judged on how long they are somewhere rather than what they produce. Other countries that have shorter hours than us actually have higher productivity.

Sandra Gidley: That is a good point. The situation is not all negative, and I will speak about the attitude of employers in a minute. However, it concerns me that as a country we seem to have longer working hours than many others. As has already been said, many of the companies that address the problems and think hard about flexible working patterns reap the benefits financially. There can be a win-win situation.

The study also found that more than a third still think that taking leave to look after children could have a negative impact on their career prospects, and we have to think very hard about that if we are to extend the period of maternity leave. The study looked at employers separately. There was almost as high a level of support on flexible working, but nearly two thirds of employees agreed that trying to accommodate employees with different work patterns was not always easy, although, reassuringly, more than three quarters did not see flexible working as a barrier to promotion. We need to highlight that fact some more.

The Equal Opportunities Commission has done some good work in highlighting areas of good practice. For example, the RAC has seen productivity increase by 8 per cent. by allowing its staff to work their annual hours flexibly, while HSBC bank has trebled the number of women returning to work after having babies, which has saved it £1 million in training costs.

I want to spend some of my time talking about carers. It is right that the "Choice and Flexibility" document addressed that issue, but disappointing in some ways that it formed such a small part of the document, and what was there seemed to be more about finding a definition of a carer than giving a clear commitment to flexible working for carers. Again, the Equal Opportunities Commission has long been campaigning on the issue, and it has highlighted a number of facts. For example, at any one time, one in seven of the UK work force is juggling paid work with caring for someone who is ill, frail or has a disability. More than

300,000 people take on a new caring responsibility each year—that does not include people having babies—and 42 per cent. of all carers of older and disabled people are men.

One survey found that seven out of 10 carers under 50 and eight out of 10 of those aged 50 to 60 had given up work to care. The nature of caring responsibilities is that there is often an end to them but the added problem of age discrimination in the workplace means that many of the carers who give up their jobs do not find it easy to get a new one. The Minister alluded to that point earlier, and it would be useful if she could expand on how that problem will be tackled. I am afraid to say also that there is an anomaly in the fact that parents can claim working tax credit if they work 16 or more hours a week but carers of disabled or older adult relatives are eligible only if they work at least 30 hours a week. It would be useful to have an indication of whether there are any plans to deal with that disparity.

Work-life balance for carers is not all about what can be done in the workplace. We have to think about how carers are catered for outside the workplace. Half of all people who spend 20 hours a week caring do not have a paid job. There are 360,000 children with a disability, of whom 98 per cent. are cared for at home. It is probably useful to touch on the subject of young carers at this point. Estimates suggest that 150,000 children and young people spend time caring for a chronically sick or disabled parent. Carers have a legal entitlement to an assessment, but in 2002 a survey showed that only one quarter of carers had received one. Even worse, of those carers who cared for more than 50 hours a week, 70 per cent. had not received an assessment.

Julie Morgan: Is the hon. Lady aware of the different carers groups that have been set up throughout the UK, mainly, certainly in Wales, by voluntary bodies, such as Barndardo's? They seek to give young carers the support of sharing their situation with each other and the opportunity to have some childhood experiences.

Sandra Gidley: Yes, I am aware of that. The young carers initiative has a national rally at Fairthorne manor, fairly close to me. The county council and various other organisations are doing a lot of work to try to put young carers in touch with each other so that there is mutual support. However, there are still some problems inherent in the system. The provision is very patchy across the country.

In many cases, carers want to help but feel ill equipped to do so. Some 70 per cent. reported that no one had asked them whether they could cope when the person they cared for was discharged from hospital and only one third of those caring for more than eight hours a day had received any training or guidance on the use of medication, dressings or injections. Three quarters of people receiving care from a carer in the same household receive no regular visits from a professional such as a doctor, district nurse or social worker. Carers are, quite simply, left to get on with it. I am delighted that the hon. Lady had a more positive experience, but I suggest that it is probably not the norm.

Carers are no different from other people: they do not want to ask for help, because it is seen as a sign that they are not coping very well. There is a sense of pride in getting on with the job and not being seen to ask for help. The contribution of carers saves the taxpayer some £34 billion a year, but many people ultimately have to give up. One of the factors that contributes to that is the lack of respite care and the relentlessness of having to cope day in, day out. That desperately needs to be addressed by the Government if the aim to look after more people at home is to be fully realised. Many carers say that if they knew that they could have regular break, they could cope in the longer term because it would give them some time to themselves. However, respite care is not easy to access. Carers of disabled children may be able to rely on the help and support of a children's hospice. It is a shame that children's hospices are not as well funded as hospices for adults.

Carers of older people struggle to obtain a respite. They may be able to get a week when they go on holiday, but it would be far more helpful if they could have a regular few days every two or three months. There are some schemes around the country that mean that that has started to happen. The carer knows that the person being cared for always has the same nursing or residential home, and a relationship is built up between that home, the carer and the person being cared for. That is positive, but many areas say that they lack the resources to do that.

Young carers face slightly different problems. Often the reluctance to ask for help comes from the parents, who are often concerned that asking for help will highlight problems in the home and that the children may be taken away. We need to do more to reassure those parents that that is not what this is about; that it is about providing some help. In the meantime, the child may be struggling to cope and getting into trouble at school for being late or not completing homework.

The Government have begun to tackle the issues related to child care. The hon. Member for Sheffield, Heeley (Ms Munn) mentioned the USDAW report that said that women were returning to the workplace on average six weeks before their statutory maternity pay ran out. They said that they did this because they could not afford to stay at home. For that reason, the Liberal Democrats have taken a different approach to maternity leave. It has long been our policy to advocate that benefits should be transferable between mother and father but we recognise that the present level of benefit is inadequate. I want to pay tribute to the Government for doubling it during their term in office; it is only fair to acknowledge that. We would prefer to offer a maternity income guarantee on the level of the minimum income guarantee so that those women who are returning to work early could afford to stay at home. When it comes to rewarding carers, we believe that our plans for a citizen's pension that is payable on the basis of residency, rather than national insurance contributions, is fairer because it gives the message that the caring contribution is of just as much value as any contribution from the workplace.

The other report out today that has already been mentioned is the report in *New Woman*. The headline was "Desperate to be housewives: young women yearn for 1950s role as stay at home mums." I cannot quite believe this somehow, but the magazine says:

"the average 29 year old now hankers for a return to the lifestyle of a 1950s housewife. The daughters of the 'Cosmo' generation of feminists want nothing more than a happy marriage and domestic bliss in the countryside".

[Sandra Gidley]

Would that life were so easy. A total of 1,500 women were surveyed, and 61 per cent. believe that domestic goddess role models are unhelpful and irritating. I am not 29, and I agree that such role models are unhelpful and irritating. Margi Conklin, the editor of *New Woman*, states:

"There has been a fundamental shift in young women's attitudes towards life and work. They've watched their own mothers trying and often failing to have it all and have decided they don't want it all. They don't want to work crazy hours while their children are put into nurseries and their relationships disintegrate under the strain... Young women today are increasingly putting their personal happiness before a big salary or a high powered career. Above everything else they crave a work-life balance where they can enjoy a fulfilling relationship, raise happy children and have a job that interests them but doesn't overwhelm them. The age of the superwoman who wants to be the world's best mother, wife and boss, is dead."

Earlier today, it was said that that situation arose because we were not selling the benefits of child care enough. That is not all that it is because the women saying these things have experienced mothers going out to full-time work and have realised that they do not want to spend all of their time in the workplace. They would probably welcome flexible working, and it is important that we develop it, but they have realised that there are ways—

Sandra Osborne: I am sure that both of my daughters would prefer a better work-life balance than I, as their mother, have had, having been involved in so many things. Would the hon. Lady agree that this vision of the 1950s woman is a myth, and a very idealised myth at that? It was not the reality of most women's lives.

Sandra Gidley: The 1950s argument is taken a bit far because during the 1950s it was very unusual for women to work, and they struggled to do so. I think that young women value the idea of some contribution in the work place and want some income of their own and some independence. They do not want to return to the 1950s, but they do not want to replicate what their mothers did and spend a lot of time away from home and family.

Angela Watkinson (Upminster) (Con): I have some personal experience of the 1950s when I was in a co-educational grammar school, and I can recall male teachers saying to girl students that it did not really matter if they did not understand something because they were only going to get married and have children anyway. I recall that the only career advice that the girls were ever given was when they were all herded into the hall and the headmistress said that there were only two respectable occupations for girls: nursing and teaching. She said, "Nurses over there, teachers over there." That was the sum total of career advice. When I first went to work in the late 1950s in a bank—before the Equal Pay Act 1963—women were considered to be temporary employees. Even if they never married, had that delightful title "spinster" and stayed in that job all their working lives, they were still only temporary employees and were on a lower pay scale. If anyone closely examined the 1950s, I do not think that they would want to go back to that time.

Sandra Gidley: I absolutely agree, and it is clear, after talking to women who lived through that time, that they almost envy what women have these days. However, we can do better to provide a work-life balance.

I am not sure whether it would be in order to talk about this, but one other aspect of the report caught my eye: some work by the Kinsey Institute. Many hon. Members will know what it studies. It came up with a quite alarming fact that the average married woman with young children "makes love"—I think those were the words—to her husband less frequently these days than 30 years ago. We must aim at a system in which women and men can choose the pattern of working and child care that does not tire them out, so that we can improve on the 1950s.

4.1 pm

Mrs. Eleanor Laing (Epping Forest) (Con): I am sure that we can improve on the 1950s. I welcome this debate today on working, caring and life balance. Until the Minister mentioned it in her opening remarks, I did not realise that the debate was connected with international women's day. I had wondered—although I had not got round to asking her—why, in the week of international women's day, we had not had a debate on women in Government time, which we have had in recent years. We have all enjoyed them tremendously. I knew about this debate today, but I had not made the connection because, in all honesty, it seems to me that working, caring and life balance is not just a women's issue, but one that affects everybody, from all walks of life, all sections of society, both sexes, all age groups and all parts of the country.

It is, as my hon. Friend the Member for Bromsgrove (Miss Kirkbride) pointed out, remarkable that the Chamber today has been so dominated by female Members of the House, although I certainly pay my compliments to the hon. Member for Stroud (Mr. Drew)—he is no longer in his place, but I do not wish to cast aspersions on him as we were very pleased to welcome him here—and to my hon. Friends the Members for Worthing, West (Peter Bottomley) and for New Forest, East (Dr. Lewis), who is also no longer in his place.

I welcome the debate and hope that we can talk about issues, which, although they affect the whole of society, probably affect more women's lives than men's. That is a fact that I do not imagine will change in the foreseeable future, and we must stop pretending that it will change and deal with it. We must get round it somehow or other. I was pleased to hear the Minister speak so often in her opening remarks about choice. Choice is the Conservatives' watchword, and I am really pleased to hear the Labour Government adopting choice as the key to making progress on the issue that we are discussing.

I agree with the Minister's basic approach on most of the issues under discussion, and her historical overview was excellent. We have come a long way, as we see if we think of the way in which women had to fight only 100 years ago. I am talking about the grandmothers of many of us in this Chamber, people whom we knew in

our early years, not about people from way back in the past. Those women had to fight to be listened to at all. They had to fight to get the vote and to have the woman's point of view even considered. I am not suggesting for a moment that we can stop that struggle now, but we have come a long way.

I have been thinking, as I often do, that I have had far more opportunities in my life than my mother had during hers—although she had a perfectly happy, satisfactory life—and that her mother had fewer opportunities than she did. I was shocked to see the survey in today's papers mentioned by the hon. Member for Romsey (Sandra Gidley) and others. The headline in *The Times* is "Superwoman crashes to earth". One lady is quoted as saying, "I run the house"—that is not our House; presumably she means her domestic residence. She says:

"I run the house and I could not be happier".

Well, that is okay for her.

Ms Munn: I am a little concerned that we may be generalising about women because of one survey. Might it not be the case that real superwomen do not have time to read *New Woman*?

Mrs. Laing: Not for the first time, the hon. Lady is right. I had not had time to read it either.

Peter Bottomley (Worthing, West) (Con): That does not make you a superwoman.

Mrs. Laing: That is certainly true, but I do not try to be. The quote is:

"I run the house and I could not be happier".

That is from a sample of one. It is very nice for the lady who is quoted in *The Times*—very nice indeed. She appears to have a happy marriage and two happy, healthy primary school-age children, and clearly her husband earns enough to make it possible for her not to work. That is a nice sample of one if someone comes into that category, but most women and most families do not.

It is interesting to think, as the article says:

"THE feminist dream of 'having it all' has turned sour for the current generation of young women, who are determined never to work as hard as their mothers."

The average age of the women interviewed for the survey was 29. I have to say, without being in any way patronising, that when I was 29, I thought that I could do amazing things, but, now that I am not 29 any more, I am quite glad that I have not managed to do them. Of course, that is not true in all cases. Let us imagine a time when those 29-year-olds have a family to care for, either their children or, possibly, their parents who are declining in health. They may find themselves in circumstances of adversity. Let us suppose that they start bringing up their children with a husband or partner, and the husband or partner dies, becomes ill or leaves. It will not be so simple then to say, "I don't want to work as hard as my mother did."

I am glad that I can say that I do not have to work like my grandmother had to. I am glad, and so would she be, that the things that, indeed, both my grandmothers did in their time have enabled me to do what I do and not to live the kind of life that they led. However happy they may have been individually, their generation did not have the opportunities that we have.

Ms Buck: Does the hon. Lady agree that if we were to give a pound each for every time that we have seen one of those "Superwoman bites the dust" headlines, we could probably buy out the red nose appeal? Does she also agree that the issue is not really the have-it-all slogan, which is lampooned in those headlines, but the fact that women are anxious about having to do it all? I suspect that she agrees with much of this. Much of the debate has been about how we find ways to make that struggle easier for women who are expected both to work—often, as she says, out of sheer necessity, but sometimes through choice—and to carry a disproportionate share of the caring and domestic responsibilities. All of us—employers, the Government and individuals alike—have an interest in finding a way of reducing that pressure for today's carers and future generations of them.

Mrs. Laing: I agree entirely with the hon. Lady. What she said was totally correct. From now on, I shall try to be more adversarial so that we can prove that a debate in Westminster Hall entirely populated by women has the cut and thrust of serious political debate. Our debate should have such cut and thrust, and I shall find a reason to disagree with Members here from opposing parties in just a moment.

There is a lot of consensus between us because we all recognise the difficulties and we want to solve them. This political issue is not about which side says, "This does not matter" and the other that says, "It does". We all recognise that this issue is important, and there are two reasons for that. First, we want the right thing to be done: women should have equal opportunities to men—we agree with that altruistically nowadays. However, we also need to achieve the right work-life balance, because society and the economy require it.

If we say that women should either work or look after children, we will lose an enormous percentage of the work force whom we, as an economy, cannot afford to lose. On the other hand, if we say that if women work, they should not have children—something that we now think a ridiculous proposition, although that was not the case not so long ago—we will not produce the future generations that our society and economy require. It is essential to achieve the balance that we have all been talking about. We do that by accepting that flexibility in the workplace is not a luxury, but a necessity. It is an economic necessity that the work that women do should receive decent financial reward.

I emphasise, as did the hon. Member for Cardiff, North (Julie Morgan), that we are not talking only about mothers with young children. I have noticed a bit of a backlash in some academic studies and articles in the past couple of years. Women who do not have young children are saying, "Just a minute. If there are three women in my office, the two with young children get all the flexibility, privileges and help—maternity leave, flexible working and so on. I do not." Just because a person has chosen not to have children, or cannot have them, that does not mean that they should not be treated with respect in the workplace.

[Mrs. Laing]

We have to be careful about that and recognise that anyone with a family responsibility of any kind—for young children, teenage children or a sick or elderly relative—whether temporary or long-term, requires understanding in the workplace. All employers should be encouraged to do what the best employers have always done. The CBI agrees that employers get the best out of their employees if they have good working conditions, and that includes an understanding of the time needed for family responsibilities.

Such issues are not peripheral, but absolutely basic to the future of our economy and society. We now spend taxpayers' money and the nation's resources on educating young women and men equally, and on giving girls and boys the same education at school and the same opportunities in higher education. I completely welcome that. All Governments in the past 30 years have been striving for that goal and have achieved it. However, it is ridiculous that we now do all those things, yet when a woman with the same educational and training qualifications as a man becomes pregnant and has a baby, suddenly her talents and abilities are not worth the same as a man's because the employer does not put her in the same category any more; he sees her as a bit of a problem because she has children. That is nonsense. We are beginning to get over it, and what has, to an extent, been a consensus in this debate might possibly help in the future.

As to child care, fathers should of course be encouraged and enabled to care for their children, and employers must recognise that, too. The position of new fathers alongside that of new mothers is important. However, I heard an argument recently, which has been mentioned in the debate, that we will not improve the position of women as regards child care for young children until men become fully involved in that child care. I am sorry, but I am not very optimistic about that. We cannot legislate to make a man look after his children, or to make a man know what to do with a small baby. Somehow, miraculously, a woman who has just become a mother knows what to do with a baby, or learns very quickly, because there is no choice; she has just got to. A man does not. I do not believe that a man, even with the very best of intentions, looks after a tiny baby in the same way as the baby's mother or, indeed, its grandmother.

I do not suggest for a moment that men should not be encouraged to be very much involved in the early years of their children's lives; of course they should. However, we will not improve the position of women by depending on men changing their attitudes and behaviour in a domestic setting. Indeed, I think the hon. Member for Ayr (Sandra Osborne) said that men undertake the same percentage of household duties now as they did 30 years ago. That progress has not been made, but it might be. We will keep trying to make progress, but we cannot depend upon it. We therefore need to ensure that there are proper support systems for mothers who also work. That means having good child care facilities.

Ms Munn: The hon. Lady is painting rather a gloomy picture. The evidence of the USDAW survey is that men's desire to spend more time with their children is increasing and that, generally, younger men recognise the benefits of greater involvement with their families. The issue of how much housework is done may be slightly more problematical, although I would like to defend my husband, who knows where the washing machine is—and the microwave. Things are starting to change, and we should not be too negative about men's involvement in their families.

Mrs. Laing: The hon. Lady is right; I do not disagree with her. Things are improving tremendously. I do not think my father knew what a washing machine was but he expected clean shirts, and always had them. I am not saying that things are not improving and that we do not want them to improve; I am saying that we cannot depend on changing men's attitudes and behaviour in order to improve the position of women. We must take other steps to improve the position of women.

Ms Buck: That is an important point. I say to my hon. Friend the Member for Sheffield, Heeley (Ms Munn) that there is a world of difference between a microwave and a vacuum cleaner. It is important in terms of household management.

The central point is that the Fawcett Society research, which we all accept is one piece of research among many, shows that women in full-time employment still spend 30 per cent. more of their time on child care responsibilities than men in full-time employment. Unless we progress significantly further and move faster, which would require a broad consensus inside and outside Parliament, we might entrench the disadvantage that women have in trying to cope with work as well as domestic and family responsibilities. We need to be alert to that risk; otherwise the very people everyone here is committed to helping could end up in a worse position.

Mrs. Laing: The hon. Lady is absolutely right, so I am going to make a serious political debating point. People are working longer hours than if not ever before, then certainly than before. The average family—therefore the average man—has to work far longer hours to pay the £5,000 a year of extra tax that the average family has been paying under this Labour Government for the past eight years. That is true; if more tax has to be paid, more hours have to be worked. If there is a choice between who stays at home and who works, the man will do extra work. If the tax burden were less, men would not have to work as long outside the home and would be able to spend more time caring for their children. That is a logical point.

Ms Buck: I am delighted to rise to the adversarial challenge. Does the hon. Lady agree that we must stop treating tax always and inevitably as a burden? Part of the reason that we require people to contribute tax is to fund many ambitious programmes, including the creation of 1 million child care places since 1997. It is essential that we do not view one side of the situation as 100 per cent. negative and the other as 100 per cent. positive; otherwise we will never get agreement on the investment argument for these necessary services.

Mrs. Laing: Again, the hon. Lady is absolutely factually correct, so let me tell her that for every two child care places that the Government have created, one

rights in the mid-19th century, 30 to 40 per cent. of

responsibilities. As we suggested in the working families

has shut. There are more child care places in some child care settings, but there are fewer in others. The Government's record of improving the availability and affordability of child care is simply not good enough. We need flexibility and choice—*[Interruption.]* We are getting some adversarial debate now, but I will give way first to my hon. Friend the Member for Upminster (Angela Watkinson).

Angela Watkinson: In the drive to provide more child care places, does my hon. Friend agree that we must not focus entirely on quantity, eligibility and cost for the convenience of women going out to work, either by choice or out of financial necessity? We must also focus on the quality of child care, not only the benefits to the parents, but the benefits to the child. Child care should not be warm storage with lunch, with the child left and collected at the end of the day. What happens to the children and how they benefit during child care is equally, or even more, important.

Mrs. Laing: I agree entirely, which is why I am worried about the Government's policy of making schools available from 8 am to 6 pm being a major part of their child care strategy. In some cases, that is a good idea, but it is not a universal panacea for the provision of child care. It is worrying that a child might leave the family home at 7.30 in the morning and come back at 6.30 in the evening having not had any positive educational or social benefit in between.

Sandra Osborne: I hesitate to return the hon. Lady's adversarial comments, because she is making an excellent speech, with much of which I agree. Does she recall, however, the example I gave of my friend Isabelle, who worked in three low-paid jobs before the introduction of the national minimum wage to make ends meet while bringing up two children? That beats the hon. Lady's example of the hard-working man who has to work harder because of higher taxes under a Labour Government. If the hon. Lady thinks child care is so important, why did her Government not do anything about it?

Mrs. Laing: The hon. Lady's example is a good one, and she is right that the position of the lady she mentions is far worse than that of most men who have to work harder to pay Labour's higher taxes. The Government to whom the hon. Lady refers were not my Government, but the next Government will be, in eight weeks' time, and we will see some changes then.

Ms Munn: When Labour came to power, only extremely patchy child care provision existed. Child minders were almost non-existent in some of the poorest communities, so the ability of people to choose was very limited. A comprehensive range of child care has now been developed, and there is free access for all three and four-year-olds. That is enormously important, and we must not underestimate the impact of such measures. I echo the comments of my hon. Friend the Member for Ayr (Sandra Osborne); if child care is so important, why was provision so terrible under the previous Tory Government?

Mrs. Laing: It was not terrible under the last Tory Government, but it will be better under the next Tory Government in eight weeks' time. I look forward to having a further argument about that.

The Minister and some of her colleagues speak very well about child care. However, although they have taken many steps over the past seven years, which I welcome, the number of nurseries has been cut from 500 to 400 during their time in government. That is a fact.

Sandra Gidley: The hon. Lady was very scathing about wraparound care from 8 in the morning until 6 pm, but, when my children were of school age, that was the most difficult kind of care to access. What does she suggest as an alternative, because not all child minders want to take children before and after school, and not everybody wants to choose a nanny or a workplace nursery?

Mrs. Laing: The hon. Lady makes a perfectly reasonable point. I am not saying that wraparound care from 8 am until 6 pm in the school setting is wrong in all circumstances. There are some circumstances in which it might work quite well, but the Government have made much of it, and it is not the answer to all the challenges and problems that we face.

Peter Bottomley: I shall speak briefly, as a founder member of the Denis Thatcher society, which is for men who are married to women more important than they are. If we are seriously talking about 8 o'clock in the morning until 6 o'clock in the evening for a child, which is 50 hours for a five-day week, and if we are asking that adults do not have so long at work, we will have a slight problem if this extends too far.

We also ought to think about inter-generational care. We should consider not only young people caring for the elderly, but whether grandparents can care more for their grandchildren in order to help their children. That is, perhaps, not an English tradition, but it is a tradition of many of the people who join and enrich our country.

If we want to improve the home-work balance, we ought to try to cut the time and cost of commuting, because lots of people spend many hours travelling between home and work, and that is a tremendous waste.

Mrs. Laing: As ever, my hon. Friend makes some excellent points. His final point on transport—a topic on which he is an expert—goes to show that although we have narrowed the subject of today's debate to specific issues, the general issue is affected by almost every area of policy. Every person in the country is a member of a family and has social and family responsibilities, duties, and pleasures, as well as duties and so forth at work, and as a citizen. This issue has to be looked at holistically.

4.30 pm

Sitting suspended for Divisions in the House.

5.10 pm

On resuming—

Mrs. Laing: My hon. Friend the Member for Worthing, West (Peter Bottomley) had just made an excellent point about grandparents playing a role in caring for their grandchildren when we broke for the

[Mrs. Laing]

Divisions. I believe that we should find some way of changing the way in which child minders are regulated to allow grandparents to benefit from officially being child minders when they look after their grandchildren. I do not suggest for a moment that a grandmother should have to pass lots of tests in order to look after her grandchildren, but there are ways in which we could reform the present system so that grandparents could in some circumstances officially be child minders and therefore benefit financially from looking after their grandchildren. I believe that that idea has the support of the National Childminding Association.

My hon. Friend highlighted an important point there, as a great many grandparents—grandfathers as well as grandmothers—play an important part in caring for and bringing up their children's children. To bring more flexibility and choice, and to increase the supply side of child care—in other words having more child care workers qualified and in place, which is desperately needed—it is essential to make the tax credit system simpler to understand and administer. Many thousands of families in this country right now could benefit more from the tax credit system if only they knew how to do so. It does not make sense to have a system that normal people cannot properly access.

Julie Morgan: Grandparents are very important. In south Wales it is traditional for the grandparents to look after the grandchildren. My mother looked after my children. In what ways does the hon. Lady think that child-minding regulations could be amended? I have sympathy with what she is saying but does she have any proposals about how that could happen?

Mrs. Laing: I do not have formal proposals to make at this stage. I believe that whereas a child minder can be paid to be a child minder, if a grandparent is an informal child minder, he or she cannot benefit from any kind of public funding. In many cases, grandparents who do just a couple of hours here and there to help out do not want to be paid for it. I do not suggest that it should become any kind of necessity or normality, but where a grandparent effectively spends a working week looking after their grandchildren, and if they also looked after a couple of other children, why should they not be able to benefit from getting a grant to be a child minder? At present a grandparent cannot do so, by virtue of being a grandparent.

A grandparent who looks after three children who are someone else's grandchildren can register to be a child minder. If one of the children the grandparent minds is their grandchild, they cannot register to be a child minder and therefore do not have access to public funding. In order not to prolong the debate, if I am technically not quite right, I shall withdraw that point.

If we truly have the flexibility that we are talking about, we ought to be able to help grandparents spend even more time looking after their grandchildren, because everyone recognises that that is a good way to bring up children, and that the next best thing to being with one's own parents is being with one's grandparents. Indeed, as a small child, I much preferred being with my grandmother; I am sure most people feel like that. Forgive me if I have not got the exact points correct, but I think that we are all agreed that that matter needs to be examined.

Another important issue is that of pregnancy discrimination. The hon. Member for Ayr mentioned research carried out by the Equal Opportunities Commission into pregnancy discrimination. It is absolutely appalling that in Britain in the 21st century 30,000 women have lost their jobs because they are expecting children. I have a lot of sympathy with their position because, four years ago, when we were approaching a general election, I could no longer hide from the world in general the fact that I was about to have a baby. I have to admit, within the confidentiality of these four walls, that I was concerned that the voters of Epping Forest might practise discrimination against me at that point, because a certain generation would argue that if a woman is about to have a child, she cannot possibly be a Member of Parliament. I am glad to say that the voters of Epping Forest are wonderful people who exercise excellent judgment, and that they did not take that view at all. Indeed, many more of them voted for me when I was about to have a child than had voted for me four years previously when I was not about to have a child.

Ms Munn: Will the hon. Lady test it out again?

Mrs. Laing: No. I will definitely not take that chance again, and most certainly not if the election is in eight weeks' time. I can make that promise to my constituents and my family.

It is a serious matter that employers can find a way around the current laws. I do not suggest that we need much of a change in the law in that area. We need a change in attitudes in the workplace, because some types of employer twist the law and manage to get rid of a woman because she is about to have a child. Such attitudes ignore the fact that we need women in the work force; as I said earlier, that is not a luxury.

The hon. Member for Cardiff, North mentioned the international aspect of international women's day. On the day—last Tuesday—I also spent some time on those sorts of issues. I visited the Terence Higgins Trust, which I think is in the constituency of the hon. Member for Regent's Park and Kensington, North (Ms Buck). I apologise if I did not tell the hon. Lady in advance that I was going to be there. I was accompanying the Leader of the Opposition. It was a pleasure to visit the hon. Lady's constituency and to see the work of the trust, of which I am sure that she is well aware, as will most hon. Members.

The issues being dealt with at the trust make one realise the enormous gap between the struggle that we women in the western world face compared with women in Africa, Asia and the far east, who still struggle with the absolute basics. For example, many cannot choose when or whether they are going to have children or more children. The issues that we looked at on Tuesday concerned the fact that thousands of women cannot protect themselves, and therefore their future children, from HIV/AIDS. I mention that point because it is one on which I believe that there will again be consensus. While thinking about the struggles that we have, it is important to think how the work-life balance does not

matter to women in those countries, because they are struggling with basic oppression. Having a work-life balance to think about would be a luxury to them; they are literally dealing with matters of life and death.

I was pleased to hear the Minister say that the commission is examining occupational segregation and the pay gap. As many hon. Members will have seen, the Fawcett Society produced a most interesting and well researched report earlier this week, which showed that, shockingly, the pay gap between men and women is about 20 per cent. for people in full-time employment. Women in part-time employment are paid 40 per cent. less than their male counterparts. It is scandalous and appalling that employers in Britain today think that that is acceptable. It shows that we, as a society, do not properly value the work of women who are doing two or three jobs, one of which is bringing up children. The reason why most women have part-time employment is because they are juggling other responsibilities with their employment. Indeed, as in the example used by the hon. Member for Ayr, they may have more than one part-time job, simply to try to make ends meet. When people have a part-time job they are undervalued, and a 40 per cent. pay gap is simply not acceptable.

I am not particularly saying that the Minister must do something about that now. To combat it we need a complete change in attitudes, whereby women are valued for being mothers, carers and responsible family members as well as valuable employees in the work force.

When we talk about employees, however, we must also bear in mind the position of employers. The worst thing that legislation can do is put so many burdens upon employers in order to protect women in the work force that employers find it necessary to try to find a way of not employing women at all. The pendulum could swing too far. A large organisation that has an efficient human resources department can do much to help and protect women in the work force that small employers cannot do. In all that we say and do, we must remember that most people in Britain are employed by small and medium-sized enterprises, not by large employers. Therefore, it is vital that any regulations made to try to achieve equality and support for women do not go so far that employers do not employ women at all. That would not be what we set out to achieve. We must be careful to achieve the right balance.

We need women in the work force, and we need a future generation to be born and nurtured. Therefore, we must take seriously the need to achieve a proper balance between work life, home life and family responsibilities. We have had a constructive debate on all those issues and I am sure that the Minister has taken note of some of the good ideas that have come from hon. Members.

5.24 pm

Jacqui Smith: I wholeheartedly agree with what the hon. Member for Epping Forest (Mrs. Laing) said about the quality of our debate. I set a few questions and challenges at the beginning, and hon. Members have risen to them in terms of the quality of the argument and some of the practical proposals that were made. I very much commend that.

My hon. Friend the Member for Sheffield, Heeley (Ms Munn) drew on her understanding of children's development and needs—as she often does, as I know from experience. She strongly made the case, as did others, that we need to develop opportunities for both fathers and mothers to play their role in caring. The fact that we are taking forward proposals for sharing extended maternity leave between mothers and fathers is an important step, not only in practical terms, in that it allows fathers to have time off in the first year of their child's life, but also in terms of addressing the cultural issues that hon. Members raised. It is important that we say that our society believes that fathers have a role in caring for their children and that we provide the legislative basis and support for that.

My hon. Friend also rightly identified the excellent work carried out by USDAW in its "Supporting Parents and Carers" campaign. She mentioned its analysis, which is that the problem of finance is often what brings women back to work more quickly than they want or when their children would not benefit from them going back to work so soon. That is why the increase in maternity pay and the extension of maternity leave will be so important, not only for mothers, but also for children. USDAW, as a good example of a modern trade union, is now including in its negotiations the consideration of work-life balance issues and flexibility in conditions of employment. I commend it on its campaign and on its activities and negotiations with employers.

My hon. Friend the Member for Cardiff, North (Julie Morgan) made an important contribution, using her personal experience, and I want to address the issues raised about carers. I hope that she had a suitable celebration for St. David's day, international women's day and mothers day. Either she or my hon. Friend the Member for Ayr (Sandra Osborne) proposed a party for international women's day. That received great approbation broadly, and not just from hon. Members, although I know that we are not supposed to mention others. Perhaps the House authorities should give some thought to that suggestion.

My hon. Friend the Member for Cardiff, North talked about the progress that we as a Government have made on tackling domestic violence. She also picked up on the point made by the hon. Member for Epping Forest, who mentioned the international nature of international women's day, which sets our debate in the context of the international challenges that women face. Last week, I was fortunate enough to attend the Commission on the Status of Women at the United Nations, 10 years on from the Beijing "Platform for Action". I was struck by those parts of the Beijing platform that are important for women across the world, including access to the labour market, economic empowerment and tackling violence against women. We certainly have some issues of commonality, but the hon. Member for Epping Forest is right to outline the particular challenges that women in developing countries face, which we all have a responsibility to help them to address.

My hon. Friend the Member for Cardiff, North focused her contribution on her experience of caring, and talked movingly about caring for her mother. She gave us a clear understanding of the massive contribution that carers make, not only in terms of

[Jacqui Smith]

replacing services that otherwise would need to be publicly funded. She also identified the emotional commitment, time, planning and organisation that goes into the sort of caring that she and millions of other people in this country carry out. We should place a suitable value on that. As a Government, we should take action to support carers, and we have.

I was struck by my hon. Friend's point about the need to be able to phone home to check up on what is happening. Many carers have said that when combining their caring with work, relatively small changes and provisions made by employers can sometimes make all the difference. Access to a phone to check home and a little flexibility about leaving in an emergency can keep carers in work.

The hon. Member for Romsey (Sandra Gidley) emphasised the significance of the fact that when a carer falls out of the job market, it is often more difficult for them to get back in again. The Carers (Equal Opportunities) Act 2004, which was supported by the Government and to which my hon. Friend the Member for Cardiff, North referred, does a number of important things. First, it ensures that carers know that they are entitled to an assessment. Secondly, it makes explicit that other aspects of carers' lives, such as their need or wish to work, have to be borne in mind in the assessment and the support with which they are provided.

This year, £60 million has been devoted in 2005–06 to the carer's grant, providing services to carers, but also, importantly, providing the breaks referred to by the hon. Member for Romsey. We have introduced direct payments to give carers more flexibility about how and where they access those breaks and support. To ensure that local authorities also focus on carer support, the Under-Secretary of State for Health, my hon. Friend the Member for South Thanet (Dr. Ladyman), introduced a new performance indicator on carer support for local authorities, identifying the significance of ensuring that that support is in place.

Carers also often suffer detriment in their pension provisions, particularly if they have to leave work. Having introduced a second state pension to boost the pension rights of many of those under-looked in the previous system, such as carers, we have so far benefited 1.9 million female carers, who can build up additional state pensions for the first time.

We need to do more to value and recognise the tough lives of carers. Some important progress has been made. My hon. Friend the Member for Regent's Park and Kensington, North (Ms Buck) made a good point about the need to recognise that, although the first year of a child's life is very important, some of the challenges of the early teens and teenage years can be equally difficult, as all of us whose children are now slightly older know. We need to ensure that flexibility is available, which is why considering how we might extend flexible working to such people is important.

There has been some discussion of out-of-school child care places, but, especially when children are between 11 and 14, wraparound care and the ability to have a bit of extra time after school so that the children do not have to come home to an empty house—not, as was suggested, to put a child into child care at 8 in the morning and pick them up at 6 in the evening—will be important for parents. That is exactly what our proposals should deliver.

My hon. Friend the Member for Ayr spoke with great understanding and knowledge from her experience with Women's Aid. She spoke not only about domestic violence, but identified the importance of child care to all women, in particular to women with specific needs, such as those who are victims of domestic violence or who are lone parents. If ever the benefits that come from investment in child care places were needed, they are needed by such women.

My hon. Friend also identified the need to ensure that we make work pay. The introduction of tax credits and the way in which they are paid to the main carer, and the improvements in the levels of child care tax allowance, have been important to enable women not only to get into work, but to ensure that they have the income that they need to support their families.

The hon. Member for Romsey touched on some slightly worrying things in a wide-ranging speech, and prompted a discussion about the role of men, possibly at the invitation of my hon. Friend the Member for Regent's Park and Kensington, North. Although I agree that there are some cultural challenges with respect to men and their attitude to housework and caring, that does not mean that we should give up on the push to develop a more equal approach, to both caring and housework. I cite the excellent and commendable example of my husband, who was willing to give up his main career to play a major role in bringing up our children. There are some beacons out there and we need to ensure that they shine on men throughout the country.

The hon. Member for Romsey also made an important point about the impact of flexible working and maternity provision on small and medium-sized companies, as did the hon. Member for Epping Forest. There is a particular challenge, as I suggested earlier, in allowing small companies to plan for the implications of somebody taking maternity leave. That is more straightforward for a large company with many workers.

Several hon. Members argued that small businesses are increasingly recognising the benefits for their business of helping women to return to work after maternity leave. Given that it takes an average of £4,000 simply to recruit somebody, and given the training provided for women workers, losing them automatically when they have children is not good for them or the businesses. Nevertheless, we have recognised some of those challenges and will consult on two issues in the "Work and Families: Choice and Flexibility" consultation document.

First, we will see how we can improve communication between employers and women who are on maternity leave. Secondly, we will find out whether there is scope in extending the notice period that women give before they return to work. In both cases, it is about helping small and medium-sized companies communicate and plan. We are concerned to hear from employers about how we can implement that measure in a way that will benefit their women workers and themselves.

The hon. Member for Epping Forest suggested that working hours had increased, but they have reduced on average since 1997, when we signed the social chapter

and implemented the working time legislation, which was, to introduce a tinge of political controversy, wrongly opposed by her party. We should be honest about identifying the trend for shorter working hours and saying that this Government, with their commitment to better working conditions for people, are enabling that to happen.

I agree with hon. Members who said that there is a cultural, as well as a legal, issue about long hours. We have to change the attitude that says that longer is always better, because in this case quality is more important than length. With those words, I will not venture to comment on what the hon. Member for Romsey said about Kinsey.

The hon. Lady asked whether it is too easy for firms to reject a request for flexible working. We have designed the law to help discussions between employers and employees on solutions that suit them both. The introduction of the flexible working legislation has massively reduced the proportion of flexible working requests refused. The trend appears to be continuing: the most recent data indicate that just 8 per cent. are declined.

I am sure that we could all agree with the hon. Member for Epping Forest on a number of things, although I do not agree that the concept of choice is the sole possession of the Conservative party. For a choice to be meaningful, it must be supported. Where women want to go to work, for instance, choice must be supported by the ability to work flexibly or to access child care. Had the Government not taken the decisions that we have and made progress, those things would not be available. We not only support choice, but take action to ensure that that choice is available for a broader range of women.

The hon. Lady and others referred to the *New Woman* survey. The conclusion that we should draw from that part of the debate is that families will want to live in many different ways and that women will have different aspirations. Some will want to stay at home, or be able to afford to do so, some will want to work part time and some will want to work full time. What women should avoid is allowing anybody, anywhere, to play us off against each other because of the decisions that we choose to make. That does not happen with men. We should be clear that we want the ability to make the decisions that suit our families and to be supported in those.

The hon. Lady was right to make the economic and social case for work-life balance. Encouraging all employers to do what the best do is an important way forward. She, like other hon. Members, touched on the Equal Opportunities Commission's investigation into pregnancy discrimination. As I said, the EOC has published its interim report. As part of our consultation on work and families, we have included the EOC's top two interim recommendations. Those were, first, consulting on whether there should be a written statement of rights and responsibilities for employees and employers during pregnancy, and, secondly, giving employers the right to request information from an employee about her planned return date. We are keen to hear views from parents, carers and employers about those recommendations.

Finally, on equal pay, since 1997 the pay gap has been closing. It is now approximately 14 per cent. in median terms.

Sandra Gidley: I am glad that the Minister says that the pay gap is 14 per cent. in median terms, because the way in which the pay gap is calculated was recently changed and we have only just started to use the median as our measure. Will she confirm that, if we had continued to use the mean—an average rather than a mid-point—the pay gap would still be 19 per cent.? It has not fallen.

Jacqui Smith: No. I confirm that the figure is 18 per cent., or something like that, but I will not agree with the hon. Lady that it has not fallen. Regardless of whether the mean or the median is used, the pay gap has fallen since 1997. The justification for using the median as opposed to the mean is that, taking as it does the mid-point, the median represents the situation for the vast majority of women and is not distorted by particularly high pay for men at the top.

Sandra Gidley: Earlier, hon. Members raised the fact that women are often in low-paid jobs, such as child care. Those jobs are below the median wage. A disproportionate number of women earn lower, rather than higher, salaries. Many would therefore argue that the mean is a fairer and more accurate way of assessing the pay gap, because it takes into account the large number of women on low pay.

Jacqui Smith: Some people might argue that, but the Office for National Statistics argued that we should use the median pay gap. As I suggested earlier, it is important that we understand the trend over time and use either method. There has been a reduction in the pay gap.

Incidentally, I am not saying that that is adequate. The hon. Lady's point about the impact of occupational segregation on the pay gap is very important. That is precisely why the women and work commission will focus on occupational segregation and why it will examine how we value women's work, and caring work in particular. It will make recommendations, which I look forward to seeing.

We have had a very good debate. The values that inspired international women's day—respect for the dignity of all women and international solidarity—are as relevant to us today as they were to those pioneering women who used as their slogan, and fought for, bread and roses when marching 100 years ago.

For a long time, women have been struggling to achieve a balance between work, other necessities and the other things in our lives. We also recognise, however, that we need to find new solutions to the issues that women face today. That is not an easy task in a global and complex 24/7 culture, but our vision of a modern Britain is one that uses the skills and talents of all citizens irrespective of their gender, race, age and sexuality and of whether they are disabled or able-bodied. Our vision supports everyone, but women in particular, in being able to take the decisions that they believe to be right for themselves and their families. That is how we can ensure the well-being and prosperity of our nation for years to come.

Question put and agreed to.

Adjourned accordingly at thirteen minutes to Six o'clock.